

MEMORANDUM

To: Steven M. Mogel, Attorney at Law
From: Alan J. Sorensen, AICP, Planning Consultant
Date: April 25, 2018
Re: Chestnut Ridge Proposed Zoning Text Amendments for Places of Worship

My response to your request to review the Village of Chestnut Ridge's Proposed Zoning Text Amendments for Places of Worship with an eye toward identifying potential community concerns related to the Local Law is provided below.

Summary: As written, the Village Board's proposed Zoning Text Amendments for Places of Worship (*hereinafter referred to as "Proposed Action"*) would have significant adverse environmental impacts related to Aesthetic Resources, Consistency with Community Plan, Community Character, and Transportation that must be thoroughly analyzed through New York State's environmental review process. Based upon my review of the Village's records, I see no evidence that the Village Board took even a cursory review of the potential environmental impacts of the Proposed Action. The Proposed Action is clearly a SEQRA Type 1 Action.ⁱ Since the Proposed Action includes the potential for at least *one* significant adverse environmental impact [in this case at least 4], the Lead Agency must require the preparation of an environmental impact statement (EIS).ⁱⁱ In this case, the Village Board as Lead Agency should issue a SEQRA *Positive Declaration* and require the preparation of a *Draft Environmental Impact Statement (DEIS)* for the Proposed Action. Since the Proposed Action affects over 90% of the geographic area of the Village, a *Public Scoping Session* should be provided to afford the public an opportunity to weigh in on the contents of the DEIS. Given the scale of potential development, the density that would come with it, and the potential for staggering changes in the quality of life in the entire Village, it is incumbent upon the Village Board to seek public input through the Scoping process.

Background: The Village of Chestnut Ridge Board of Trustees alleges it commissioned the proposed revisions to the Village Code "with the purpose of reconciling it with Federal and State law regarding the zoning of religious uses." In developing its proposed Zoning Text Amendments, the Board of Trustees states that it took into consideration the provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA). RLUIPA is a law passed by the Federal Government that, in part, makes it illegal to unreasonably discriminate against religious institutions.¹ *However, this does not mean that a municipality must give so much favor to religious land uses that it has a detrimental effect on all other land uses. For example, the Proposed Action would grant a 20% reduction in lot conformance requirements for religious land uses but would not afford such favor on other land uses. No rationale is given for a blanket waiver for one specific land use.*

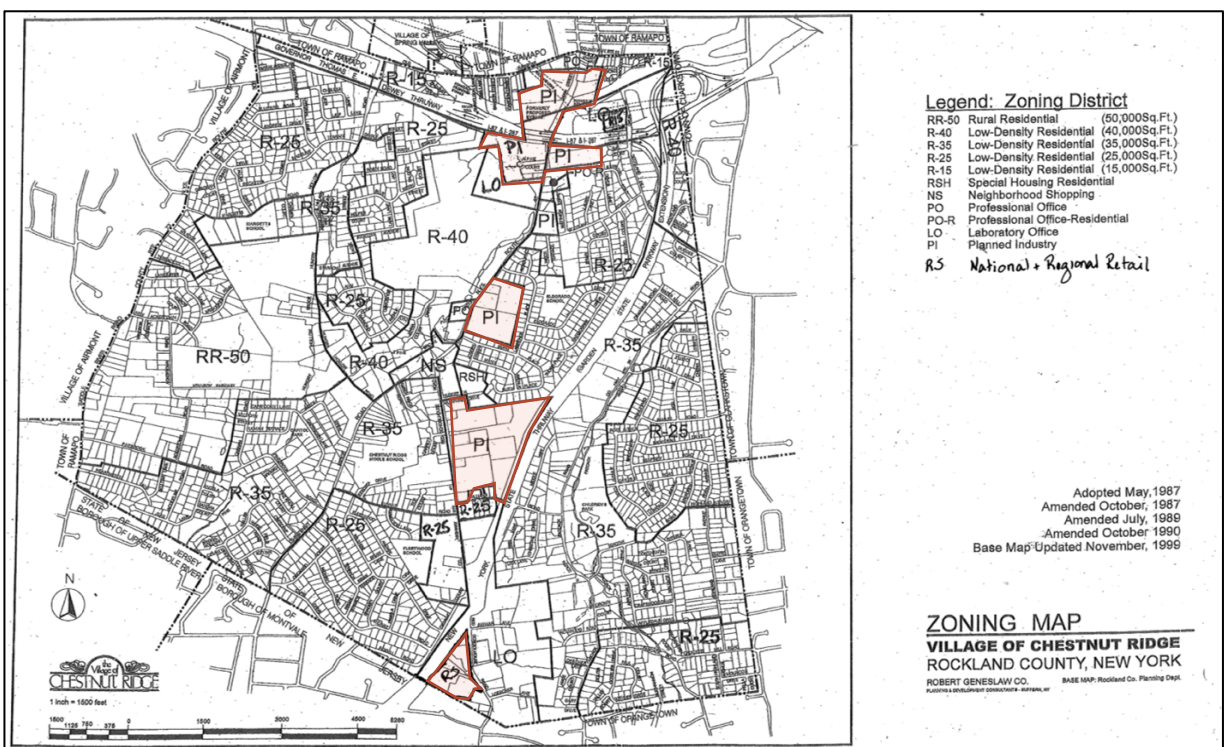
¹ The following are key provisions of RLUIPA, which need to be considered:

RLUIPA Substantial Burden Provision. When making an individualized assessment, a governmental entity cannot "substantially burden a religious institution unless it: (A) is in furtherance of a "compelling governmental interest"; and (B) is the "least restrictive means" of furthering that compelling governmental interest.

RLUIPA Equal Terms Provision. A municipality cannot impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

RLUIPA Exclusion Provision. A municipality cannot prohibit a religious institution or unreasonably limit such institutions from a jurisdiction.

Analysis: As written, the proposed Zoning Text Amendments for Places of Worship greatly expands the geographic area where such institutions are permitted within the Community (see Zoning Map below). The Table of Uses is proposed to be amended to allow “Residential Places of Workshop”; “Neighborhood Places of Worship;” and “Community Place of Worship” in the following Zoning Districts: RR-50, R-40, R-35, R-25, R-15. Community Place of Worship would also be allowed in the following Zoning Districts: RSH, NS, PO, PO-R and LO Zoning Districts. The only Zoning Districts where such uses would not be allowed is within the PI-Planned Industry District and the RS-National and Regional Use District. The effect of the Proposed Action is to allow such uses throughout every single-family residential neighborhood and street in the Village. As proposed, Places of Worship would be an allowed use in over 90% of the geographic area of the Village of Chestnut Ridge. The Proposed Action would fundamentally change the character of the community and poses numerous potentially significant (and highly likely) adverse environmental impacts related to aesthetic resources, community character, transportation and community services (e.g., water, sewer, police, fire, ambulance, schools, etc.). While the effects of each of the items listed above are palpable, when taken in their totality they have the potential to render the Village of Chestnut Ridge unrecognizable and completely alter the quality of life that residents enjoy today.



Potentially Significant Adverse Impacts related to Aesthetic Resources:

- The Proposed Action would allow one freestanding monument sign for each Neighborhood Place of Worship. Residential streets are intended to be free of visual clutter caused by freestanding signs. The resulting proliferation of such uses with freestanding signs along the Village’s quiet residential streets would have a significant adverse visual impact on the aesthetics resources.
- The proposed standards for the regulation of Neighborhood Places of Worship (NPW) does not limit the proliferation of these uses throughout residential neighborhoods. As written, the Proposed Action could result in multiple NPW on every residential block. In order to accommodate off-street parking, residential yards will be transformed into parking lots, which would have an adverse impact on neighborhood aesthetics. To accommodate new sidewalks, trees will have to be removed from tree-lined streets.

Potentially Significant Adverse Impacts related to Community Character:

- Residential Place of Worship is defined as follows: The use of no more than 50% of the gross floor area of an existing one-family detached residence for “regular organized religious assembly.” The first concern is that “regular organized religious assembly” is not defined. The second concern is the proposed standards for such uses allow half a residence to be used for such purpose and allow up to a 60-person occupancy in a single-family home. The *cumulative impact* of like uses being situated throughout the residential neighborhoods of the Village would fundamentally change the character and quality of life of the Village’s quiet residential streets. Residential neighborhoods are intended to be quiet places of respite for residents and their families where they can enjoy life before and after work. Neighborhoods are not intended to be places bustling with pedestrian and vehicular activity related to places of worship. While the character of residential neighborhoods is, in part, defined by its housing stock, it is also defined by how such houses are used. The assemblage of up to sixty people in homes will undoubtedly have negative impacts on neighbors, on-street parking, and the ability to enjoy quiet time at home. The principal intended use of neighborhoods is for residences and the introduction of non-residential activities on these streets would change the character of the neighborhood, even if the housing stock stayed the same. However, it is inevitable that the housing stock will need to change to accommodate the residential places of worship, thereby exacerbating the adverse impacts on the Village’s neighborhoods.
- Neighborhood Place of Worship is defined as “The use of a building or structure for regular organized religious assembly in a structure or structures with a total floor area of up to 10,000 square feet and other than a residential place or worship.” The use may take place in a structure with or without a residential component. The introduction of such non-residential uses within residential areas would fundamentally change the character of residential neighborhoods in Chestnut Ridge. Making matters worse, the proposed Local Law would allow accessory buildings including religious schools, social halls, administrative offices, public baths, gymnasiums and indoor recreation facilities. Wedding receptions and other social functions would be allowed. The accessory uses pose potentially significant adverse impacts related to noise, light pollution, parking, transportation and community services, which are discussed in more detail below. The interconnectivity of the potential adverse impacts (e.g., aesthetics, parking, transportation, and community services) will render the Village of Chestnut unrecognizable from what it is today.
- Community Places of Worship are defined as “The use of a building or structure designed for regular organized religious assembly in structure with more than 10,000 square feet.” Community Place of Worship would also be allowed in the following Zoning Districts: RSH, NS, PO, PO-R and LO Zoning Districts. As written, the most intensive category of House of Worship would be allowed in almost every inch of the Village, without any thought to the potential cumulative impacts on traffic circulation, community character, compatibility with existing land uses, and drain on community resources (e.g., water, sewer, police, fire, ambulance, sidewalk system, etc.).

Potentially Significant Adverse Impacts related to Community Services and Transportation:

- Houses of Worship by their very nature result in regular assemblages of people that result in traffic (vehicular and pedestrian) related impacts, needs for off-street and on-street parking, impacts related to noise and an increase in the demand for community services. This is why such uses are often regulated as Special Permit uses and careful consideration is given to ensure that such uses do not adversely affect

adjacent land uses. As written, the Proposed Action is indifferent to the potential impacts of allowing such uses in established single-family neighborhoods throughout the entire Village.

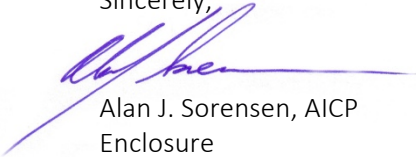
- Making matters worse, the Proposed Action would allow accessory buildings including religious schools, social halls, administrative offices, public baths, gymnasiums and indoor recreation facilities. Wedding receptions and other social functions would be allowed. Each and every one of these facilities has the potential to generate significant increases in traffic, the demand for off-street and on-street parking, and the need to expand the existing sidewalk system.
- Another concern is the potential adverse impact on the tax base. For example, would a Residential Place of Worship apply for tax-exempt status? If so, who would pay for the increases in the demand for community services and expanded infrastructure?
- A single Community Place of Worship has the potential to exhaust the transportation and on-street parking system during a wedding or reception. If the Community Place of Worship also includes a school such impacts will occur more frequently and the adverse impacts on the neighborhoods will be more pronounced. Social halls, wedding receptions and social events carried out as accessory uses to Houses of Worship will also place an increased demand on transportation, water, sewer, police, ambulance and fire protection services as the result in the mass gathering of people for such purposes. This is an area where the Proposed Action must be studied in great detail in a DEIS, which would include an analysis of potentially significant cumulative impacts and the required mitigation measures.

Potentially Significant Adverse Impacts related to Consistency with Community Plan:

- A municipality's Comprehensive Plan is insurance that the ordinance bears a "reasonable relation between the end sought to be achieved by the regulation and the means used to achieve that end."
- NYS Village Law §7-722. In New York, the zoning enabling acts continue to require that zoning be undertaken "in accord with a well-considered plan" or "in accordance with a comprehensive plan." The Village of Chestnut Ridge does not have an adopted Comprehensive Plan. The Proposed Action would inevitably result in the demand for additional community services. The Proposed Action will encourage new non-residential development in neighborhoods, which will be inconsistent with predominant architectural scale and character. The Proposed Action will undoubtedly cause a change in density of development that is not supported by existing infrastructure (e.g., water, sewer, sidewalk, transportation) or is a distance from existing infrastructure (i.e. a House of Worship not situated near bus stops or public transit). In the absence of the Comprehensive Plan, by law, the Proposed Action must be consistent with a well-considered Plan. There is no evidence the Village Board has taken even a cursory review of the goals of the proposed Local Law, or for that matter the significant adverse impacts that the it presents to the Village of Chestnut Ridge.
- Today, Chestnut Ridge is a community with single-family neighborhoods, which are distinct and separate from its small neighborhood business districts. The Proposed Action would allow the introduction of non-residential uses on every single residential block, thereby, destroying the character of these neighborhoods. The Proposed Action would fundamentally and forever change, the character of Chestnut Ridge and the quality of life for its residents.

Conclusion: The Proposed Action to allow Houses of Worship almost anywhere in the Village of Chestnut Ridge is ill conceived, short-sighted and to date, has had no public input or the professional analysis and oversight necessary to usher in the monumental changes suggested by this Proposed Action. While the effects of each of the items listed above are palpable, when taken in their totality they have the potential to render the Village of Chestnut Ridge unrecognizable and completely alter the quality of life that residents enjoy today. The potentially significant adverse environmental impacts are enormous and must be carefully analyzed through an Environmental Impact Statement as this is a Type 1 Action. In this case, the Village Board as Lead Agency should issue a SEQRA *Positive Declaration* and require the preparation of a *Draft Environmental Impact Statement (DEIS)* for the Proposed Action. Since the Proposed Action affects over 90% of the geographic area of the Village, a *Public Scoping Session* should be provided to afford the public an opportunity to weigh in on the contents of the DEIS.

Sincerely,



Alan J. Sorensen, AICP

Enclosure



Above: Illustrative example of how the introduction of a non-residential public assembly use in a residential area adversely affects neighborhood character and increases parking demand and traffic generation.

ⁱ Pursuant to 6NYCRR Part 617 State Environmental Quality Review (SEQR) Law §617.4 (b) (1) “the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district is considered a Type 1 Action. The Village of Chestnut Ridge, has a geographic area of 4.9 square miles, or 3,136 acres. The Proposed Action would allow “Community Places of Worship” in over 90% of the Village’s geographic area, which far exceeds the Type 1 Threshold of 25-acres. ***The Proposed Action must be classified as a SEQRA Type I Action.***

ⁱⁱ **6NYCRR Part 617 State Environmental Quality Review (SEQR) Law §617.4 Type 1 Actions.** Prior to undertaking most actions, a government agency must determine their potential “significance” by evaluating the possible significant adverse environmental impacts the action may have. **If the agency determines that the action may include the potential for at least *one* significant adverse environmental impact, then it must require the preparation of an environmental impact statement (EIS).** An EIS “must assemble relevant and material facts upon which an agency’s decision is to be made. It must analyze the significant adverse impacts and evaluate all reasonable alternatives.” (*Source: Zoning and the Comprehensive Plan, NYSDOS-Division of Local Government Services, Revised 2015, pg. 5*). The Proposed Action would have several significant adverse environmental impacts related to Aesthetic Resources, Transportation, Consistency with Community Plan, and Community Character that **must** be thoroughly analyzed through the environmental review process. Clearly this a case where a “**Positive Declaration**” is necessary and where a Draft Environmental Impact Statement (DEIS) must be prepared.