

MEMORANDUM

To: Steven M. Mogel, Attorney at Law

From: Alan J. Sorensen, AICP, Planning Consultant

Date: November 20, 2018

Re: Chestnut Ridge Proposed Zoning Text Amendments for Public Assembly Uses

My response to your request to review the Village of Chestnut Ridge's Proposed Zoning Text Amendments for Public Assembly Uses with an eye toward identifying potential community concerns related to the Local Law is provided below. I have reviewed the Changes to Proposed Public Assembly Provisions, Draft 2 dated August 29, 2018.

Summary: As written, the Village Board's proposed Zoning Text Amendments for Public Assembly Uses (*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 traffic 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 first commissioned the proposed revisions to the Village Code with the stated purpose of ensuring it complied with State and federal law regarding the regulation of religious land uses. In developing its proposed Zoning Text Amendments, the Board of Trustees purportedly 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 the Local Law as amended clarifies*

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

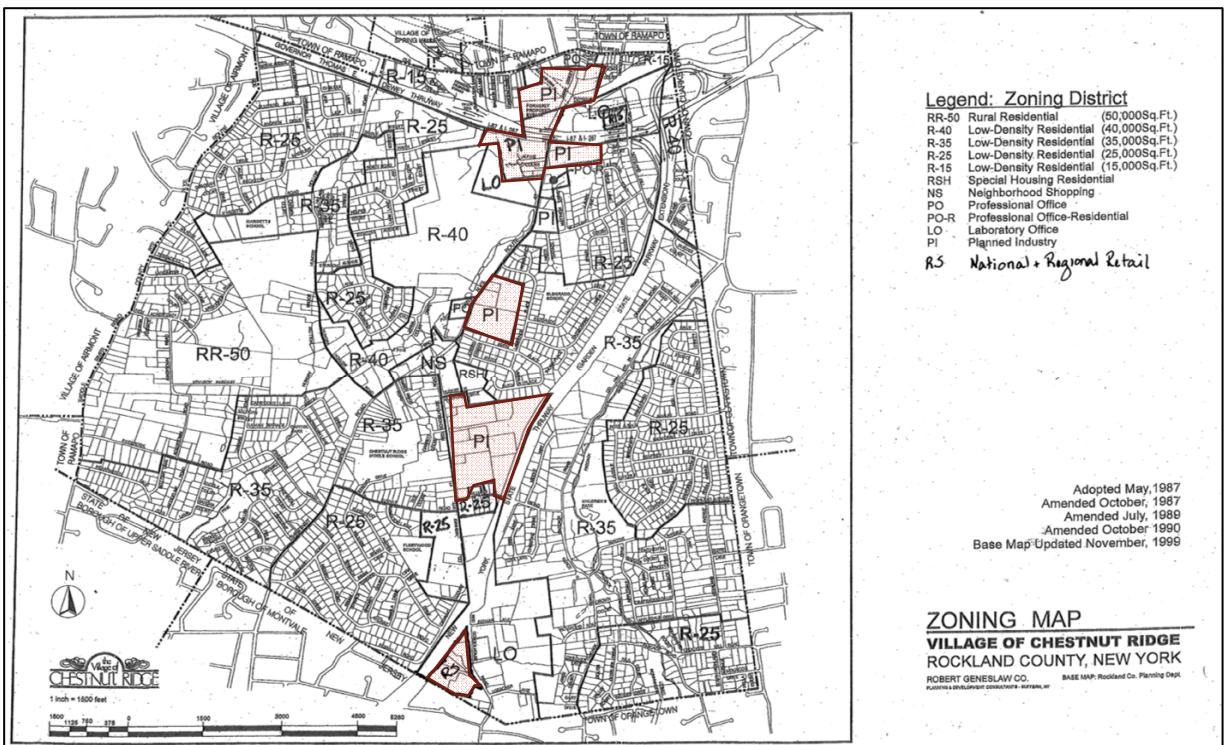
RLUIPA Substantial Burden Provision. When making an individualized assessment, a governmental entity cannot "substantially burden a religious institution unless it: (A) is in furtherance of a "compelling governmental interest"; and (B) is the "least restrictive means" of furthering that compelling governmental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

that places of worship can be established on non-conforming lots. No rationale is provided for why this provision is not applied to other non-religious land uses.

Analysis: As written, the proposed Zoning Text Amendments for Public Assembly Uses 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 Gathering Places”; “Neighborhood Places of Worship;” and “Community Places of Worship” in the following Zoning Districts: RR-50, R-40, R-35, R-25, R-15. Community Places 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, Residential Gathering Places and 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 a building mounted sign with an area of six (6) square feet for each Neighborhood Place of Worship. Residential streets are intended to be free of visual clutter caused by building signs. The resulting proliferation of such uses with building-mounted 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.

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- Allowing parking within 1,500 feet of a Residential Gathering Place (RGP), would require participants to walk to the RGP, which would necessitate sidewalks for pedestrian safety. To accommodate sidewalks, trees will have to be removed from tree-lined streets.
 - Most of Chestnut Ridge’s neighborhoods consists of single-family homes set back from the street with large front, side and rear yards. This pattern of development provides a parklike setting along its many residential streets. In order to accommodate off-street parking, residential yards will be transformed into parking lots, which would have an adverse impact on neighborhood aesthetics. This would occur despite the new provision to only allow two (2) parking spaces to be provided in front of the building, but only behind the required front yard. The proposed minimum required off-street parking requirement for Residential Gathering Places is one (1) space per five occupants. Based upon the maximum permitted occupancy of 49 persons, this translates into an off-street parking requirement of ten (10) spaces. The balance (i.e., eight (8) parking spaces) would likely be provided elsewhere on the site, but would be allowed off-street within 1,500 feet the Residential Gathering Place (RGP). It doesn’t take too much imagination to envision the adverse visual impacts of providing ten (10) off-street parking spaces on a residential lot, or the cumulate impacts of such parking on many lots within a residential neighborhood.

Potentially Significant Adverse Impacts related to Community Character:

- Residential Gathering Place is defined as follows: The use of a dedicated portion of a one-family detached residence for large gatherings, meeting all of the following criteria: Gatherings occur more than 12 times per year; gatherings are comprised of 15 or more persons, and gatherings shall not exceed 49 persons, or the maximum allowable according to Section 17.B of Article XII, or the maximum allowable number under the NYS Uniform Fire Prevention Code, whichever is less. No more than 50% of the gross floor area of the structure may be used for residential gatherings. The first concern is that “gatherings” is not defined. The second concern is the proposed standards for such gatherings allow half a residence to be used for such purpose and allow up to a 49-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 residential gathering places. 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 49 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 and residential yards will need to change to accommodate the Residential Gathering Places (e.g., on-site parking and signs), thereby exacerbating the adverse impacts on the Village’s neighborhoods.
- As noted in the Nelson, Pope & Voorhis, LLC Memorandum dated August 29, 2018, Community Places of Worship are now allowed in all non-residential zoning districts, except for PI and LO. The memorandum notes that “The PI and PO District are not appropriate for places of worship as they currently don’t permit any types of public assembly uses, and we understand through discussions with the Red Schoolhouse Road Corridor Study that the Village wishes to reserve these districts for economic development opportunities.” This begs the question of why it would be appropriate to allow “Residential Gathering Places” throughout the Village’s residential neighborhoods when such intensive

land uses are not presently permitted. Doesn't the Village wish to reserve its residential zoning districts for quiet residential purposes?

- 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 gathering place." 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, baths and shower facilities, 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 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:

- Residential Gathering Places and 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, baths and shower facilities, 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 Gathering Place 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.

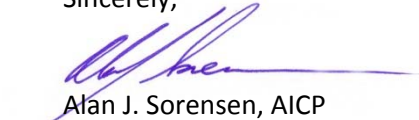
- The new Local Law would only allow offsite (or on street) parking where parking is restricted to one side of the street. Even with this provision, narrow street width and lack of sidewalks along many residential streets will result in congested and unsafe streets during residential gatherings or religious services.

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. However, the 2012 Land Use Map reflects the long-established land use policies of the community (see Land Use Map on Page 7 herein). This map shows a land use pattern consisting of predominantly single-family neighborhoods surrounding non-residential nodes within the Village. The existing land use reflects the community's long-established land use policies. The Proposed Action is a *substantial departure* from Chestnut Ridge's long-established land use policies in that it would allow Residential Gathering Places and Houses of Worship throughout its residential neighborhoods. Such a drastic change to long-established land use policy should only occur through a public participation process that provides an opportunity for residents to weigh in on and shape such policies so that they reflect the desire of the community at large. The Village should first take a step back and undertake the preparation of a Comprehensive Plan for the community so revisions to its land use laws are not developed in a vacuum.
- 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. But 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 it presents to the Village of Chestnut Ridge. 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.
- Today, Chestnut Ridge is a community with single-family neighborhoods, which are distinct and separate from its small neighborhood business districts. The Proposed Action allows the introduction of non-residential uses on every 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 Residential Gathering Places and Houses of Worship almost anywhere in Chestnut Ridge is ill conceived, short-sighted and to date, has had little 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. In my professional opinion, the Village should first take a step back and undertake the preparation of a Comprehensive Plan for the community so revisions to its land use laws are not developed in a vacuum.

Sincerely,

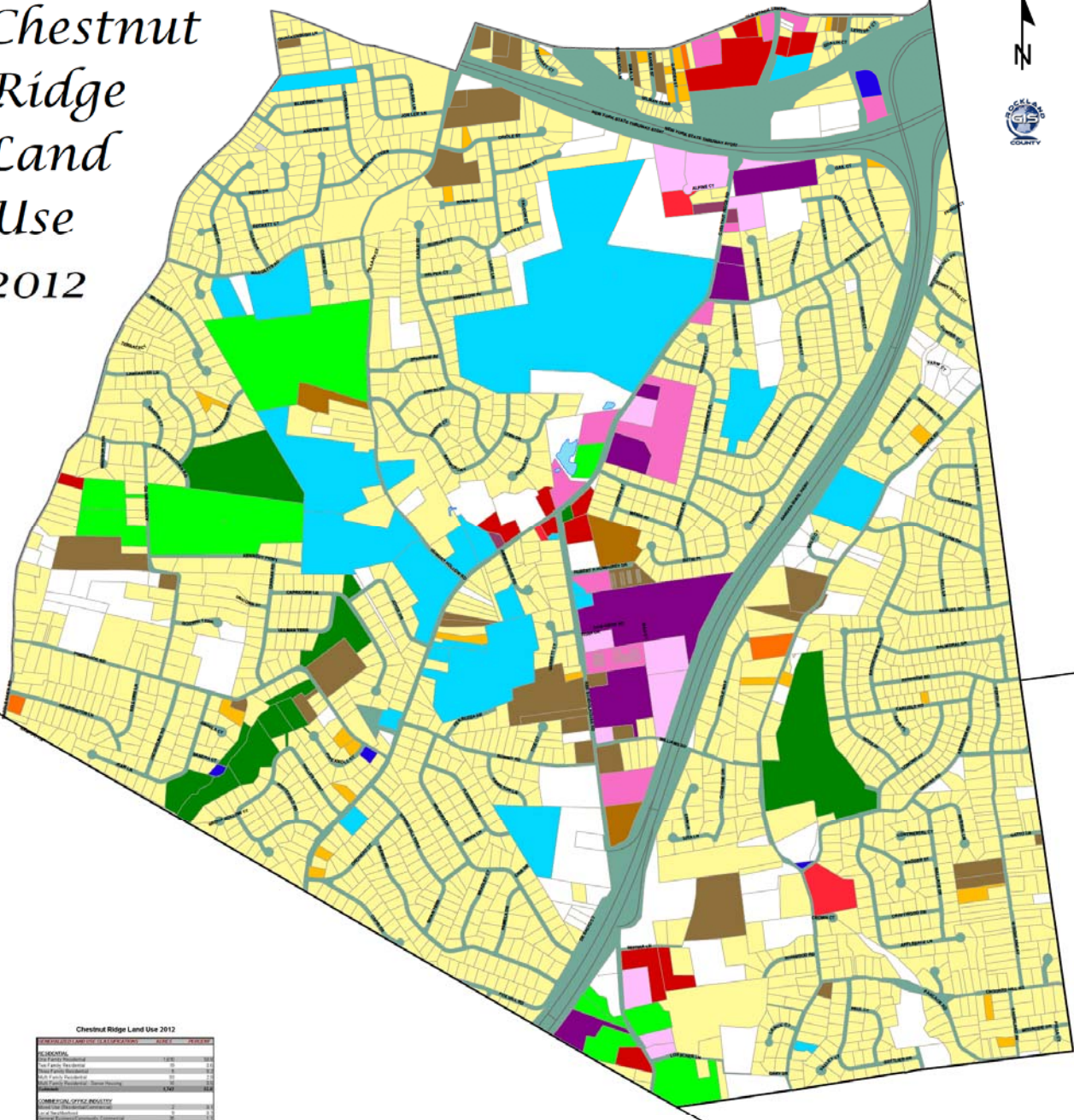
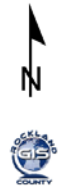


Alan J. Sorensen, AICP
Enclosure



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.

Chestnut Ridge Land Use 2012



Chestnut Ridge Land Use 2012

LAND USE CATEGORY	AREA (ACRES)	PERCENT
RESIDENTIAL	1,410	100%
One Family Residential	1,310	93%
Two Family Residential	10	0.7%
Three Family Residential	10	0.7%
Multi Family Residential	10	0.7%
Multi Family Residential - Senior Housing	10	0.7%
COMMERCIAL/ OFFICE/ BUSINESS	1,410	100%
Mixed Use (Residential/Commercial)	1,410	100%
Office	0	0%
Light Industrial/Warehouse	0	0%
Heavy Industrial	0	0%
Local Neighborhood	0	0%
General Business/Community Commercial	0	0%
Regional Commercial	0	0%
RECREATION/ OPEN SPACE	1,410	100%
Local Park/Open Space	1,410	100%
Public Park/Open Space	0	0%
Private Recreation/ Private Open Space	0	0%
UTILITIES	1,410	100%
Utilities	1,410	100%
ROAD/ TRANSPORTATION	1,410	100%
Road/Commuter Parking	1,410	100%
WATER	1,410	100%
Under Water	1,410	100%
TOTAL (Area/Permitted)	3,100	100%

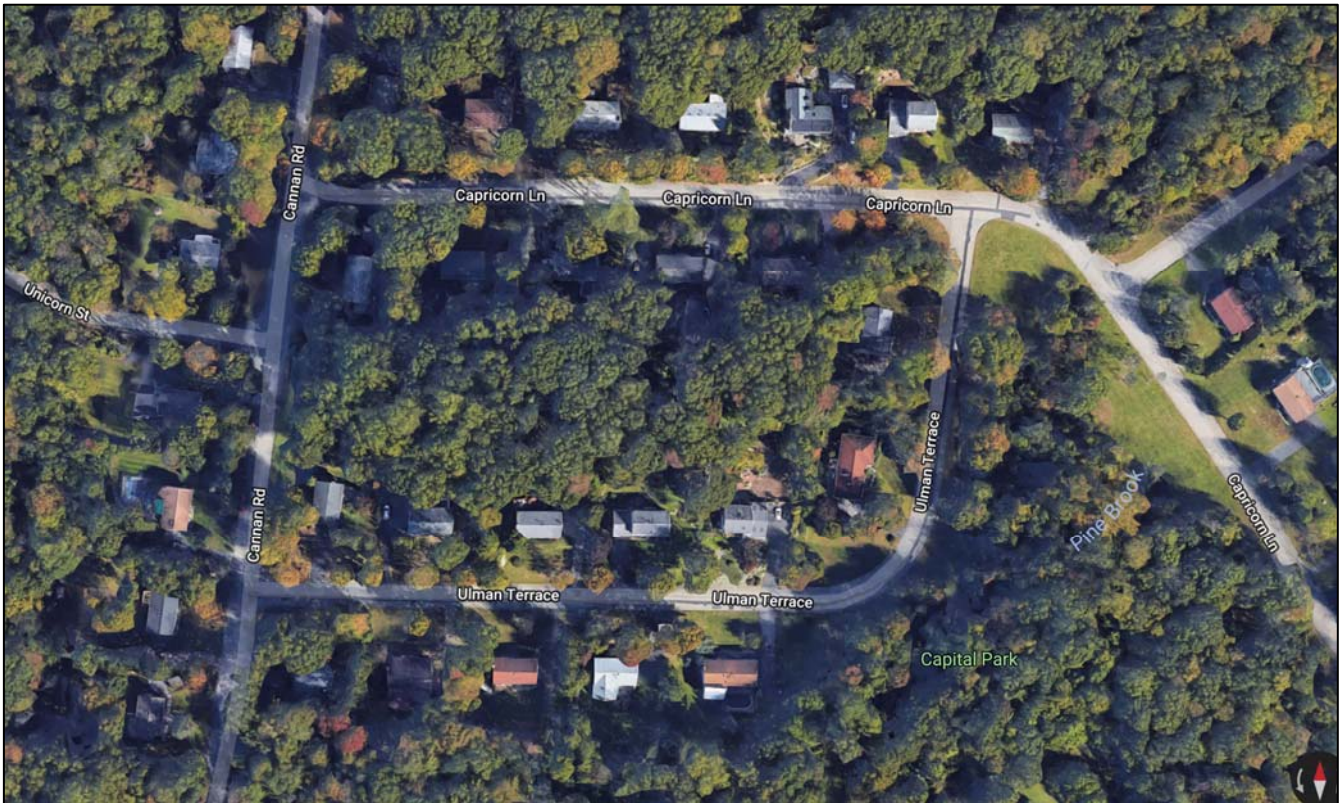
- Legend**
- Village Boundaries
 - One Family Residential
 - Two Family Residential
 - Three Family Residential
 - Multi Family Residential
 - Multi Family Residential - Senior Housing
 - Mixed Use (Residential/Commercial)
 - Office
 - Light Industrial/Warehouse
 - Heavy Industrial
 - Local Neighborhood
 - General Business/Community Commercial
 - Regional Commercial
 - Agricultural
 - Local Park/Open Space
 - Public Park/Open Space
 - Private Recreation/ Private Open Space
 - Institutional/Quasi-Public
 - Utilities
 - Vacant
 - Road/Commuter Parking
 - Railroad
 - Under Water
 - Not Yet Classified



Prepared by: The Rockland County Planning Department - GIS, June, 2013
 Project: ChestnutRidge_landuse2012.mxd
 Source: Land use based on RPS database from Assessor's office; updates based on interpretations of the 2010 Orthophotos and field checks by The Rockland County Planning Department.
 Parcel boundaries: Based on February, 2012 Taxmaps.

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1. Land use based on 2012 GIS database, using field verifications, 2012 Orthophotos, and 2011 Taxmaps.
 2. Area is based on GIS verifications and are rounded to the nearest whole number.
 3. Occupied based on February, 2012 tax map parcel.
 4. Water changes based on latest available hydrographic information.
 5. Land use categories do not include areas underlain by the Hudson River. Prepared June, 2013 by the Rockland County Planning Department, GIS.



Above (top to bottom): Typical parklike setting along residential neighborhood in Chestnut Ridge showing large front lawns and tree lined streets; and view of Fosse Court in Airmont, NY showing type of parking that would be allowed for Residential Gathering Places under the proposed Local Law. It doesn't take too much imagination to envision the adverse visual impacts of providing ten (10) parking spaces on a residential lot, or the cumulative impacts of such parking on many lots within Chestnut Ridge's neighborhoods.

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 “Residential Gathering Places” 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.