

ZONING

270 Attachment 8

Town of Glenville

Horstman Mixed Use Planned Development District [Added 6-1-2022 by L.L No. 5-2022; amended 11-15-2023 by L.L. No. 7-2023; 8-21-2024 by L.L. No. 10-2024]

§ A270-28. Establishment of District.

Local Law No. 5 of 2022, entitled "Horstman Mixed Use Planned Development District," amended Local Law No. 5 of 2001 of the Town of Glenville, entitled "Local Law relating to the Zoning for the Town of Glenville and the Zoning Map of Glenville" to establish the "Horstman Mixed Use Planned Development District." Local Law No. 5 of 2022 established the boundaries of the Horstman Mixed Use Planned Development District, and changed the permitted uses on approximately 11.14 acres of land, all as more particularly set forth in Local Law No. 5 of 2022. Local Law No. 7 of 2023 amended certain provisions of Local Law No. 5 of 2022. The Horstman Mixed Use Planned Development District has been determined to consist of approximately 11.34 acres, as depicted on the attached Exhibit A¹ and described on Exhibit B², with both exhibits incorporated herein by reference. The entirety of the approximately 11.34 acres is designated as the planned unit development district known as the "Horstman Mixed Used Planned Development District."

§ A270-29. Boundaries.

The area of the Horstman Mixed Use Planned Development District shall encompass approximately 11.34 acres, with the first parcel located between NYS Rt 50 and Swaggertown Road, and three additional parcels located on the west side of Swaggertown Road and on either side of Birch Knoll Drive. The Tax Map identification numbers for the Horstman Mixed Use Planned Development District are 30.10-1-27.1 (consisting of approximately 8.57 acres), 30.9-2-22 (consisting of approximately 0.72 acres), 30.9-2-23 (consisting of approximately 0.79 acres), and a portion of 30.9-2-21.1 (consisting of approximately 1.26 acres). The approximately 8.57 acre parcel is depicted on Exhibit A1. The approximately 0.72 acre, 0.79 acre, and 1.26 acre parcels are depicted on Exhibit A2. Each of the four parcels is described specifically on the legal description attached as Exhibit B. The boundaries set forth in the attached Exhibits A1 and A2 are incorporated herein by reference.

§ A270-30. Development.

A. The development of the Horstman Mixed Use Planned Development District was presented to and described in an application dated January 24, 2022, and proposed site plans filed with the Town of Glenville Planning and Zoning Commission. The preliminary site plan has changed because of the subdivision of the property. Submissions of plans, and any approvals, are governed by §§ A270-32 and A270-34 of the Glenville Town Code.

¹ Editor's Note: Exhibit A is on file in the Town offices.

² Editor's Note: Exhibit B is on file in the Town offices.

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B. The Horstman Mixed Use Planned Development District will consist of: (1) a maximum of 44 condominium units on the east side of Swaggertown Road and 16 condominium units on the west side of Swaggertown Road on Parcel No. 1, which consists of approximately 9.87 acres; and (2) mixed residential and or/commercial development consistent with the uses permitted in the General Business District on Parcel No. 2 which consists of approximately 1.46 acres. Part of Parcel No. 1, consisting of approximately 7.11 acres, is a portion of Tax Map identification number 30.10-1-27.1, with the remaining approximately 1.46 acres of that tax parcel being Parcel No. 2. The legal description of Parcel No. 2 is set forth on Exhibit C³ incorporated herein by reference. The part of Parcel No. 1 consisting of approximately 7.11 acres, and all of Parcel No. 2 consisting of approximately 1.46 acres, is depicted on the map attached as Exhibit D⁴ hereto and made a part hereof incorporated herein by reference.

C. Permitted uses on Parcel No. 1 shall include: single-family dwellings and townhouses or condominium units.

D. Permitted uses on Parcel No. 2 are the uses consistent with the permitted uses in the General Business District, except that no automobile dealerships, automobile repair shops, or massage parlors shall be permitted, nor shall any retail establishments selling tobacco, tobacco-related, or tobacco-substitute products be permitted unless the tobacco, tobacco-related or tobacco-substitute products comprise less than 5% of total retail floor space or less than 5% of total retail shelf space, whichever is less. The prohibition on automobile repair shops shall not be construed to prohibit an automotive parts retail store that provides only ancillary services (e.g., installation of purchased tires, batteries, windshield wipers, etc.) and does not perform general automotive repair services.

E. The minimum green space on Parcel No. 1 will be 50%. The minimum green space on Parcel No. 2 will be 35%. Final green space totals for Parcel No. 1 and Parcel No. 2 shall be determined during final site plan review with the Town of Glenville Planning and Zoning Commission and will be reflected on the final site plan for each parcel. All green space on Parcel No. 1 shall be owned and maintained by a homeowners' association, or the owner(s) of Parcel No. 1. All green space on Parcel No. 2 shall be owned and maintained by the owner of Parcel No. 2. The owner of the green space on each of Parcel No. 1 and Parcel No. 2 shall provide the Town with and keep in force a bond or other suitable security, for the parcel(s) it owns, in the amount of \$10,000 to assure the maintenance of such green space. The bond shall be submitted to the Town prior to the issuance of the first certificate of occupancy for any building on the parcel, and shall remain in place for a period of two years after the issuance of the last certificate of occupancy on the parcel. The Town Commissioner of Public Works or its designee shall determine whether the owner of the green space is in breach of its duty to maintain the green space on its parcel, and may direct remedial measures up to and including the full amount of the bond if such breach continues for 30 days after written notice to the owner of the green space.

F. Parking and setbacks will be as depicted for each parcel on the final site plan(s) approved by the Town of Glenville Planning and Zoning Commission. Parking areas shall be provided at all times, and shall be not less than required by the zoning regulations applicable to each parcel for approved use thereon.

³ Editor's Note: Exhibit C is on file in the Town offices.

⁴ Editor's Note: Exhibit D is on file in the Town offices.

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G. Visual impacts will be minimized through the use of buffer areas, setbacks, architectural design and screening, such as berms, fences and plant materials, for the Horstman Mixed Use Planned Development District as a whole, and for each parcel as depicted on the final site plan(s) approved by the Town of Glenville Planning and Zoning Commission.

H. All roads and/or streets to be constructed within the Horstman Mixed Use Planned Development District on Parcel No. 1 shall be owned and maintained by a homeowners' association, or the owner(s) of Parcel No. 1. All roads and/or streets to be constructed within the Horstman Mixed Use Planned Development District on Parcel No. 2 shall be owned and maintained by the owner of Parcel No. 2.

I. On-site directional signage shall adequately identify individual buildings. The size, height, lettering, style, illumination and placement of all signs shall be in accordance with the Town of Glenville Town Code.

J. Water for the Horstman Mixed Use Planned Development District shall be provided by the Town of Glenville Water District No. 11. The sewer system for the Horstman Mixed Use Planned Development District will be serviced through Town of Glenville Sewer District No. 9.

K. Sidewalk improvements, to the extent required by the Town of Glenville Planning and Zoning Commission, will be constructed on Parcel No. 1 and Parcel No. 2 concurrent with construction of the buildings on those parcels. A sidewalk connection between Parcel No. 1 and Parcel No. 2, to the extent required by the Town of Glenville Planning and Zoning Commission, shall be completed prior to issuance of a certificate of occupancy.

L. For vehicular traffic purposes, there will be two points of ingress and egress to Swaggertown Road for Parcel No. 1 on the east side and one point of ingress and egress on the west side, and one point of ingress and egress on NYS Rt 50 for Parcel No. 2 as determined by the New York State Department of Transportation.

M. Due to the proximity of the Horstman Mixed Use Planned Development District to Horstman Creek, all construction activities associated with the Horstman Mixed Use Planned Development District shall ensure that no buildings are constructed within the floodplain of the Horstman Creek.

§ A270-31. Construction Regulations.

All improvements shall be designed and constructed pursuant to plans and specifications approved by a duly licensed architect and/or engineer and in full compliance with the New York State Uniform Fire Prevention and Building Code. When completed, these improvements shall be certified as having been constructed in full compliance with the New York State Uniform Fire Prevention and Building Code. The engineer and/or architect performing the work herein described shall be employed by and at the sole expense of the owner and/or developer of each parcel, as applicable. All roads and/or streets to be constructed within the Horstman Mixed Use Planned Development District shall be constructed in compliance with the specifications at the time in effect for the construction of Town highways in the Town of Glenville. Any water distribution system must and shall be connected to public or municipal facilities and constructed

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and inspected according to Town of Glenville standards. All construction shall be subject to inspection and approval by the Town Code Enforcement Officer, Town Engineer and Town Commissioner of Public Works/Highway Superintendent, as may be applicable.

§ A270-32. Submission of Plans.

Prior to commencement of any phase of construction within the Horstman Mixed Use Planned Development District, and prior to the issuance of any building permit, final site plans and specifications shall be submitted to the Town of Glenville Planning and Zoning Commission for its review and approval in accordance with the Glenville Town Code.

§ A270-33. Recreational Fees.

The Horstman Mixed Use Planned Development District does not, at the time of adoption, include any dedication of open space or recreation areas to the Town or nonprofit entity (land trust, homeowners' associations) or future dedication of lands for future public use; i.e., schools, fire station, etc. It is hereby determined by the Town Board, after consideration of the nature of the land available for open space or recreational uses, that might be so dedicated, that the property has limited potential for recreational uses. As a result, the Town of Glenville Planning and Zoning Commission shall assess a fee in lieu of land acquisition in accordance with Glenville Town Code § 270-110B.

§ A270-34. Approvals Needed.

The Town of Glenville Planning and Zoning Commission shall not issue final site plan approval unless and until all approvals required by each and every other government or governmental entity have been obtained. The Town of Glenville Planning and Zoning Commission may, in its discretion, give approval conditioned upon the applicant obtaining such approvals.

§ A270-35. Zoning Map.

Local Law No. 5 of 2001, entitled "Zoning Code of the Town of Glenville," is hereby amended to provide that the Horstman Mixed Use Planned Unit Development District be set forth on the Town Zoning Map. The Town Zoning Map shall designate zoning for the boundaries of the Horstman Mixed Use Planned Unit Development District as set forth in § A270-29 of the Town Code.

§ A270-36. Revocation.

A. Subject to the provisions of § A270-36E below, Chapter 270, Attachment 8, of the Town Code, shall be automatically revoked and void upon the occurrence of any one of the following three circumstances:

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(1) If commencement of construction of the improvements on Parcel No. 1 has not occurred by the earlier of: (a) December 31, 2026; or (b) one year after the date that all approvals and issuance of all required permits, including all regulatory approvals, have been obtained and are no longer subject to challenge or appeal; or

(2) If commencement of construction of the improvements on Parcel No. 1 has timely occurred in accordance with § A270-36A(1), but substantial progress without undue interruption does not occur and continue; or

(3) If commencement of construction of the improvements on Parcel No. 1 has timely occurred in accordance with § A270-36A(1), and substantial progress without undue interruption occurs and continues in accordance with § A270-36A(2), but: (a) construction of the roadways and of the water, sewer and stormwater infrastructure is not completed three years after the date that all approvals and issuance of all required permits, including all regulatory approvals, have been obtained and are no longer subject to challenge or appeal; and (b) construction of all improvements on Parcel No. 1 is not completed six years after the date that all approvals and issuance of all required permits, including all regulatory approvals, have been obtained and are no longer subject to challenge or appeal.

B. The Town Board has the right, but not the obligation, to extend the time frames set forth in § A270-36A(1), (2), or (3), by resolution of the Town Board.

C. For the purposes of § A270-36, "commencement of construction of improvements on Parcel No. 1" means substantial construction activities consisting of more than minor grading, such as permitted installation of foundations or slabs; driveways or roadways; infrastructure; or other substantial construction activities. Commencement of construction improvements on Parcel No. 1 may be established by substantial construction activities on Parcel No. 1 other than the actual commencement of construction of residential dwelling units, but in all events, substantial progress with respect to the construction of improvements on Parcel No. 1 must continue without undue interruption, and the improvements must be completed within the time frames set forth in § A270-36(A)(3).

D. For the purposes § A270-36, "undue interruption" means any delay or interruption resulting from acts or omissions directly or indirectly within the control of the owner of, or the developer of, Parcel No. 1. Undue interruption does not include delays or interruptions that are not directly or indirectly within control of the owner of, or the developer of, Parcel No. 1, such as delays or interruptions resulting from force majeure events including: failure of utility supplies; flood, earthquake, other natural disasters; other natural catastrophes; civil insurrection or unrest; epidemics, pandemics or quarantines; or recognized and documented significant adverse market conditions associated with the residential housing market that adversely affect the housing market in the Town of Glenville.

E. If commencement of construction of the improvements on Parcel No. 1 has timely commenced in accordance with § A270-36A(1) and continues without undue interruption in accordance with § A270-36A(2), but is not timely completed in accordance with § A270-36A(3), then this local law shall remain in full force and effect for and only to the extent of Parcel No. 2 and to the extent of the construction of the improvements commenced on Parcel No. 1. Such

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commenced construction shall be deemed to comply with the Town of Glenville Zoning Law and may continue to completion, but no new construction of improvements may commence.