

## **Waterfront and Open Space Committee Working Group Report August 2009**

### **Introduction**

The Waterfront Open Space Working group (WOSWG) was charged with inventorying the shoreline properties of the Village of Cold Spring as well as parks and some open space. A total of 36 properties received a full inventory. This inventory includes ownership, zoning, uses, water access, natural environment, and history. In addition, another 77 properties were reviewed in regards to underdevelopment.

### **History**

The Village of Cold Spring has a significant place in the history of the Hudson Valley. It was developed because of its location as a “water stop” on the River, and grew because industry was able to make use of the River and the turnpike to Connecticut for shipping. The West Point Foundry (Survey #33), was the site of an industrial foundry which produced the Parrott cannon and later the structural and decorative elements for New York City buildings. Two of the large parcels of open space in the village, Marathon (Survey #31, #32) and the Campbell property (#29), held the estates of the Kemble family who had ownership in the West Point Foundry. Dockside (Survey #11) was also the site of a blast furnace, and the waterfront area (Survey #17) was filled with warehouses and docks for shipping. The current Foundry Dock Park (Survey #27) was an extension of the West Point Foundry shipping facility. The Marathon site previously held a battery production facility that operated well into the 20<sup>th</sup> century.

Over time the shoreline of the Village has gone through changes. The Mayor’s Park/Waste Water Facility/Highway Garage parcel (Surveys #2-#6) and Dockside, are partially fill. Much of the “build out” occurred when the railroad came through; some of it was added for the convenience of the blast furnaces, foundry, and shippers. Many of the properties surveyed contain historical buildings, archeological remains and even contaminants left from past eras.

In the 20<sup>th</sup> century, Cold Spring left its industrial and shipping past behind. There are currently no operating industrial facilities, nor non-recreational water related businesses. What was once a working waterfront now is a combination of recreation, open space and residential. New construction has at times attempted to recreate older architectural styles, although with 21<sup>st</sup> century interpretations. Potential development and density allowed with the current zoning is a concern to many. Planning for the future will need to take into account balancing demands for increased recreational access and economic development with a limited infrastructure while maintaining a healthy residential community.

### **Scenic Beauty**

The Village of Cold Spring’s 2007 Resident Survey asked residents what they would preserve about Cold Spring. A significant number of the surveys referred to the natural beauty of the area the waterfront, the views, the open space. A majority of the comments were about preserving

scenic beauty, views and the view sheds. People are attracted to Cold Spring for its beauty, both as tourists and as residents.

The entire shoreline, and in fact nearly the entire Village of Cold Spring, lies within the Statewide Area of Scenic Significance, Hudson Highlands Subunit. The inventories found that state policies to prevent impairment of the scenic resources of the Highlands unit have not been followed, or utilized, or enforced. Development along the shoreline of Cold Spring appears to have proceeded through the planning/zoning approval process without SASS criteria being addressed. Unlike many municipalities which have in place minimum shoreline setbacks or cluster development codes, Cold Spring has no codes or zoning tools in place that could allow the Village approval process to deny approvals and thus mitigate impact.

The WOSWG surveys identified numerous properties where a sensitivity to the view shed and the enforcement of SASS guidelines could have made a substantial difference. For example, new housing built right on the shoreline on Market Street (survey #24 and #25) is a textbook example of Cold Spring's failure to mitigate negative scenic impacts. The Village itself has located properties along the shoreline (Village Garage, Survey #6, and the municipal waste facility, Survey #4) with little sensitivity to their appearance from the river nor their effect on views in the village.

The surveys identified several privately-owned parcels of shoreline land that are undeveloped. Two of these, owned by two different owners (Surveys #12 and #13), are at the entrance to Dockside. These parcels include riparian rights. Other sites very near the shoreline are the Kemble Ridge portion of the Marathon Battery plant site (Survey #32), which is adjacent to the West Point Foundry (Survey #33), and the Campbell property (Survey #29). Both are in close proximity to Foundry Cove and the Constitution Marsh Audubon Sanctuary. Insensitive development of any of these properties will have serious negative impact on the scenic beauty of Cold Spring as viewed from the river, the Highlands or Foundry Cove.

### **Water Access**

The Village of Cold Spring has several types of public access to the water. There are two active launching sites for small boats, the Foundry Dock Park (Survey #27) and the Village Boat Club (Survey #19). There is also a prospective boat launch site at Dockside (Survey #11). These sites, as well as the West Point Foundry (Survey #33), and the Bandstand/Village dock area (Survey #17), allow for various degrees of passive enjoyment by means of benches and walking paths. Dockside, currently undeveloped, has the potential for many different types of shoreline activities.

The Vision section of the 2007 Resident Survey asked residents open-ended questions about what they liked best about Cold Spring, what they would change, and what they would preserve. The "natural environment" received the most positive responses. In the sections regarding what they liked best and what should be preserved, residents overwhelmingly cited an appreciation of the waterfront and the need to protect the beauty and the access to the river.

While the preservation of our existing natural resources was a clear charge to the Village, there was less clarity regarding how the waterfront section should be changed. Responses support the view of the shoreline area not just as a recreational area but as a social gathering area with formal and informal facilities for residents. Larger boat and ferry access was discussed at resident forums. The lack of a place for boats over 30' to launch is cited, as well as the fact that the local ferries and visiting vessels requiring deeper water cannot dock. Some long time residents expressed regret over the loss of the small swimming area that once existed near the Village bandstand area.

Some of the suggestions are included in the List of Considerations section, below.

### **Housing Development in the Shoreline Areas**

The 2007 Resident Survey came on the heels of the long-disputed residential development along the waterfront park. Major concerns were expressed about the impacts of continued housing development in the waterfront area and in the Village as a whole. Many comments focused on the fact that new construction has tended to be increasingly large, out of scale, and unaffordable. High-density residential development was also cited as a concern. Other comments called for an immediate end to construction or increased density in the waterfront area. The density allowed currently along Market Street, where single homes could be replaced with condos, and on the Campbell and Marathon properties were noted as items of specific concern.

### **Geographic and Environmental Concerns**

The shoreline areas of the Village are in a flood zone. Periodically, the river overflows and water laps at the doorsteps and seeps into the basements of nearby buildings. The only building requirement in place and enforced is that new construction be elevated; but there is no prohibition on new construction. During times of substantial rainfall, run-off from Back Brook, creates flooding and stresses on the storm water system. The Village sewer plant has at times been overburdened allowing waste overflow into the Hudson. The Village staff has been addressing the run-off issues but further steps need to be taken.

The Village of Cold Spring has several areas which contain significant amounts of soil contaminants. The most severely impacted area is the Marathon site, where a battery plant operated for many years. The plant was found to have disposed of large quantities of heavy metals in such a manner that the Marathon property, some of the adjacent residential properties, and the Foundry Cove were all contaminated, prompting EPA action. Dredging of the cove was first performed in 1983 but a second EPA directed action which involved extensive soil and sediment removal was begun in the late 80's concluding in 1995, including the Cove, the waterfront area, of the Village and the Marathon site itself.

A contaminant plume remains under the Marathon site, but the site has been cleared for development so long as access to monitoring wells is maintained. Deed restrictions limit digging to the depth of 15 feet on part of the property.

A contaminant area has also been identified on the boat club property (survey #19), this from a previous gas processing plant. Discussions on remediation are in process.

## **Natural Environment**

Cold Spring is located in the Hudson Valley on the shores of the Hudson River, which is designated as an American Heritage River. The Village of Cold Spring also lies within the Hudson River Valley Heritage Area and the Hudson Highlands. Most of the shoreline has been altered over time, and is now largely riprap reinforced. The Hudson River is an estuary where it passes Cold Spring. There are wetlands along the edge of the southern boundary where the river forms Foundry Cove. Cold Spring is home to a wide variety of flora and fauna and includes several sensitive ecological communities.

Cold Spring borders on Foundry Cove, which adjoins Constitution Marsh. Constitution Marsh is a New York State designated “Bird Conservation Area”. According to the DEC website <http://www.dec.ny.gov/animals/30935.html>, the New York State Bird Conservation Area Program was established in 1997 to safeguard and enhance bird populations and their habitats on State lands and waters. The goal of the Bird Conservation Area (BCA) Program is to integrate bird conservation interests into agency planning, management and research projects, within the context of agency missions.”

The 2007 Resident Survey also asked about the top priorities for the waterfront, and presented a list of selections. The number one priority, with 202 responses, was the “flora, fauna and ecosystem”. Following closely was “maintaining the shoreline in its natural state”.

## **Specific Properties of Concern**

### **Dockside (Survey #11)**

The property known as Dockside, tax lot 48.12.1.52, was purchased by the Open Space Institute and transferred to the State for development as part of the Hudson Highlands State Park. The survey of this property notes its long and interesting series of ownership and uses, predominately industrial in nature. The property does not have a “natural” shoreline, the flora is introduced or invasive, and there are no known “sensitive areas” as defined by the state.

The Village has taken over management of the property from the State. It is expected that there will be additional planning for the facilities that will enhance the public’s use of the property.

### **Campbell (Survey #29)**

The property at the end of the Boulevard, previously owned by the Campbell family, tax lot 48.12-1-13, was transferred to Scenic Hudson in 2009. At this time no public planning for this parcel has taken place. The property is zoned R3 and although the future owners do not have intentions of developing the property to its fullest capacity, the risk remains. This property is not known to be environmentally sensitive, but it is one of the last large, somewhat natural areas in the shoreline area forested (albeit second growth with a large lawn in the center). It also overlooks the Foundry Cove and is considered part of the scenic landscape of Cold Spring as viewed from the Hudson Highlands Subunit.

### **Village Properties along Fair Street (Survey #1-5)**

The Village owns a large parcel of property, tax number 48.8-1-24.1, along Fair Street which contains the Highway Department, the Waste water treatment plant, a parking lot, ball fields, and access to a tidal inlet next to the community park. This large property has some of the best views in Cold Spring. As noted in the Scenic Beauty section of this report, the properties have been developed with little or no sensitivity to their appearance from the river or in ways which might utilize their locations to enhance the Village tax base.

Additionally, the tidal inlet at the base of the property is seemingly maintained as an afterthought, and is relatively unnoticed/unappreciated/unused by the village residents. This area could potentially be one of the most sensitive areas in Cold Spring yet has not been studied for its biological inhabitants.

### **Marathon (Survey #31, 32)**

The property known as Marathon is, in fact, comprised of two larger lots which are identified in the inventory as the Kemble Ridge property, tax numbers 49.9-1-12, 49.09.1.41 through 49.09.1.62, and the Marathon property, tax number 48.12-2- 63. The Marathon property is closest to The Boulevard. It is zoned I1, and eligible uses include residential, as long as setback requirements are followed.

In the 2007 Resident Survey, Cold Spring residents were asked what they would like to see on this currently vacant site. The vast majority of the responses referenced recreational uses such as ball fields, a track, or a pool. Other responses mentioned more passive uses such as a wildflower meadow or gardens. Additionally, 45% of the responses wanted to see some portion used for parking. The resident survey did not indicate that the property is privately owned, or that the current owner seeks to develop the property with residential or light industrial uses. The Village has not discussed purchase of the property.

As noted in the Geographic and Environmental Concerns section, there continue to be issues surrounding the presence of ground contamination in the property nearest the Boulevard, but not to an extent that would prevent development on the properties. The property portion nearest the Cove was not included in the cleanup and it is not known if any testing has occurred on that portion.

As noted in the Scenic Beauty section, the Kemble Ridge portion of the Marathon Battery plant site is adjacent to the West Point Foundry (Survey #33). It overlooks Foundry Cove and the Constitution Marsh Audubon Sanctuary. The current owner, in interviews with the WOSWG has stated his intentions to develop these properties for housing, and was especially interested in maximizing the value of the waterfront views. It appeared that the developer was not concerned that the property is a critical part of the NY SASS and that development on the ridge could potentially have a serious negative impact on the scenic beauty of the Foundry Cove as viewed from the river or from West Point Foundry.

The remains of the Kemble estate are on the portion of the property facing the Cove. These remains, and their proximity to the West Point Foundry property, make the site historically and culturally significant to the residents of Cold Spring. The property owner has offered the possibility of a small easement to protect them.

## List of Considerations:

- Need to address private ownership of parcels which abut and are used for access to Dockside, are riparian and are potential riverwalk properties.(See Note 1)
- Cluster zoning overlay for large properties (Campbell, Marathon, West Point Foundry, Mayors Park etc) (See Note 2)
- Recommend to the Village Board that they form two separate volunteer committees to address and evaluate uses for Dockside property and Marathon property
- Rezone Mayor's Park to "Recreation"
- Evaluate Village garage and its impact on scenic view shed
- Water permeable surfaces requirement for parking lots
- Consider a bridge to connect Dockside to Village garage
- Reevaluate zoning in lower waterfront area in regards to potential density and commercial uses
- Village code/planning/zoning practices need to address guidance from "Statewide Areas of Scenic Significance"
- More Public Restrooms
- Relationship between Boat club and Village residents needs to be reevaluated
- Create and mark Bike and pedestrian paths along river, join to 9d to Little Stony Pt. (River paths)
- Remedy Light pollution both from our lights and West Point
- Improved handicapped and stroller access to riverfront areas
- Extend Lunn Terrace to Boulevard to provide additional parking for RR and ease traffic patterns
- Village purchase of Marathon properties for scenic historic preservation, public or recreational use
- Preserve view shed at Marathon (tree line overlooking cove)
- Promote access to the Village via River
- Rezone Campbell property from R3 to protect from overdevelopment
- Prior to any further development, all shoreline properties need to be addressed as a whole in regards to traffic, water access, recreation, taxes and Village character with a potential result of zoning changes for protection and best use

## Notes

(1) Access to Dockside is now currently possible only by an easement through the 1-3 North Street, known as the Siskind property. This parcel, and the one immediately adjacent to it, 3 West Street, which is owned by Impellitere, are key waterfront properties with riparian rights. Development of these should be examined in relation to a riverwalk, and potential docking. In addition, failure to negotiate use agreements could hamper development of Dockside.

(2) A Cluster Overlay is a zoning tool for the Planning Board to use for preservation of sections of large properties which face development. The zoning overlay allows for buildings to be sited on smaller lots, closer together or attached so that a developer does not lose any density, in return for setting aside sensitive portions of the development, or for creating recreational opportunities on a property. It also allows for flexibility within the zoning code to create positive situations for both the developer and the community. There are a large number of parcels over 2 acres in the Village of Cold Spring, many with streams, shorelines, or the potential to impact the scenic view shed. An overlay to allow creative planning in these areas could help retain scenic areas and Village character.

Sample code:

### **Purpose and Zone Characteristics**

The Cluster Residential Overlay (CRO) Zone is established to provide for cluster residential development within limited areas of the Village.

### **Intent**

The CRO zone is intended to provide subdivision development and layout techniques which encourage flexible, imaginative and efficient subdivision patterns, active and passive open space areas and trails, creative lot configurations, desirable subdivision design features, efficiencies in the delivery of required services, and reduced initial development and ongoing maintenance costs. The CRO Zone is provided to encourage flexible, efficient and imaginative subdivision design and development within the Village in a manner that:

- (a) Protects scenic historic and sensitive lands, including those areas containing features such as steep slopes, wildlife habitat, floodplains and wetlands, by setting them aside from development;
- (b) Preserves and conserves open space land, including those areas containing unique or natural features;
- (c) Provides greater design flexibility and efficiency in the siting and delivery of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development;

## SCENIC AREAS OF STATEWIDE SIGNIFICANCE

### INTRODUCTION

New York State has a long history of recognizing the importance of scenic resources. The first widely known recognition of American landscape beauty was expressed during the 19th century in the work of the Hudson River School of painters. The American Romantic Landscape Movement also developed in the Hudson Valley before spreading to the rest of the nation. Thus, New York's landscape tradition includes appreciation of both the natural and the cultural landscape and its coastal scenic landscapes usually include elements of each.

When the State Legislature established the Coastal Management Program in 1981, their findings included:

"...that New York State's coastal area and inland waterways are unique with a variety of natural, recreational, industrial, commercial, ecological, cultural, aesthetic and energy resources of statewide and national significance." (Article 42 § 910)

The Act declares that the public policy of the State within the coastal area is "...to achieve a balance between economic development and preservation that will permit the beneficial use of coastal resources while preventing the loss of living marine resources and wildlife, **diminution of open space areas or public access to the waterfront**, shoreline erosion, **impairment of scenic beauty**, or permanent damage to ecological systems." (Article 42 § 912). The Federal Coastal Zone Management Act also recognizes the importance of aesthetic values in managing coastal resources. The Act states that it is the national policy "to encourage and assist the states to...achieve wise use of the land and water resources of the coastal zone, **giving full consideration to ecological, cultural, historic, and aesthetic values....**"

### SCENIC POLICIES

In recognition of the scenic value of the coast, New York's Coastal Management Program (CMP) includes two policies which provide for the protection and enhancement of this unique resource. Policy 24 provides for the designation and protection of scenic areas of statewide significance; and Policy 25 requires that proposed actions located outside a designated SASS must protect, restore or enhance the overall scenic quality of the coastal area. Both policies call for agencies to determine if a proposed action would impair scenic quality.

The policies state that impairment of a landscape's scenic quality can occur in two principal ways: 1) through the irreversible modification or destruction of landscape features and architectural elements which contribute significantly to the scenic quality of the coast, and 2) through the addition of structures which reduce views or are discordant with the landscape because of their inappropriate scale, form, or construction materials. Regulations governing the designation of scenic areas of statewide significance are found in 19 NYCRR Part 602.5.

Both policies include siting and design guidelines which are to be used to evaluate the impact of proposed development, recognizing that each situation is unique and that the guidelines must be applied accordingly. The guidelines address the appropriate siting of new structures and other development; the use of scale, form and materials which are compatible with the landscape's existing scenic components;

the incorporation of historic elements in new development; the maintenance of existing landforms and vegetation; and the removal and screening of discordant features.

Excerpts from LWRP guide section on SASS:

<http://www.nyswaterfronts.com/SASS/SASS1/AppendixC.htm>

#### Notes

The following siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly. Guidelines include:

- siting structures and other development such as highways, power lines and signs, back from shoreline or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore;
- clustering or orienting structures to retain views, save open space and provide visual organization to a development;
- incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
- removing deteriorated and/or degrading elements;
- maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest;
- maintaining or adding vegetation to provide interest, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters;
- using appropriate materials, in addition to vegetation, to screen unattractive elements; and
- using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.