

MEMORANDUM

TO: Mayor Wiegman
Village Trustees

FROM: Mark Aarons
Planning Board Member

DATE: October 28, 2010

RE: Harmon Rezoning

A majority of the planning board approved the following text (not including italicized portions) as part of its positive recommendation to the Croton on Hudson Village Board of Trustees with regards to the Harmon Rezoing. As a planning board member, I voted against the positive recommendation. I have provided my comments and/or analysis of the items to be considered, pursuant to Section 230-180 of the Village Zoning Code, in *italics* following portions of the majority’s comments and/or anaylsis for the Village Board’s consideration.

The proposed Harmon/South Riverside Gateway Overlay District Zoning Amendment was referred to the Planning Board at the Village Board meeting on August 9, 2010. It was first on the Planning Board agenda on August 24, 2010 at which time it was simply received by the Planning Board. The Planning Board discussed the proposed Harmon Rezoning at our meetings on September 14, 2010, September 28, 2010, October 12, 2010 and October 26, 2010. The Planning Board also held a Special Work Session to discuss only this topic on October 19, 2010. We reviewed the new Environmental Assessment Form Report prepared by Saccardi & Schiff and dated July 15, 2010 which also contained the subject Local Law Introductory No. 3 of the Year 2010. The Planning Board reviewed the document as required by Section 230-180 of the Village Zoning Code and offers the following comments and recommendations.

(1) Concerning a proposed amendment to or change in text of the chapter:

(a) Whether such change is consistent with the aims and principles embodied in the chapter as to the particular districts concerned.

The proposed Harmon/South Riverside Gateway Rezoning will change the text of the zoning code for an area currently zoned C-2, General Commercial. A portion of the area to be affected is currently also within the Harmon/South Riverside Gateway Overlay District, and a portion of the area to be affected would be added to the Harmon/South Riverside Overlay District. The aims and principles of the C-2 district is to provide “mostly retail, service and professional businesses designed to serve the local village population” Comp. Plan page 37. The purpose of the Gateway Overlay District is to “establish standards that upgrade the image and function of gateway areas, strengthen the overall visual identity of the Village , and improve pedestrian/linkages to adjacent residential neighborhoods” Section 230-20.1.C The C-2 is one of

two general commercial districts in the Village that permits a variety of uses such as personal service establishments, office use, restaurants and by Special Permit retail uses and mixed occupancy uses. The proposed Harmon/South Riverside Gateway District text amendments will permit the same uses as the underlying C-2 zone, as modified by the overlay regulations. Mixed occupancy will still be permitted, although a Special Permit from the Village Board will no longer be required. The proposed text changes are not out of character with respect to the existing zoning. They will foster the Gateway purposes by encouraging properties to be upgraded in keeping with enhanced design guidelines.

PB Member Aarons: *Discussions throughout the Village Comprehensive Plan refer to maintaining mass and scale. As a result of the Comprehensive Plan, a Gateway District and zoning code amendment was enacted which reduced FAR from a permissible .5 FAR to .35 for commercial use and .4 for mixed use. No explanation has been provided as to how INCREASING the FAR is now consistent with the Comprehensive Plan or the Gateway District.*

(b) Which areas and establishments in the Village will be directly affected by such change and In what way will they be affected.

The proposed text amendments for the Harmon/South Riverside Gateway Rezoning have the potential to impact adjacent residential areas especially on and around Benedict Boulevard and possibly on other commercial areas of the Village. The proposed higher FAR of .80 can potentially lead to more dwelling units and additional residents. The EAF prepared by Saccardi and Schiff analyzed 3 different development scenarios and for the the most likely scenario anticipated a maximum of 46 residential units and approximately 10,000 sq. ft. of commercial space which in the opinion of the majority of the Planning Board should not have an adverse impact on adjacent residential or commercial areas.

PB Member Aarons: *The EAF prepared by Saccardi and Schiff present inconsistent information which this PB member finds difficult to rely upon in analyzing zoning changes which will likely have long term consequences. On page 21 of the report, reference is made to scenario #1 as “This scenario assumes that 11 of the parcels (all vacant or underutilized) will be redeveloped as mixed-use buildings...”. On page 48 of the report, in a discussion on taxes, the report states “Scenario #1 assumes redevelopment on 9 parcels...”. On Page 21 of the Saccardi and Schiff report Table 3 shows a Total parking required number of 109 for the likely scenario #1 redevelopment. Looking at Table 3, if you add Non-residential parking required of 53 together with Residential parking requirement of 71 provides a total of 124 spaces required. While this is a mathematical error in summing the total of the “Non-residential parking” required, it is indicative of the manner in which the report was generated. It should be further noted that “Harmon Zoning Amendments Traffic and Parking Impacts” analysis prepared by RBA indicates needed spaces will be unavailable on weekends.*

During discussions at the October 19, 2010 meeting referenced above, I queried why the C-2 requirement of 2 parking spaces per unit was being changed to 1 parking space per unit, (with an additional space required for every bedroom beyond 1 bedroom). No rationale was provided

for this change either at this meeting or in the EAF. This arbitrary parking change is further questioned in the RBA study in Appendix C of the EAF. The RBA study recommends “that the proposed law be modified to require 1.5 parking spaces per residential dwelling unit, regardless of the number of bedrooms. This member believes that we should maintain the current requirement of 2 parking spaces per unit. It is highly recommended that closer scrutiny be given to the topic of parking as it is fairly clear that adverse impacts will occur if the zoning amendment is adopted as presented.

(c) The indirect implications of such changes in its effect on other regulations.

The Planning Board couldn't identify any other regulations that the proposed zoning text changes might effect.

(d) Whether such proposed amendment is consistent with the aims of the Comprehensive Plan of the Village.

The Comprehensive Plan for the Village was adopted in January 2003 and is a long range planning document providing guidance and goals, objectives and recommendations for the long term growth of the community. The first three (3) Chapters of the Plan are the introduction, History and Existing Conditions. Within these three (3) Chapters the Planning Board finds several sections that are consistent with the proposed Harmon/South Riverside Gateway Rezoning including:

Section 1.4 - The overall goals of the plan which are “preserving traditional qualities, strengthening assets and protecting resources”. Specifically mentioned in this section are protecting and enhancing convenient transportation and pedestrian access, economic diversity, and expanding the tax base. The new Harmon zoning is specifically designed to do all these things.

Section 3.3 (a) - This section discusses, on page 37, the lack of available office space in the Village and the need for more to relieve pressure to create home offices. The new Harmon zoning, which would permit more office use, is consistent with this.

Section 3.5(b) - This section deals with the Village examining ways to encourage lower cost, smaller sized, single or multi-family dwellings in order to maintain the demographic diversity of the Village. The proposed Harmon rezoning is consistent with this section. This section talks about the lack of suitable, affordable housing for aging residents (i.e. empty nesters) and young couples without children, which would be the primary markets for the proposed new residential units.

Section 3.8(a)-This section states, in discussing Croton's shopping areas, including Harmon, that "the general consensus in the Village is that the types of establishments need to be diversified to better meet the needs of residents and encourage local shopping, and that higher quality aesthetic

standards will help attract shoppers to these areas." The next paragraph states that "...the appearance of these centers is key to the image of the Village for residents and to visitors." Clearly, zoning which intends to revitalize and greatly improve the appearance of an area which has extensive vacancies is fully consistent with these expressed aims of the Plan.

Section 3.8(a)- The specific discussion of the Harmon/South Riverside shopping area contains some of the strongest evidence of the Harmon rezoning consistency with the Plan. On page 67, there is discussion of the needs for improved and extended sidewalks, improving the appearance of unscreened parking lots and the lack of a strong architectural identity.

Chapter 4 of the Comprehensive Plan begins the Recommendations Section of the Plan Goals, Objectives and Issues Section. Specific Recommendations of the Comprehensive Plan that the Planning Board feels are consistent with the proposed Harmon/Gateway Rezoning include:

4.2 Village Wide Recommendations

- #3 Maintain Economic Diversity
- #6 Improve the visual quality of Croton-on-Hudson
- #9 Improve Commercial Areas
- #10 Creation of additional appropriately scaled office space
- #11 Enhance the pedestrian connections within the Village

4.3 Commercial Districts

The plan specifically notes that "A number of underlying goals for the Plan, noted in Section 1.4, focus on the need to improve the quality, function and appearance of the following major commercial retail and office districts in the Village, so that residents can be better served:

- Upper Village
- Municipal Place/Croton Commons
- North Riverside
- Harmon/South Riverside
- North End Office District

The plan talks about specific strategies to focus on business attraction, pedestrian access, retail mix and visual quality all of which the Planning Board feels are consistent with the proposed Harmon/South Riverside Gateway Overlay.

PB Member Aarons: *Discussions throughout the Village Comprehensive Plan refer to maintaining mass and scale. As a result of the Comprehensive Plan, a Gateway District and zoning code amendment were made which reduced FAR from a permissible .5 FAR to .35 for commercial use and .4 for mixed use. In the SEQOR review it was stated "The adoption of the proposed legislation will not create any new development. In the longer term, the reduction in the maximum density permitted in the gateway areas will effectively limit the potential demand for community facilities and services, particularly as compared to the underlying zoning which allows higher development densities".*

What is not clear is the long term objectives of the Harmon rezoning amendment. If a near full redevelopment is achieved, then infrastructure expenses will necessarily have to be incurred which are not dealt with in any meaningful respect in the EAF, other than to say that such redevelopment is unlikely. This is contrary to the statements of other planning board members who believe that build-out will be substantial over the long term. If scenario #1 (the “likely” scenario) occurs, then the improvement of the quality, function, and appearance referenced by the majority is not likely to occur.

*The planning board majority make reference to section 3.5(b), stating, “This section talks about the lack of suitable, **affordable housing** for aging residents (i.e. empty nesters) and young couples without children, which would be the primary markets for the proposed new residential units.” The Saccardi and Schiff report is remiss in failing to discuss both the likelihood of affordable housing development, and the effect of such development on the figures presented, e.g. taxes, school enrollment, etc.*

With regards to the need for additional office space, the EAF points to the Danth study completed in July 2008. The economic landscape has materially changed since that date. Note that the “build to suit” commercial office space offered on Riverside Ave (the old ET Cycle space) has been vacant for some time. It should also be noted that of the seven lots (comprised of 11 parcels) which are the “likely scenario #1” for redevelopment, four currently have applications before the planning board for development. These applications have been submitted in the absence of the proposed change to the zoning code.

(2) Concerning a proposed amendment involving a change in the Zoning Map:

(a) Whether the uses permitted by the proposed change would be appropriate in the area concerned.

The underlying zoning of the area is C-2 General Commercial. The proposed Harmon/Gateway Rezoning would permit mixed use occupancy buildings as of right without the need for a special permit. Retail stores would still need a special permit in C-2 areas not within the Harmon/South Riverside Gateway Overlay Area. Removing the requirement of a Special Permit for mixed use and retail in the overlay area will facilitate needed revitalization of that area. The area is currently a mixed use area. The proposed zoning amendment would not introduce inappropriate uses.

(b) Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residences likely to be constructed as a result of such change.

According to the EAF Part 3 report prepared by Saccardi and Schiff the likely level of development, Scenario #1, would produce 46 residential units. Using the Rutgers University Center for Urban Policy Research, approximately 4 new students (K-12) would be generated by

46 one bedroom apartments. The EAF analyzed a mix of 1 and 2 bedroom apartments and found that the likely development scenario could generate approximately 8 new students. In addition, the EAF analyzed an existing apartment complex in Croton, Bari Manor, and found that 25 school age children are generated from the 82 apartments which are a mix of 1,2, and 3 bedroom units which is in keeping with the estimate of 8 children generated from 46 1 and 2 bedroom units. In the opinion of the Planning Board this number of students will not put an undue burden on the school system.

A traffic study was also completed for the proposed rezoning by the RBA Group that found based on the likely level of development there will be no adverse traffic impacts.

The majority of the Planning Board finds these to be reasonable conclusions.

(c) Whether the proposed change is in accord with any existing or proposed plans in the vicinity.

This section could be interpreted as to apply to more macro level plans such as transportation plans, bike/ped plans, infrastructure plans etc. and to more site specific plans pending for development. The Planning Board is not aware of any macro level plan the proposed rezoning is in conflict with. The Planning Board is aware of two pending development proposals before the Planning Board that do not conform with the proposed rezoning. The Board felt that the Village Board should include in the proposed rezoning language that would permit pending applications, that do not meet the new regulations, to somehow be grandfathered.

(d) The effect of the proposed amendment upon the growth of the Village as envisaged by the Comprehensive Plan

As stated above the Planning Board feels the proposed Harmon rezoning is consistent with the Comprehensive Master Plan for the Village.

(e) Whether the proposed amendment is likely to result in an increase of decrease in the total zoned residential capacity of the Village and the probable effect thereof.

The proposed Harmon/South Riverside Gateway Overlay will clearly increase the residential zoned capacity of the Village. Given the analysis completed by Saccardi & Schiff in the EAF, which anticipates a likely development scenario of 46 new residential units, the Planning Board did not feel this increase was likely to have adverse impacts.

In addition to reviewing the proposed rezoning as required by Section 230-180 of the Village Zoning Code the Planning Board offers the following comments:

1. The Planning Board is aware of concerns from the community about the impact of the possible additional residential units that would be permitted by the proposed rezoning on taxes and on the school system. While the majority of the Planning Board does not feel the potential impacts are likely to be adverse the Board feels that prohibiting three (3) bedroom apartments

and capping the number of permitted two (2) bedroom apartments to some number below 50% of the total number of created units may be helpful in addressing these concerns.

A question was raised at our October 26th meeting regarding the legality of such a limitation. The Village's counsel has advised me that he would like to do some research on this issue, and that he will report his findings to your board.

2. The Planning Board recommends modifying proposed Section (230-20.3 A. (1) a. iii.) to permit non-residential use of the third floor of a mixed use building.

3. The Planning Board recommends the Village Board consider a better definition of a fast food restaurant as the Board felt that certain types of so called fast food might be appropriate for the area while understanding that traditional fast food establishments with drive thru lanes would not be appropriate. It is unclear if the existing fast food restaurant prohibition is based on concerns about chain restaurant (i.e. dozens or hundreds of the same franchise), type of menu, take-out vs. dine in, etc.

4. The Planning Board recommends the Village Board investigate the possibility of authorizing the Planning Board to mandate shared access and cross easements for vehicular/pedestrian access between adjacent parcels to facilitate movement behind adjacent buildings.

(3) Recommendation

Our Board recommends that the proposed text and map amendments be enacted with consideration being given to the modifications discussed in this memorandum.

***PB Member Aarons:** While “Likely Anticipated Level of Development” have been set out for the subject parcels, no attempt has been made to catalogue existing use of the thirty-six parcels in terms of commercial use vs. office vs. retail vs. residential (and the number of occupants per unit) so that extrapolations made from such data can be delivered with a higher degree of accuracy. While improving the Harmon Business District is a worthwhile goal, it is this PB member’s belief that the data presented is not reliable and that further collection and verification of data is necessary, together with an analysis of the effects of affordable housing, before appropriate judgment can be made*