

Code Update Committee Phase IV

April 3, 2019

History

- Comprehensive Plan Adopted by Village 2012
- Local Waterfront Revitalization Strategy Completed 2011
- Local Waterfront Revitalization Program completed in 2014. New York State Department of State review (required) did not approve due to lack of Zoning items addressed.
- Village obtained grant from NYSERDA (New York State Energy and Research Development Authority) in 2014 to address 29 Code topics; formed Code Update Committee to perform this work.

Code Update Committee

- Purpose: Review and recommend action(s) on 29 topics defined by NYSERDA in 5 Categories.
- Status: Three public meetings have been held on the categories of “Use”, “Appearances” and “Environment”. All meeting materials are available on Village website (www.coldspringny.gov/pages/ColdSpringNY_CodeUpdate/cuc_public/).
- Tonight’s meeting is to obtain public input on Category 4 (“Procedures”). Verbal input will be received at tonight’s meeting. Written input will be accepted until May 3, 2019, and can be sent by email to trustee.early@coldspringny.gov or Cold Spring Village Office, 85 Main Street, Cold Spring, NY 10516, attention: Code Update Committee.

Previous Topics

Phase I – “Use”

- Permitted Use Standards
- Evaluate Restricting Main Street Shop Front Buildings to Commercial Uses
- Home Occupation Standards
- Evaluate Accessory Building Standards
- Evaluate Accessory Apartment Standards
- Detached Garage Standards
- Livable Floor Area Standards
- Evaluate Overnight Accommodation Standards
- Evaluate Waterfront Recreation Standards
- Parking Standards

Previous Topics

Phase II – “Appearances”

- Area and Bulk Regulation Standards
- Maximum Lot Coverage and Setbacks
- Standards for the Preservation and Restoration of Cultural Artifacts
- Sign Standards
- Standards for Three Story Buildings
- Landscaping Within and Around Parking Lot Standards
- Fence Standards

Previous Topics

Phase III – “Environment”

- Outdoor Lighting Standards
- Evaluate Steep Slope Standards
- Evaluate Flooding Standards
- Evaluate Adopting a Ridgeline Protection Overlay District
- Green Building Standards

Future Topic

Date – To Be Determined

Phase V - “Consistency and Clarity”

- Amend the Village Code for Clarity and Consistency; and
- Revise the Zoning Map to include new zoning districts and revised boundaries for existing zoning districts based on the recommendations of the Village’s existing Comprehensive Plan and the Local Waterfront Revitalization Program

Tonight

Phase IV – “Procedures”

1. Evaluate Permitting Conservation Easements/Façade Easement
2. Evaluate Outright Demolition of Existing Structure
3. Evaluate Permitting Conservation Subdivisions
4. Amend Subdivision Regulations
5. Evaluate Adopting Waterfront Consistency Review Law

1. Evaluate Permitting Conservation Easement/Façade Easements

Questions considered:

- What do the Comprehensive Plan and the Local Waterfront Revitalization Strategy (LWRS) documents say?
- What is a “conservation easement”?
- What is a “façade easement”?
- Is it feasible for the Village to adopt Conservation Easements or Façade Easements?
- Discussion and conclusion of the Code Update Committee

What Do The Comprehensive Plan and LWRS Say About Easements?

Comprehensive Plan Page 23 and LWRS Page 64:

1.5 Objective: Encourage preservation and adaptive re-use of historic structures.

1.5.2 Recommendation: Consider allowing the Village or an IRS-qualified land protection organization to be a recipient of *conservation easements* and building *façade easements*, which are voluntary agreements that can preserve land from development and may enable property owners who donate easements to receive tax deductions. Ensure that adequate resources exist to allow monitoring and enforcement of any such easements.

Comprehensive Plan Page 40 and LWRS Pages 73 and 74:

3.1. Objective: Establish and implement a 20-year plan to protect and enhance the natural environment in the Village.

3.1.5. Recommendation: Allow the Village to accept *conservation easements*.

3.1.6. Recommendation: Consider enactment of a new "Land Conservation" District in the Zoning Law for lands that could be subject to *conservation easements* and other similar designations.

3.1.8. Recommendation: Build on the open space inventory conducted for the Comprehensive Plan and this LWRS and consider measures to preserve open space, such as *conservation easements* and incentive zoning.

What Do The Comprehensive Plan and LWRS Say About Easements?

(continued)

Comprehensive Plan Page 68 and LWRS Page 92:

7.2 Objective: Ensure that new development and redevelopment of the properties in the Marathon/Campbell/West Point Foundry Preserve/Kemble Avenue area (MCWPFK) results in improvements that:

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7.2.8 Recommendation: Protect views of the ridge from the Foundry trail and Foundry Cove through *conservation easements*, local enforcement of SASS guidelines, and /or creation of a ridgeline protection *overlay district*.

Comprehensive Plan Page 71 and LWRS Page 95:

7.10 Objective: Preserve St. Mary's Lawn.

7.10.1 Recommendation: Work with St. Mary's Church to maintain the lawn as open space, possibly through *conservation easements* or through re-zoning.

What are Conservation Easements and Façade Easements?

Conservation easement - voluntary legal agreement between landowner and a land trust or government agency. Permanently limits uses of land in order to protect *conservation* values in exchange for tax deduction; legally enforceable. Purpose is to conserve or protect the land or its resources for future generations. Conservation easement allows owners to retain other private property rights and to live on and use land. Restrictions of the easement run with the land. Conservation easements are binding on all future owners of the property.

Facade easements - grants or donations of historic property to qualified organization for the purpose of preserving the historic fabric and/or character of a building's facade. Easement serves to preserve the character of the building into perpetuity. Burden of preserving building borne by the grantor of the easement.

The current Code is silent on both conservation easements and façade easements

Is it feasible for the Village to adopt Conservation Easements or Façade Easements?

Both Hudson Highlands Land Trust and Scenic Hudson are allowed to be recipients of conservation easements. Both have resources to monitor and enforce conservation easements. Land trusts, prior to accepting conservation easements, have a rigorous process in place to ensure that the proposed conservation easement's principles are consistent with the conservation goals of the land trust. The Village of Cold Spring does not have personnel who have the expertise or skills to perform this evaluation. Land trusts are better suited to perform this work.

There is no known organization in the area which is qualified to be the recipient of façade easements. Façade easements can be costly to current and future owners in the long term. Façade easements result in lower market value and can have an effect on the real estate tax base. Many properties are listed in the National Register of Historic Places and in the local Historic District and are thereby protected by Chapter 64 of the Code of the Village of Cold Spring. The Village of Cold Spring has a very active Architectural and Historic District Review Board which reviews all exterior changes to any property within the National Register of Historic Places or within the local Historic District to encourage preservation.

Conclusions

The Code Update Committee has researched both Conservation Easements and Façade Easements and, for the reasons shown above, does NOT recommend modifying the Code of the Village of Cold Spring.

2. Evaluate Permitting Outright Demolition of Existing Structures

Definition

Demolition: The act of pulling down, destroying, removing, moving, or razing a structure or commencing the work of total or substantial destruction with the intent of completing same.

Intent

The intent of having an article in the code is:

- To provide for the orderly process of demolition of any structure
- To assure proper review of safety considerations
- To assure compliance with the building and zoning laws regarding future intended use of the property

Permit Required

Issued by the Building Inspector

Outside the Local or National Historic District

Proposed Chapter 134 update would apply reflecting
Code changes for Demolition

Within the Local or National Historic District

Chapter 64 of the Village Code applies

Conclusion

Addition (see handout) to Chapter 134 will assist in evaluating demolition of any structure

3. Evaluate Permitting Conservation Subdivisions

Questions considered:

1. What do the Comprehensive Plan and the Local Waterfront Revitalization Strategy (LWRS) documents say about Conservation Subdivisions?
2. What is a “conservation subdivision”?
3. What are the possible areas in the Village where a Conservation Subdivision might be considered ?
4. Is it feasible for the Village to adopt a Conservation Subdivision Code provision?
5. Discussion and conclusion of the Code Update Committee.

What Do The Comprehensive Plan and LWRS Say About Conservation Subdivisions?

Comprehensive Plan Page 67 and LWRS Page 91:

7.1 Objective: Ensure that proposed plans for any property that, because of its size, location, or historic significance is of special importance to the Village, are in compliance with this Comprehensive Plan and LWRS and are open to public review.

...

7.1.6 Recommendation: When such property is being developed:

- Engage in dialog with the property owners to keep development on a scale in terms of streetscape and mix of structure size that is consistent with the character of the community, in part by limiting the number and size of residential units;
- Explore the possibility of a conservation development where a minimum amount of protected open space is mandated by the subdivision review process;
- Consider amending the Subdivision Regulations and Zoning Law to permit conservation subdivision, with the 4-step design process that identifies unbuildable lands, and special features of the site around which development is designed;

What Do The Comprehensive Plan and LWRS Say About Conservation Subdivisions?

LWRS Page 130:

Development should preserve the scenic viewshed of Kemble Ridge. Village residents overwhelmingly support protecting views of Kemble Ridge, which is identified as a contributing feature of the Cold Spring Scenic Area of Statewide Significance (SASS). Local enforcement of the SASS policies during Planning Board review of any development proposed in this area is critical.

Also of great concern is the protection of the archaeological resources on the Marathon site.

One significant planning technique that could be used to conserve scenic and archaeological resources while allowing for development is [a] **conservation subdivision**, which employs a four-step design process to identify unbuildable lands and special features of the site around which development is designed, and where a minimum amount of protected open space is required.

In this case, the ridgeline [Kemble Ridge] and archaeological sites could be identified as areas to preserve, and the open space lands could be placed under a conservation easement to permanently protect them. The current owner of the Marathon site has stated that he is willing to work with Scenic Hudson, which might hold the conservation easement, regarding protection of Kemble Ridge.

What Do The Comprehensive Plan and LWRS Say About Conservation Subdivisions?

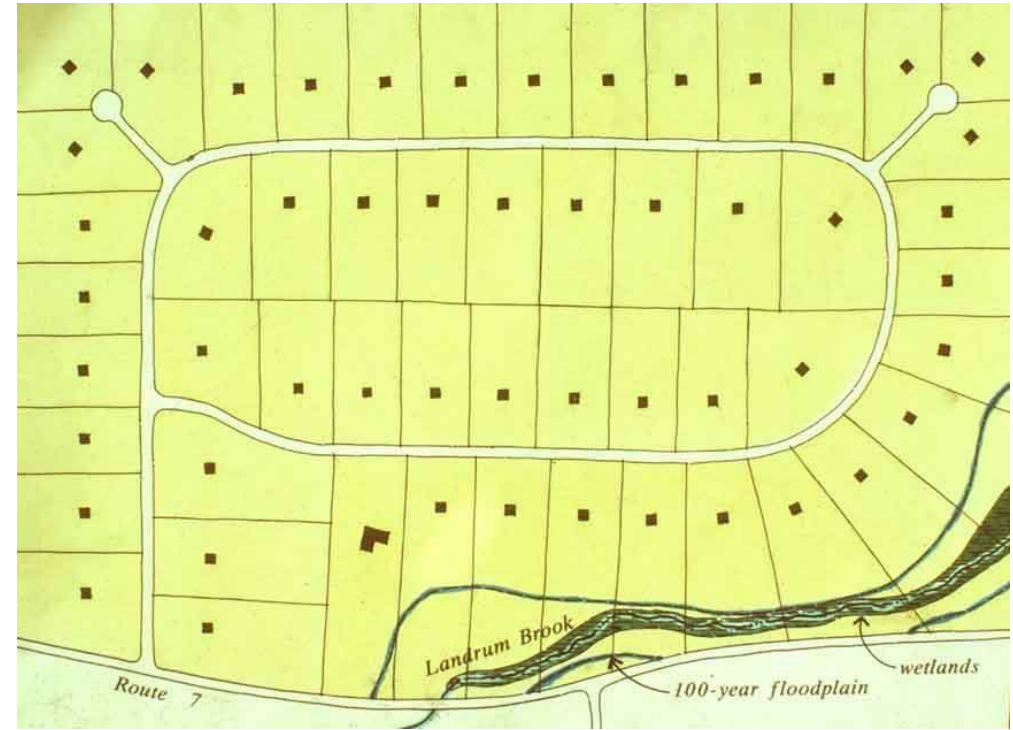
LWRS Page 162:

Conservation development: A cluster development, as defined in § 7-738 of New York State Village Law, designed using a four-step process that makes livability and natural resource protection a priority. Conservation development rearranges subdivision development on each parcel, as it is being planned, so that most of the buildable land is set aside as permanent open space. Without losing density, the same number of homes or businesses can be built in a less land-consumptive manner than a conventional subdivision.

What is a “Conservation Subdivision”?



Conservation subdivision with just under 3/4 of an acre 30,000 sq. ft., house lots



Conventional subdivision with 2 acre house lots
Source: www.landchoices.org/naturalneighborhoodphotos.htm

The SAME number of home sites (55) on the same 130 acre property. The conservation subdivision preserves almost two-thirds of the site, 62%, 81 acres. *Images courtesy Randall Arendt, "Conservation Design for Subdivisions", Island Press, 1996*

What are the possible areas in the Village where a conservation subdivision might be considered?

Code Update Committee considered such properties as Marathon and Haldane School.

Committee's Planning Consultant, Green Plan, cited Marathon as the only possibility.

Evaluation and Feasibility

- Marathon is the only land where a conservation subdivision may be feasible
- Kemble Ridge, elevation is 40' - 70' over WPFP walking path, is mentioned in the LWRS and Comprehensive Plan to be protected and is part of Marathon
- Conservation Subdivision provisions are development planning based, and are costly to implement
- Better tools are available to protect specific property features, e.g., conservation easements, local enforcement of the SASS policies

Conclusion and Recommendation of the Code Update Committee

- The CUC concluded that a Conservation Subdivision code provision is not appropriate for the Village of Cold Spring based upon limited lands in the Village that could support a conservation subdivision, that it is costly process to implement and would not necessarily protect Kemble Ridge, There are other processes or methods that are more suitable and could be applied to other areas of the property
- Recommend no changes to Village Code
- Recommend Village Board pursue a different remedy, such as conservation easements and/or local enforcement of SASS guidelines

4. Amending Subdivision Regulations

Creating a Scenic View Overlay District

Basis for Village Scenic Overlay District

Objective 3.2 in 2011 Local Waterfront Revitalization Strategy (LWRS) (p.75-76) & in 2012 Comprehensive Plan (CP) (p.40):

“Ensure that areas of scenic significance are protected and that new development avoids or minimizes impacts on natural resources to the maximum extent.”

Objective 3.2

Objective 3.2 of CP & LWRS -- 5 recommendations:

1. Preserve scenic views
2. Implement SASS regulations & integrate them into Planning Board review
3. Enact tools to mitigate impacts on views such as clustering or orienting structures
4. Require submission of resource analysis map
5. Create scenic overlay districts

Code Update Committee Process

Reviewed CP, LWRS

Reviewed SASS “regulations”

19 NYCRR Part 602, Policy 24

1993 NYSDOS SASS “Encyclopedia” (Cold Spring Subunit)

Evaluated:

Inventory of features

Feasibility of protective tools

Examples of SVOs in the Hudson Valley

Philipstown

Germantown (Columbia Co.)

Draft Scenic Viewshed Overlay District

A. Findings and Purpose

1. Pursuant to SASS regulations, special protection of features of Cold Spring Subunit, as identified in Inventory, necessary to preserve attractive scenic quality of Village
2. Purposes:
 - a. Ensure new development & major changes to existing development in Village are sited & planned in manner that will protect scenic beauty of Village & surrounding areas;
 - b. Protect public views from public places;
 - c. Protect views of certain properties within the Village; and
 - d. Protect views from within the Village of certain areas outside the Village

B. Applicability – only to applications for subdivision of a property, or requiring site plan or special use permit

Inventory

Dockside Park	St. Mary's Church & Lawn
Riverfront Park & Bandstand	Mount Taurus (Bull Hill)
Buildings on West St. & Lower Main St.	Crow's Nest & Storm King Mountain
Chapel Restoration	United States Military Academy
West Point Foundry & path	Mayor's Park
Foundry Cove	McConville Park
Foundry Dock Park	
Kemble Ridge & overlook	

Procedures & Standards

C. Procedures

For any application for subdivision, site plan or special permit (a “proposed action”), Planning Board shall determine that proposed action is **not likely** to impair scenic beauty of elements, parcels & structures listed in Inventory

D. Site Development Standards

To extent possible, all structures to be built within Scenic View Overlay (SVO District) shall be sited and clustered to avoid or minimize obstructing of views of elements, parcels & structures listed in Inventory

Conclusion of the Code Update Committee

- Recommend Village Board adopt Scenic View Overlay in Village Code.

5. WATERFRONT CONSISTENCY REVIEW LAW

Brief History

In 2014 the Village Board was on the verge of adopting the LWRP, the result of years of work by the Comprehensive Plan/Local Waterfront Revitalization Plan (LWRP) Special Board.

It was determined that prior to being able to adopt the LWRP, the Village Code needed to be updated. In order to protect the Village of Cold Spring from actions inconsistent with the LWRP, the Village must adopt a Waterfront Consistency Review Law (WCRL).

Waterfront Consistency Review Law

The purpose of this Law will be to provide a basis by which a newly created Consistency Review Law Council can determine if proposed actions are consistent with the Cold Spring's Local Waterfront Revitalization Program (LWRP) and provides a list of State Environmental Quality Review Act (SEQRA) Type II actions intended to clarify which actions do not require the review under the WCRL.

Process

The Code Update Committee reviewed already adopted WCRL documents from various communities to see which were most appropriate as a basis for our own Village WCRL. Those reviewed included the Towns and Villages of Rhinebeck, Red Hook, Ossining and Lloyd Harbor. Though Ossining's was identified as most appropriate, elements from the other WCRLs were also incorporated into the final draft.

Consistency Review Law Council

In acknowledgement of the relevance of this review law to the work of the Planning Board, the CUC recommends that the Village Board of Trustees designate the Planning Board to act as the Consistency Review Law Council.

Conclusion

The CUC recommends the inclusion of the draft WCRL into the Village Code.

COMMENTS / QUESTIONS?

THANK YOU!