

V I L L A G E O F C O L D  
S P R I N G

LOCAL WATERFRONT REVITALIZATION PROGRAM



ADOPTED: Village of Cold Spring Board of Trustees, \_\_\_\_\_

APPROVED: NYS Secretary of State Cesar A. Perales, \_\_\_\_\_

CONCURRED: U.S. Office of Ocean and Coastal Resource Management, \_\_\_\_\_

*The Village of Cold Spring received financial assistance for this work from the Hudson River Valley Greenway and from the New York State Department of State Division of Coastal Resources with funds provided under Title 11 of the Environmental Protection Fund.*



This Local Waterfront Revitalization Program (LWRP) has been adopted and approved in accordance with provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42) and its implementing Regulations (19 NYCRR 601). Federal concurrence on the incorporation of this Local Waterfront Revitalization Program into the New York State Coastal Management Program as a routine program change has been obtained in accordance with provisions of the U.S. Coastal Zone Management Act of 1972 (P.L. 92-583), as amended, and its implementing regulations (15 CFR 923). The preparation of this program was financially aided by grants from the Hudson River Valley Greenway and from the New York State Department of State Division of Coastal Resources with funds provided under Title 11 of the Environmental Protection Fund. The New York State Coastal Management Program and the preparation of Local Waterfront Revitalization Programs are administered by the New York State Department of State, Division of Coastal Resources, 41 State Street, Albany, New York 12231.

**[NB: the above language will be included once the LWRP has been adopted by the Village, incorporated into the New York State Department of State's Coastal Management Program, and concurrence of this incorporation by the federal Office of Ocean and Coastal Resource Management (OCRM) has been received.]**



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# Section 1: Local Waterfront Revitalization Boundary

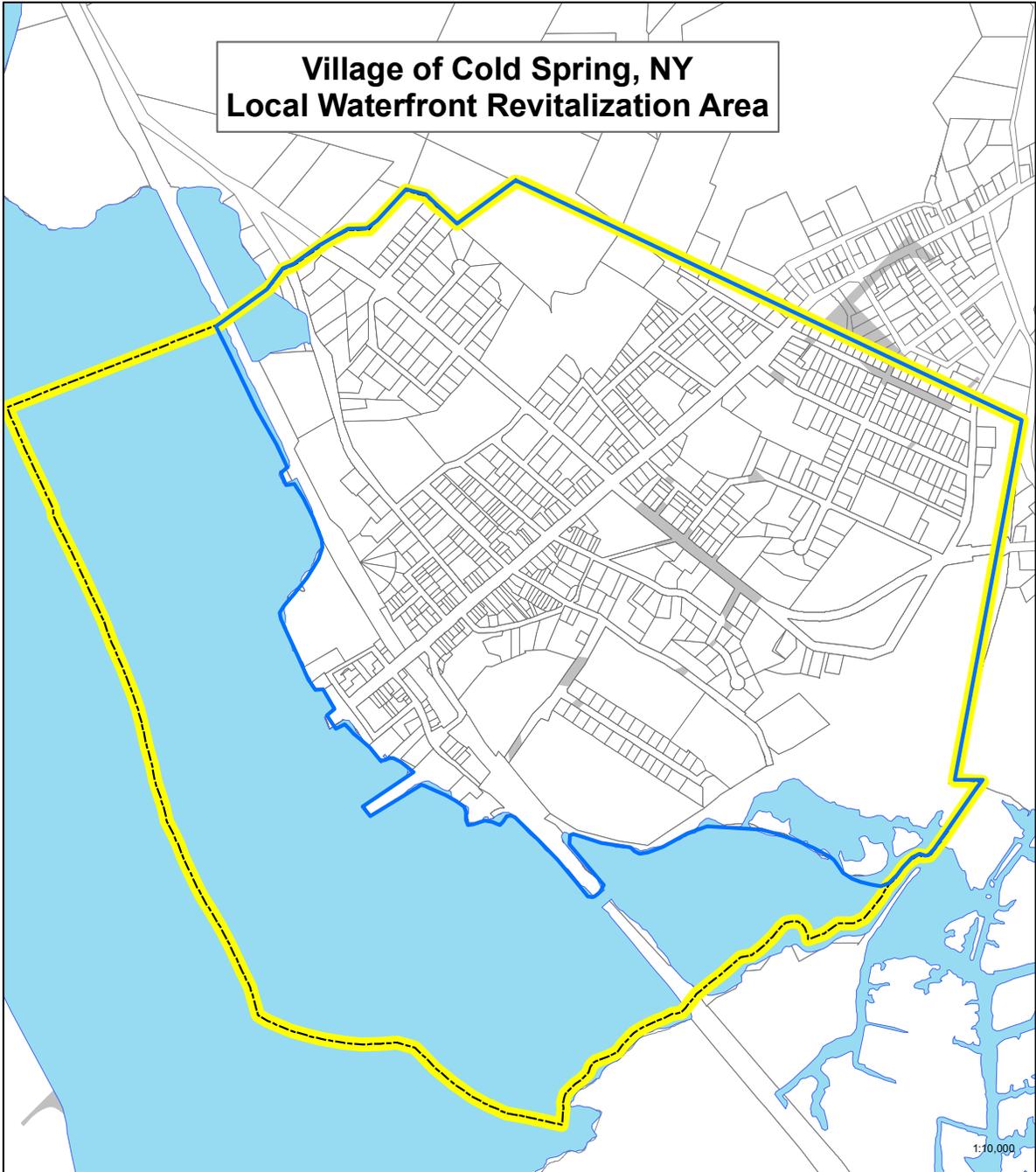
The boundary of the Village of Cold Spring's Local Waterfront Revitalization Area (The "Waterfront Revitalization Area") is intended to include land and other features of the Village which may have a direct and significant impact on the coastal waters of the Hudson River. The entire incorporated Village of Cold Spring lies within the State designated Coastal Management Area. Thus the land boundary for the Village of Cold Spring's Waterfront Revitalization Area is defined as coterminous with the municipal land boundary of the Village, as shown in Map 1, Village of Cold Spring Waterfront Revitalization Area.

The western waterside boundary of the Waterfront Revitalization Area extends 1,500 feet from the mean low water line of the Hudson River, except where 1,500 feet would extend beyond the middle of the Hudson River, in which case the Waterfront Revitalization Area boundary is defined as coterminous with the Town of Philipstown's water boundary.

To the south, the water boundary of the Waterfront Revitalization Area follows a line 50 feet offshore and parallel to the shoreline (and high-water mark property line) of Constitution Island. Constitution Island is owned by the Federal Government pursuant to State Law § 25, paragraph 37. Federal lands are excluded from the coastal zone in accordance with the Coastal Zone Management Act (16 USC § 1463(1)). However, should the federal government dispose of any coastal property, it would be included in the coastal zone and this boundary could be amended.

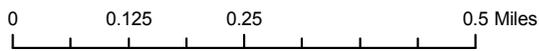
**Map 1: Village of Cold Spring Waterfront Revitalization Area Boundary**

# Village of Cold Spring, NY Local Waterfront Revitalization Area



### Legend

-  Village of Cold Spring
-  LWRA Boundary



**\*\*BOUNDARIES ARE APPROXIMATE\*\***  
This map is not a survey and must not be construed as one.  
This map is for planning purposes only.  
All data must be field checked.

Data Source: Putnam County IT Dept. & Village of Cold Spring

Drafted by: Katrina R Shindledecker  
October 3, 2011

## Section 2: Inventory and Analysis

A comprehensive inventory of the Waterfront Revitalization Area (which includes the entire Village of Cold Spring) is a necessary step to identify important resources, problems, and opportunities relating to the Hudson River. The inventory identifies water dependent and water related or enhanced uses; surface waters; flooding, erosion, and siltation problem areas; underutilized, deteriorated or vacant properties; non-point source pollution; scenic resources; historic resources; water quality; public access and recreation; and natural habitats. An analysis of the key waterfront issues in the Village can then be undertaken.

### A. COMMUNITY PROFILE

#### Location

The historic Village of Cold Spring is located along the east bank of the Hudson River, in the picturesque Hudson River Valley, a National Heritage Area (refer to Map 2, Regional Setting). The Village is approximately 50 miles north of New York City in the midst of the Hudson Highlands State Park, across the Hudson River from the U.S. Military Academy at West Point. It is one of two incorporated Villages within the Town of Philipstown in Putnam County: the Village of Cold Spring occupies the lowland adjacent to the Hudson River and rises up the hillside to the Village of Nelsonville, situated on the southern flanks of Bull Hill. Routes 301 and 9D are the main vehicular access routes to the Village. Passenger trains stop at the Cold Spring station located adjacent to the Hudson River, and the Village can also be accessed from the river.

The Village's location along the Hudson River has been a major influence in its past development, and continues to play a leading role in land use and development. From pre-colonial days, the Hudson River has been a principal route of travel for people and commerce in the Hudson Valley. Cold Spring's location on the river made it a hub for commerce on routes from Connecticut and New York, with the goods traveling first on Hudson River boats and later on the railroad that was built in the mid-19th century along the Hudson's eastern shore.

The Village of Cold Spring, located in the most scenic region of the Hudson Highlands, covers an area of approximately 0.6 square miles (407 acres). The length of the Village's shoreline along the Hudson River is approximately 1½ miles. According to the 2010 Census, the population of the Village was 2,013 persons. The Village is bordered by the Hudson River on its west, by the Village of Nelsonville to the east, and by the Town of Philipstown to the south and north.

#### Physical Features and Land Characteristics

With Bull Hill to the north, the Hudson River to the west, and Constitution Marsh along much of its southern boundary, the Village of Cold Spring is relatively compact and isolated. The topography within the Village is characterized by generally rolling lowland areas, rising moderately from sea level at the Hudson River to an elevation of approximately 200 feet above sea level in the eastern portion of the Village (refer to Map 3: Topography and Water Resources).

## B. HISTORICAL DEVELOPMENT OF THE VILLAGE OF COLD SPRING

The Wappinger Indians, the northern branch of the Delaware (or Lenape) tribe, were early inhabitants of the area now known as Cold Spring. The first European known to have visited the area was Henry Hudson, who anchored below Constitution Island in 1609. In 1677, a royal grant awarded land, including the future site of Cold Spring, to the Philipse family. Agricultural settlement began in 1725. By the first quarter of the 19th century, the Village of Cold Spring had become a small riverfront center built around the major local industrial activities of mining and a large foundry. Early settlement focused on the shoreline and grew around the historic Main Street which today leads through a small valley and the historic village center directly to the river's edge, ending in a small wharf and docks.

An early plan for the Village was established by Frederick Philipse, who laid out streets and sold lots for the development of the riverfront area, resulting in the orderly development of the community. The existing land-use pattern of commercial and public buildings along Main Street, with residential side streets and larger estates above on the hillsides, is a direct result of the implementation of this plan.

In 1817, when Philipse sold land south of the present Main Street to the West Point Foundry Association, he set in motion profound changes. The Foundry helped transform this active Hudson River landing into a thriving industrial community. With the War of Independence and War of 1812 in recent memory, Congress established four foundries to arm the country, one of which was the West Point Foundry in Cold Spring. The foundry was supported by large government contracts for cannons and other ordnance. Iron ore was mined nearby and lumber for charcoal to produce the pig iron came from the surrounding upland. The West Point Foundry became famous during the Civil War for manufacturing the rifled Parrott Gun, which was said to have helped the Union prevail. By the mid-19th century, it had become one of the largest foundries in the United States.

Cold Spring grew around the foundry into a thriving industrial village, the commercial and industrial center of the Hudson Highlands. The teeming industrial activity of Cold Spring was rare in the Hudson Highlands, where scenic estate properties were common. The main growth in the Village took place between 1830 and 1870 when the basic arrangement of the original plan for the Village was developed through infill along the existing streets and new subdivisions. In 1848 the Hudson River Railroad was laid, running through the lower portion of the Village and separating the upland and waterfront areas. There were severe fires in the Village in 1862 and 1875. Rebuilding yielded the shop fronts that still characterize the Village today. In the 1890s many street trees were planted, a public water supply installed and electric street lighting introduced.

Today, Cold Spring survives virtually intact. It is a mix of late 19<sup>th</sup> century brick commercial structures, early 19<sup>th</sup> century frame buildings, some of them dwellings over 150 years old, and higher on the hill, the larger homes of historically wealthier residents. Cold Spring is a picturesque Village which has maintained and restored many of its historic structures, including the

Chapel of Our Lady (now the Chapel Restoration), built on the shore of the Hudson in 1833-1834. Some large estates have been replaced by public buildings, parkland or residential subdivisions; but Main Street and its adjacent residential areas retain their traditional character, a mix of residential, retail and commercial activities. The Village's historic waterfront buildings are especially significant in their visual relationship to the river, and the riverfront park and bandstand provide a focal point against the backdrop of West Point and the western Hudson Highlands. The community has shifted from its industrial past to an economy that includes both commuting to jobs beyond the Village, particularly to New York City, and tourism, with proximity to popular hiking trails and Main Street the focal point of a well-preserved National Historic District. Residents and visitors alike are attracted to the breathtaking surroundings and small town character, where they can enjoy a range of cultural and recreational activities.

Cold Spring's population has remained relatively stable for the past 20 years after a period of growth following World War II. Based largely on its close proximity to New York City, incomes in the Village tend to be higher than those in the rest of New York State, but lower than those in Philipstown and Putnam County. The Village is primarily a well-educated, older, and middle-class community that is diverse in its mix of age and incomes, but not race; 93 percent of the population is white. Most residents commute to work, and an increasing number commute by rail; while in 1990 only 15 percent of employed people in the Village commuted by rail, by 2000 this had increased to 24 percent. With 54 percent of residences pre-dating 1939, the housing stock tends to be much older than in the rest of Putnam County and New York State. Three large condominium and townhouse developments in the 1970s and 1980s added to the available housing stock, but little housing has been added since then.

The Village provides many essential services to its residents, such as water, sewer, storm water facilities, solid waste management, snow plowing, police and parks. Much of the infrastructure is old and in need of repair. With its small population of just 2,000 residents, these services are expensive to provide. The fiscal impacts of new development on municipal services and the school district are of great concern to Village residents. Ensuring a careful mix of residential, commercial and open space uses is important to minimize fiscal impacts on community services.

Cold Spring's greatest assets are its people, its well-preserved historic neighborhoods, the small town character of its life-style, and the highly scenic quality of its setting in the natural environment of the Hudson Highlands.

### **Historic Resources**

The significance of many structures in Cold Spring, most visible from public roads, has been recognized through their listing on the State and National Registers of Historic Places as part of the Hudson Highlands Multiple Resource Area. Included in the listing are industrial, commercial and residential properties and an historic district, the highlights of which are outlined below. The Village also has a local historic district which includes additional historic buildings.

## *State and National Registers of Historic Places*

The Village of Cold Spring has a substantial number of buildings and sites that have historic importance and architectural significance, most of which date from the 19<sup>th</sup> century. The computer inventory of the New York State Office of Parks Recreation and Historic Preservation (OPRHP) identifies two individual sites and one Historic District listed on the State and National Registers of Historic Places located within the Village of Cold Spring, as follows:

1. *The Grove*, also known as Loretto Rest (NR# 08NR05876), located at 12 Grove Court, was originally a single family dwelling designed in the Italianate/Italian Villa style by Richard Upjohn. The site is currently owned by the Village of Cold Spring.
2. *West Point Foundry*, located on Foundry Cove, was founded in 1818 to supply the U.S. government with artillery. It was famous for its production of Parrott guns. The West Point Foundry, including the approximately 86-acre industrial site and the Chapel of Our Lady (now the Chapel Restoration), was listed on the National Register in 1980 as a site of local historic significance (NR# 90NR02387). Subsequently, extensive archaeological investigations were conducted on the site, and in 2010, the site was re-listed on the National Register as the *West Point Foundry Archaeological Site* (WPFAS). Included in this designation are five properties: the Preserve, the Chapel of our Lady (The Chapel Restoration), Foundry Dock Park, Putnam History Museum (Foundry School), and the William Kemble home, totaling approximately 100 acres. The second National Register listing (NR# 09NR06037) identifies the WPFAS as of national importance.
3. *Cold Spring National Register Historic District* (refer to Map 4 “Cold Spring Historic Districts”) is listed due to its many well-preserved largely 19<sup>th</sup> century commercial buildings (NR# 90NR02385). In 1982 an *Inventory of Historic Resources of the Cold Spring Historic District* was prepared for listing the Hudson Highlands Multiple Resource Area on the National Register. The inventory identified 208 “contributing” and 11 “non-contributing” buildings. The “contributing” buildings are those that create the overall character of the District; “non-contributing” buildings are anomalies whose style, scale or character are judged to be out of character with the district. According to the inventory, the oldest contributing structure dates from 1780, the most recent from 1940. The average building date is circa 1861.

The Cold Spring **National Register** Historic District is concentrated along the axis of Main Street, a predominantly commercial street with some municipal, religious and residential structures. Parts of the adjoining residential streets are also included in the District, with distinctive examples of the full range of styles, building types and construction methods spanning over a century of growth. The oldest parts of the Village are found between the river and the railroad. The early street configuration remains. Architecturally, the District is an eclectic mix of over 200 frame and brick structures of varying types, styles, and methods of construction with varied features and design details from the many building periods.

Near the junction of Main Street, Morris Avenue and Chestnut Street (NY Route 9D) is St. Mary's Episcopal Church and an impressive grouping of Second Empire and other 19<sup>th</sup> century homes. These wealthy homes, along with a collection of middle-class residences, exploited the vistas available from the higher elevations above the Village, away from the working docks and the railroad. Other distinctive neighborhood areas within the historic district include Kemble Avenue, south of Main Street, which contains a significant **collection of semi-detached** duplex workers' housing built for laborers at the West Point Foundry, and a residential neighborhood adjacent to the railroad that reflects the impact of the railroad on village life.

The Cold Spring Historic District is significant for its architectural and historical associations as a planned settlement related to the growth of the adjacent West Point Foundry. The different periods of growth and prosperity of the foundry influenced the accompanying increases in the size of the Village. The Village also exhibits the legacy of the prosperous and paternalistic society associated with this part of the Hudson Highlands.

### *Local Historic District*

In addition to the National Register Historic District, the Village also has a Local Historic District. This **Local** District, which was established in 1976, encompasses and extends beyond the National Register Historic District (refer to Map 4, Cold Spring Historic Districts Map). The legislation establishing the Local Historic District, adopted as Chapter 64 of the Cold Spring Village Code, is an expression of civic pride in the unique architectural, historic and scenic qualities of the Village. The law also created an Historic District Review Board whose responsibility is to review and determine the appropriateness of new structures and changes to existing structures within the Historic Districts. In 1999, the Village adopted Design Standards to assist applicants and the Review Board with the implementation of the law.

Nearly half of the historic resources in the Local Historic District were undocumented by the 1982 inventory conducted for the National Register District. To address this omission, in 2009 the Village of Cold Spring contracted with Larson Fisher Associates (LFA) to conduct an updated survey of structures in the Local Historic District to provide the Historic District Review Board with current, detailed information on the character defining architectural features of the District's historic resources. The **draft** survey, on file in the Village Clerk's office, **has not yet been adopted by the Historic District Review Board or by the Village Board of Trustees.**

The LFA survey recommends that the boundaries of the Local Historic District could be modified to more closely represent the actual area of historic significance to the Village. These neighborhoods are characterized by traditional village architecture and streetscape design, including front porches and houses located close to each other and to the street, which encourages **neighborly exchange as well as** walking. They can serve as a model for new residential development and infill development in the Village.

**Some** historic properties throughout the Village may currently be more viable for uses different from those for which they were originally built or for which the Zoning Law currently permits.

A large estate home, for example, could be transformed into an inn or bed-and-breakfast, which may assist with the upkeep of a site that may otherwise deteriorate. Adaptive reuse of historic sites may be a beneficial tool for historic preservation in the Village.

### *Putnam History Museum*

The Putnam History Museum (formerly the Putnam County Historical Society and Foundry School Museum) is located in Cold Spring in the old Foundry School, which was built to educate apprentices and the children of workers at the West Point Foundry. The Museum's purpose is to collect, preserve, and present to the public historical and cultural materials pertaining to Putnam County, especially the Philipstown area, the West Point Foundry, and the Hudson Highlands. To fulfill this mission, the society maintains and administers the Foundry School Museum and its research library. The museum organizes changing exhibitions, with accompanying catalogues, and provides educational programming for the public.

## C. EXISTING LAND USE

### Land Use Pattern

The predominant land uses within the Village of Cold Spring are residential, commercial and community service. In addition, along the Hudson River waterfront to the west and south are recreational uses and extensive areas of vacant lands, much of which is protected. Some of these lands were formerly in industrial use. The former Marathon Battery Company site on Kemble Avenue south of Main Street is currently vacant and in private ownership. The former West Point Foundry property located on Foundry Cove at the end of Kemble Avenue is owned by Scenic Hudson, which intends to conserve it. Scenic Hudson also owns a waterfront park called Foundry Dock Park, and the 13-acre Campbell estate, which consists primarily of open space surrounding the 19<sup>th</sup> century home of William Kemble, a co-founder of the West Point Foundry. Two small marinas – the Main Dock and the Cold Spring Boat Club – are located on the Village's waterfront, and north of the Main Dock is a vacant waterfront parcel known as Dockside Park. Refer to Map 5, Existing Land and Water Uses.

Commercial uses within the Village are primarily concentrated in the general business district of Main Street, which includes a variety of retail establishments and restaurants, as well as many of the Village's municipal functions such as the Village Hall and the Fire House. Also within the general business district are a number of upper story apartments, as well as some single family detached dwellings and rowhouses **and semi-detached duplex foundry worker housing**. Many of the retail establishments on Main Street attract tourists. Local shopping needs are met primarily in the Chestnut Street corridor, an auto-oriented shopping area including a grocery store, pharmacy, banks, medical offices, retail and the **United States** Post Office. Many residents also shop outside the Village along the Route 9 corridor both to the north and south, as well as other areas in the region.

The Village's residential neighborhoods were developed at different times and have distinct characters. The earliest residential neighborhoods are located in the waterfront area to the west of the railroad tracks. During the Village's days as a foundry town, the mill owners built worker housing near Main Street and along Parrott and Parsonage Streets. Nearby were the big estates of the wealthy – the Foundry owners, ironmongers, and the elite of New York. Eventually many of these estates were converted to new uses--the school, a hospital, a small shopping center, and residential neighborhoods of smaller homes. The Mountain Avenue neighborhood, with a number of houses from the late 19<sup>th</sup> century, and the early 20<sup>th</sup> century, Grandview/Whitehill neighborhood and Constitution Drive were followed in the 1970s and 1980s by the townhouse developments of Spring Brook, Chestnut Ridge and Forge Gate. More recently the Village has seen some infill development at Northern Gate, Grove Court, Marion Avenue, and the riverfront development of Cold Spring Landing.

### **Existing Zoning**

The Village adopted a Zoning Law in 1967. In 2012 the Village adopted a new *Comprehensive Plan*, which includes a number of recommendations for amending the Zoning Law to ensure that new development and infill development in the Village conforms to the Village's traditional neighborhood development pattern. The following is a description of the Zoning Districts established by the 1967 Zoning Law, as periodically amended, prior to the adoption of the 2012 *Comprehensive Plan*.

The area immediately adjacent to the waterfront is included in a number of different Zoning Districts. Lower Main Street and lands to the south are zoned General Business (B1). Dockside Park is in the One-Family Residence (R-1) District. On Foundry Cove, the Campbell Estate is included in the Multifamily Residence (R-3) District, and the West Point Foundry Preserve is zoned Office-Light Industry (I-1) and Heavy Industry (I-2). The Main Dock and the Waterfront Park are identified as "recreation" and are not included in a Zoning District. The remainder of the Village is zoned in one of two residential districts (R-1 and R-3), and a variety of business districts, including the General Business District (B-1) along Main Street, the Designated Shopping Center District (B-2), Designated Retail-Financial-Professional District (B-3) in the Chestnut Street area, and the Designated Medical and Health Care Facility District (B-4) in the Village's southern gateway. The Village also has a Designated Hotel-Historic-Recreational District, however this district has not been mapped. Refer to Map 6, Zoning District Map, Village of Cold Spring.

The R-1 District is the largest Zoning District in the Village. It includes the residential neighborhoods in close proximity to Main Street and most of the land east of Route 9D. It also includes the St. Mary's Church property with its sweeping lawn at the crossroads of Main Street and 9D. This District is intended to permit the development of single family dwelling units, along with a number of compatible uses that include churches, parks and playgrounds, schools, libraries, municipal buildings, and home occupations. Special permitted uses include conversion of an existing structure from a one- or two-family dwelling to a two- or three-family dwelling; hospitals, medical centers and similar uses; marinas; and bed-and-breakfast and tourist homes.

The R-3 District is located at the corner of Fair Street and Northern Avenue (Springbrook Condominiums), and south of Main Street on either side of the Boulevard (primarily Forge Gate and the Campbell estate). This District is intended to permit two-family and multifamily dwellings, in addition to all of the uses permitted in the R-1 District. This District is substantially developed except for the Campbell property.

The B-1 Zoning District is located along Main Street between Chestnut Street and the waterfront and along both sides of Market Street and Fish Street south of Main Street to the Village's southern boundary. Three additional parcels are included in this District, one located on Main Street just east of Morris Avenue, one on Chestnut Street south of Wall Street, and one at the intersection of Paulding Avenue, Bank Street, and Route 9D. The purpose of this Zoning District is to serve as the primary retail and service center of the community. Permitted uses include:

- All uses permitted in any residential district
- Stores and shops for conducting any retail business
- Personal service shops
- Newspaper and job printing
- Banks, theaters, offices, restaurants and similar community services.
- Wholesale sales and incidental storage, provided all goods are stored in fully enclosed structures
- Car sales (franchised dealers only)
- Hotels, motels, boardinghouses, rooming houses and tourist homes.

Special permit uses include:

- Public garages and filling stations
- Uses allowed by special permit in any residence district
- Other uses which are of the same general character as permitted uses and would not be detrimental to the district.

The B-2 District is located between Chestnut Street and Marion Ave. There are no special permitted uses allowed in this District. Permitted uses include:

- Retail stores and consumer shops
- Business and professional offices
- Restaurants
- Bowling alleys, theaters and other commercial amusements in fully enclosed structures
- Public garages and filling stations
- Manufacture, assembly or treatment which is clearly incidental to a retail business or service conducted on the premises.

The B-3 District is located east of Chestnut Street across the street from the B-2 District. This District is intended to allow for development of retail, financial, and professional uses. Permitted uses include:

- Retail stores and consumer shops
- Banks and similar community services
- Business and professional offices.

Special permitted uses include:

- Churches
- Schools
- Public libraries and municipal buildings.

The B-4 District is located on both sides of Route 9D in the southern gateway to the Village between Chestnut Street and Paulding Avenue. This District is intended to permit the development of medical and health care facilities. Permitted uses include any use permitted in the R-1 District, hospitals and sanatoriums, nursing homes, and medical centers. Special permitted uses include senior citizen housing.

The I-1 District encompasses the municipal lands, residences and businesses located between Fair Street and the River, the former Marathon Battery site, and lands on Kemble Avenue and Rock Street. This District is intended to permit the development of office and light industrial uses. There are no special permitted uses. Permitted uses include:

- Any use permitted in the R-1 District
- Buildings, structures, municipal parking and uses owned by the Village of Cold Spring
- Cemeteries and mausoleums
- One-story buildings for display and sale of agricultural and nursery products
- A single dwelling unit for the exclusive use of an attendant, watchman or caretaker employed in connection with any permitted use on a lot
- Office buildings for editorial, business and professional offices, and research and design
- Manufacturing and assembling, which in the opinion of the Planning Board, will not result in any dangerous or objectionable impacts
- Lumber and building materials and equipment sales and storage.

The I-2 District consists primarily of the former West Point Foundry property. This district permits any use permitted in the R-1 District and any use permitted in the I-1 District. There are no special permitted uses.

Although it has never been mapped, the Village also has a Designated Hotel-Historic-Recreational District, which is intended to permit hotels, motels, and boatels; marinas; museums, souvenir and gift shops; historic building restoration and archaeological surveys; and service, retail and recreational uses accessory to any permitted use.

Portions of the above Zoning Districts are located in the Village's local historic district (which encompasses the National Historic District) where new structures and changes to existing structures require review by the Historic District Review Board in accordance with Chapter 64 (Historic District) of the Village Code.

The zoning regulations of a municipality are a significant tool in the implementation of the community's vision for its future. In January 2012, the Village of Cold Spring adopted a new *Comprehensive Plan*, which recommends a number of Zoning amendments to better achieve the community's goals and objectives.

In 2011, the Village prepared a Local Waterfront Revitalization Strategy (LWRS) that was accepted by the New York State Department of State. The LWRS recommends that development and redevelopment of the Village should be well integrated into the fabric of the community with its compact, walkable neighborhoods, village-scale lots, historic buildings, and streets forming a connected network, all of which reinforce a strong sense of place. In particular, the LWRS recommends that a number of areas be rezoned for mixed-use to encourage the redevelopment of vacant, underutilized or deteriorated sites (such as the former Butterfield Hospital and the Marathon Battery site) consistent with the design principles of traditional walkable neighborhoods. These recommended Zoning amendments, once enacted, will ensure that the scenic and historic resources of the Village are better protected as new development and redevelopment occurs.

#### **D. VACANT, UNDERUTILIZED OR DETERIORATED SITES**

The following is a list and description of vacant, underutilized and deteriorated sites in the Cold Spring Waterfront Revitalization Area. Refer also to Map 7, Vacant, Underutilized or Deteriorated Sites.

##### **Vacant:**

1. Dockside is a riverfront park located just north of the Main Dock. It was previously the location of a restaurant but is now vacant. The property is owned by the NYS Office of Parks, Recreation and Historic Preservation, and negotiations are currently underway for the Village to manage the site and enhance its recreational opportunities. In the 19<sup>th</sup> century, the Beekman blast furnace dumped slag as fill to make most of what is now Dockside Park. This artificial fill makes the shoreline unstable, especially along the western shore where the river runs swiftly. A 2006 study by the Open Space Institute estimates the cost of shoreline stabilization at over \$500,000. In reaching an agreement with the State for managing Dockside, the Village's obligations with regard to shoreline stabilization will need to be addressed. The Village has developed a draft plan for the park's development. Refer to Appendix 1, Dockside Park.
2. The 12-acre former Marathon Battery Co. site (divided into several tax parcels), which is part of a much larger superfund site, is a vacant site that is located between Constitution

Drive and Kemble Ave. It is privately owned and is currently in the Office/Light Industry Zoning District. Although it is now vacant, it was originally the location of the home of foundry founder Gouverneur Kemble, and in the 20<sup>th</sup> century, the site of a battery manufacturing plant that for several decades discharged chemicals that contaminated the site. In 1995, the Environmental Protection Agency (EPA) concluded a Superfund remediation of the site and surrounding affected areas and continues to test soils and monitor the site to track contamination levels. The Special Board which prepared the LWRS and the LWRP conducted planning workshops to identify community priorities for this site and concluded that any development of the site should emulate and reflect the traditional features of the Village, with its walkable, mixed-use neighborhoods. Refer to Appendix 2, Marathon Battery Site.

3. The 13-acre Campbell estate, owned by Scenic Hudson, is a vacant site located south of Constitution Drive and currently zoned Multifamily Residence (R-3). It consists primarily of open space surrounding the 19<sup>th</sup> century home of William Kemble, brother of Gouverneur Kemble and a co-founder of the West Point Foundry.
4. Two small lots owned by the Village at the north and south sides of New Street at Market Street is vacant.
5. A small lot owned by the Village on the south side of West Belvedere is vacant.
6. A small lot owned by the Village at the corner of B Street and Mountain Avenue is vacant.
7. A lot on Benedict Road owned by the Village is also vacant.
8. There are a number of other privately owned vacant lots in the Village.

**Underutilized:**

1. The Village garage is an underutilized site located on the Hudson River at Fair Street. The two-acre site was acquired by the Village in the mid-1990s for municipal buildings to store salt, street maintenance equipment, garbage trucks and Village vehicles. The Village Highway Department and Police Department store vehicles and equipment on the site. The site has a magnificent view of the Hudson River and Hudson Highlands. The Village has developed a draft plan to create a small esplanade and Overlook Park on the site, and is considering additional redevelopment possibilities for the rest of the property. Refer to Appendix 3, Overlook Park and Village Garage Site.
2. The Chestnut Street commercial area includes a commercial strip mall with large stores located to the rear of the property and a large parking lot in front. At some point in the future this area has the potential to be redeveloped as a traditional Main Street, with two or three-story infill buildings located along the road and parking to the rear.
3. The historic Town Hall at the corner of Cedar and Main, with a Town-owned residence immediately to the north, represents an under-utilized site. With no ADA approved access to

the main meeting room on the second floor, the Town faces the necessity of either moving Town functions to a new location, or significantly modifying the building so it complies with ADA requirements.

**Deteriorated:**

1. Butterfield Hospital is, in part, a deteriorated site that includes open space and an active medical facility. The hospital, the original section of which was built in 1925 with funds bequeathed by Julia Butterfield, wife of General Daniel Butterfield, closed in 1993. (Additional sections were built in 1941 and 1963.) Today the privately owned six-acre site located on Route 9D in the gateway to the Village is included in the Designated Medical and Health Care Facility Zoning District. The site includes the 44,000 square foot former hospital building, which is used occasionally for training exercises for emergency personnel, and the 16,500 square foot Lahey Pavilion, which contains existing medical offices. The southern lawn adjacent to the old hospital building is an important feature of the Village's southern gateway, the scene of many Village festivals, and the former location of the Village Farmers Market. Recently, a private developer has **sought rezoning** to permit a municipal building, offices and retail development, and senior citizen and other housing. The developer has obtained permissions (subject to conditions) to demolish the old hospital building. The Village conducted a planning workshop in April 2012 to involve the community in the design of the project to ensure that it is consistent with the goals of the Village's adopted *Comprehensive Plan*. Refer to Appendix 4, Butterfield Site: Report on Community Design Workshop.
2. The 86-acre West Point Foundry Preserve site, most of which is in the Village, is a deteriorated waterfront property owned by Scenic Hudson, which is protecting it as an interpretive park (Refer to Appendix 5). The preserve is currently closed to the public to allow construction of the park's interpretive elements that will tell the story of the foundry's contributions to the Industrial Revolution, its role in the Civil War, and the land's ecological renewal. The park will also feature gathering areas and a universally accessible trail connecting to the Cold Spring train station. The park is expected to be open to the public in fall 2013.
3. The Grove is a deteriorated site of historic significance on the National Register; it was the home of Dr. Lente, the foundry surgeon. The building, owned by the Village, was designed by Richard Upjohn. The Village is seeking proposals for its **rehabilitation and reuse**.

**E. WATER-DEPENDENT AND WATER-ENHANCED USES**

Water-dependent uses are those uses which require waterfront sites, while water-enhanced uses are uses that have no critical dependence on a waterfront location but where inherent value, both economically and aesthetically, increases significantly when located adjacent, or with visual access, to the waterfront. The following are the water-dependent and water-enhanced uses in Cold Spring (refer to Map 8: Water-Dependent and Water-Enhanced Uses).

**Water-Dependent Uses**

1. The Main Dock is a water-dependent use. Temporary docking of private passenger boats and commercial passenger boats, including tour boats and ferries, is allowed subject to issuance of a permit from the Village. Fishing and crabbing are popular pastimes at the Main Dock. In 1994, the Main Dock was repaired and upgraded, together with the Waterfront Park on either side of the Bandstand. **In 2012, the Village completed extensive changes to the lighting and railings to be consistent with dark sky initiatives and safety and aesthetic reasons.**
2. The Cold Spring Boat Club is a water-dependent use. Located south of the Main Dock, it provides docking and launching facilities for its members and the public. The Club, which occupies land owned by the Village, has approximately 80 slips. Visiting boats 30 feet and under can dock on the Club's outside docks on a first come, first served basis.
3. Dockside Park is a water-dependent use. The park is currently undeveloped, however fishing occurs here. Building Bridges, Building Boats uses the site, and some informal kayak launches may occur from the site; however some consider that the proximity of this area to the main river currents makes it somewhat hazardous for beginners.
4. Foundry Dock Park is a water-dependent use. Adjacent to the Metro-North Station, this 0.7-acre park has a launch for kayaks and other car-top boats. Small motorboats may be launched if a permit is obtained from the Village. Fishing is allowed.

#### **Water-Enhanced Uses**

1. Waterfront Park, on either side of the Main Dock, is a water-enhanced use. Residents and visitors use the park for passive recreation, and community events are frequently held in the Bandstand and surrounding area.
2. Dockside Park is a water-enhanced use. Although the park is currently undeveloped, residents and visitors use the park for passive recreation, informal games, and community events such as a summer film festival. Dockside has been acquired by the State, and negotiations are currently underway for the Village to manage the site and enhance its recreational opportunities. The Village has developed a draft plan for the park's development. Refer to Appendix 1, Dockside Park.
3. Foundry Dock Park is a water-enhanced use. The park includes benches and a kayak launch, and it is used for bird watching, nature study, picnicking, and launching kayaks and other small boats.
4. West Point Foundry Preserve is a water-enhanced use. The preserve is currently closed to the public to allow construction of interpretive elements, gathering areas, and a universally accessible trail connecting to the Cold Spring train station. The preserve is expected to be open to the public in Fall 2013. (Refer to Appendix 5.)
5. Village Garage Site is a water-enhanced site, although currently the location of storage for Village vehicles. The Village is currently reviewing a draft plan to create an esplanade and

Overlook Park at this site. This site is currently the location of temporary storage for boats for Building Bridges, Building Boats. Refer to Appendix 3, Overlook Park and Village Garage Site.

6. The Campbell estate is a water-enhanced site. It is now owned by Scenic Hudson and has a sweeping view of the river, but no plans have been announced for its use.

#### F. WATERFRONT ACCESS

Public access to the Hudson River is limited to three different types: Public parkland, private parkland, and local marinas. Each type offers a different range of facilities.

1. **Public Parkland:** Waterfront Park is an esplanade located on either side of the Main Dock. The park is owned by the Village and is developed with a lawn, paved walkway, a bandstand and benches. The Village recently installed new lighting in the park to reduce light pollution and make the night scenery more visible. Dockside Park is owned by the State and negotiations are currently underway for the Village to manage the site. The Village plans to enhance the park's recreational opportunities while maintaining much of its natural state and stabilizing the shore. Both parks offer scenic views of the Hudson River and Hudson Highlands.
2. **Private Parkland:** Foundry Dock Park is owned and managed by Scenic Hudson. The 0.7-acre park is free and open to the public year-round. It includes a walking path, benches, picnicking, fishing, and a boat launch. The park offers scenic views of the Hudson River and Hudson Highlands.
3. **Local Marinas:** The Village has two small local marinas, the Main Dock and the Cold Spring Boat Club. Both provide docking facilities for pleasure boats. The Main Dock additionally allows docking subject to issuance of a permit from the Village. The Boat Club provides moorings for about 80 boats, and the Main Dock provides a handful of additional docking facilities. While many visitors arrive at Cold Spring by boat, there is currently no regular ferry service to the Village. Commercial passenger boat docking would provide access to neighboring communities and would allow tourists to visit the Village without an adverse impact on parking. In 2011, the Village Board voted to allow commercial passenger boats, including tour boats and ferries, to dock in Cold Spring, with permits issued on a case-by-case basis.

#### G. SOILS

Putnam County lies mainly within the New England uplands physiographic province. The New England uplands area is geologically complex and exhibits moderate relief. Landforms in the area show a strong correlation to the relative hardness of the underlying bedrock. Elevation rises to more than 1,000 feet in the Hudson Highlands. The area is largely underlain by a heavily metamorphosed complex of Precambrian and Paleozoic sedimentary and igneous rocks. Dominant outcrops are primarily gneiss, schist, and granite.

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The parent material from which soils in the Village of Cold Spring were formed was deposited by the glaciers 10,000 years ago. Initially, as the glacial ice moved down over the area, the bedrock surface was scoured and eroded. Glacial till, which is a mixture of gravel, sand, silt and clay, was deposited under the ice. In Cold Spring, the major soil that formed in glacial till is Charlton.

When the ice front stalled and subsequently retreated, glacial meltwater deposited stratified gravel and sand in many areas, particularly in the major valleys. The thickest glacial deposits are in the Hudson River Valley, where the thickness of these deposits exceeds 500 feet in some places.

In developed areas of the Village, the natural soil conditions have been altered and, in some places, are no longer present.

Knowledge of soils, and the advantages and limitations of the different soil types, is invaluable for planning. To utilize a site properly, it is necessary to know as much as possible about the soils that are present. Conclusions about features such as depth to bedrock, drainage, types of structures that can be supported, and whether there are insurmountable restrictions for development can all be drawn from information about soils. The ultimate purpose of a detailed soil survey is to guide proposed land use and development.

The soils in the Village can be divided into six soil series. Each of the soil series is identified by the name of the dominant soil or soils, which form a pattern. These soils comprise at least half of the area in each pattern.

The six soil types found within the Village's coastal area are as follows (refer to Map 9, Soils):

1. Charlton Loam (ChB and ChC):

This soil is very deep and well drained. The slope is mainly 2 to 8 percent when it is found on hilltops and parts of hillsides, and 8 to 15 percent when found on hillsides. It formed in glacial till derived from granite, schist, and gneiss. The water table is at a depth of more than six feet throughout the year. This soil type can be found in undeveloped areas of the Village such as the Campbell estate south of the Boulevard and west of Constitution Drive.

2. Chatfield-Hollis-Rock Outcrop Complex, Hilly (CuD):

This soil unit consists of the moderately deep, well drained and somewhat excessively drained Chatfield soil, the shallow, well drained and somewhat excessively drained Hollis soil, and areas of rock outcrop, predominantly granite, schist, and gneiss. It is found on hillsides in bedrock-controlled landscapes. Slopes are predominantly 15 to 35 percent. Very steep or nearly vertical bedrock escarpments are common landscape features. The water table is at a depth of more than six feet throughout the year. The topography is irregular, and there is a shallow depth to bedrock (16 inches). Most areas of this soil unit are wooded or covered by brush. A small portion of this soil type can be found in the Village south of Rock Street.

### 3. Fluvaquents-Udifluents Complex, Frequently Flooded (Ff):

These are very deep, well drained to very poorly drained, nearly level soils that formed in recent alluvial deposits. The soils are frequently flooded, which results in stream scouring, lateral erosion, and shifting of the soil from place to place. Soil characteristics, including texture, content of gravel, and drainage class, are so variable within short distances that mapping at the series level is not practical. Slopes range from 0 to 3 percent. The water table is at a depth of more than six feet. There is a shallow depth to bedrock (16 inches) and rock outcrops. Most areas of this unit are wooded. This soil unit is associated with Foundry Brook.

### 4. Ipswich Mucky Peat (Ip):

This soil is nearly level, very deep, and very poorly drained. It is found in tidal marshes along the Hudson River. It is subject to daily tidal flooding. Slopes range from 0 to 2 percent but are predominantly less than 1 percent. The water table is at the surface to 1 foot above throughout the year. Most areas of this soil are covered by non-woody, water-tolerant plants. Wetness and flooding are the main limitations for development. This soil type is associated with Foundry Cove.

### 5a. Udorthents, Smoothed (Ub):

These are very deep, excessively drained to moderately well drained soils that have been altered by cutting and filling. This soil unit is mainly found in and adjacent to urban areas and highways. It is made up of soil material in alternating layers ranging from sand to silt loam. Slopes are mainly 3 to 15 percent, but they range from 0 to 25 percent. The fill material is commonly more than 20 inches deep over the original soil. The content of rock fragments ranges from 0 to 60 percent. Included in this unit are small areas of Udorthents that have a wet substratum (discussed below), areas of Urban land (discussed below), areas of rock outcrop, and areas of undisturbed soils. The rock outcrop is mainly in areas that have been cut. The properties and characteristics of the Udorthents are so variable that onsite investigation and evaluation are required to determine the suitability and limitations for proposed uses.

### 5b. Udorthents, Wet Substratum (Uc):

This unit consists of somewhat poorly drained and very poorly drained soils that have been altered mainly by filling. Filled areas are in the lower landscape positions, such as depressions, drainageways, and areas of tidal marsh. The fill material ranges in texture from sand to silt loam. Slopes are predominantly 0 to 3 percent, but they range from 0 to 15 percent. Fill material is usually more than 20 inches deep over the original soil. The buried soils range from loamy or sandy mineral material to organic deposits. In some places the fill material includes manufactured materials. This soil unit is found in areas of residential or commercial development.

### 6a. Urban Land (Uf):

This soil unit consists of areas where at least 60 percent of the land surface is covered with buildings, structures, or parking lots. Much of the Urban land is in the business centers of villages. Slopes range from 0 to 8 percent. Included in this mapping are small areas of soils that have not been appreciably altered, usually in areas between buildings or other structures.

6b. Urban Land-Charlton Complex (UhB and UhC):

This unit consists of Urban land and the very deep, well drained Charlton soil, either gently sloping (2 to 8 percent) or more steeply sloped (8 to 15 percent). It is found on ridges and hilltops that are underlain by folded bedrock. Typically, the Urban land consists of areas covered by buildings, streets, parking lots, and other structures that make it impossible to identify the soils. The natural soil layers have been altered or mixed with manufactured materials, such as bricks, broken concrete or cinders. Both the water table and bedrock are at a depth of more than five feet.

6c. Urban Land-Charlton-Chatfield Complex:, Rolling, Very Rocky (UIC):

This unit consists of Urban land, the very deep, well drained Charlton soil, and the moderately deep, well drained or somewhat excessively drained Chatfield soil. It is found on ridges and hilltops that are underlain by folded bedrock. Slopes range from 2 to 15 percent. Exposed bedrock covers 0.1 to 10 percent of the surface. Typically, the Urban land consists of areas covered by buildings, streets, parking lots, and other structures. The natural soil layers have been altered or mixed with manufactured materials, such as bricks, broken concrete or cinders. The water table is at a depth of more than five feet.

## **H. STEEP SLOPES**

As discussed in the preceding section, steep slopes in the Village are primarily associated with Chatfield-Hollis-Rock Outcrop Complex, Hilly (CuD), which has slopes that are predominantly 15 to 35 percent (refer to Maps 9 and 10). Particular areas of steep slopes in the Village include the southeast corner of Dockside, the area on the northeast side of Kemble south of Wall Street, the properties east of Fair Street at the north end of the Village, the area east of Spring Brook and west of the Haldane ballfield (known as the Little League field), the area north of the new high school building, a narrow section immediately to the north and west of the Sunoco station at the corner of 9D and Main Street, a strip on the south side of Main Street opposite Orchard Street, and both sides of the ravine in the West Point Foundry Preserve. The Village Code does not currently include provisions regulating steep slopes.

## **I. FLOODPLAINS**

Floodplains are protected under regulations promulgated by the Federal Emergency Management Agency (FEMA) and local municipalities. According to maps produced by FEMA, the most recent of which has been published effective March 2013, several 100-year floodplains exist within the Village. One of these coincides with Foundry Brook located along the Village's southern boundary. Another coincides with the NYSDEC wetland associated with Foundry Cove to the south. The remaining 100-year floodplains are associated with Little Stony Point

Cove and the Hudson River, including a significant portion of the lower Main Street area from Market Street to the River and including portions of North Street and New Street and extending further north. Refer to Map 11, Floodplains.

All development within the Village's flood hazard areas is regulated by the Village's Floodplain Management Law, which is in accordance with all provisions of the National Flood Insurance Program Standards. Any future development within flood hazard areas must be undertaken in accordance with local and national requirements.

According to the December 31, 2010 report of the New York State Sea Level Rise Task Force, the Hudson River in the Mid-Hudson Valley Region will see increases in water levels from 1 to 4 inches by the 2020s, 5 to 9 inches by the 2050s, and 8 to 18 inches by the 2080s. However, in a scenario of rapid ice-melt, those increases become 4 to 9 inches by the 2020s, 17 to 26 inches by the 2050s, and 37 to 50 inches by the 2080s – enough to flood Dockside, Mayor's Park, and other waterfront properties. It will be necessary to develop strategies to address shoreline stabilization and to cope with the impact of sea level rises on affected properties. Of particular concern are two wastewater pump stations, on West Street and on Market Street, that are located in the floodplain and will require modifications or relocation to protect them from flooding.

## **J. WATERSHEDS**

Cold Spring lies in the Lower Hudson Watershed. Water quality in the Lower Hudson Watershed varies widely and is influenced by a wide range of pollutants and sources. Municipal wastewater, combined sewer overflows, urban/stormwater runoff and industrial impacts are associated with numerous population centers along the Hudson Valley.

Two drainage basins in the Lower Hudson Watershed lie partially within the Village of Cold Spring: the Foundry Brook Watershed and the Back Brook Watershed (refer to Map 3). Foundry Brook originates in the Town of Philipstown with a small section originating in the Town of Fishkill in Dutchess County. Foundry Brook runs along the southern boundary of the Village eventually flowing into the tidal marshlands of the Hudson River at Foundry Cove and Constitution Marsh. About one-half of the Village's land area drains into Foundry Brook. The Village's principal water supply comes from the Cold Spring Reservoir in Philipstown, which is an impoundment along the upper reaches of Foundry Brook about four miles from the Village. The Village has also established rights to water in Jaycox Pond, which lies outside the Foundry Brook watershed.

A biological (macroinvertebrate) assessment of Foundry Brook in Cold Spring (at Route 9D) was conducted in 2002 and described in the State's *Lower Hudson River Waterbody Inventory/Priorities Waterbodies List Report*. Sampling results indicated non-impacted to slightly impacted water quality conditions. Species richness was limited but the dominant organism was a clean-water stonefly. Nutrient biotic evaluation determined effects on the fauna to be minor. Aquatic life support is considered to be fully supported in the stream, and there are no other

apparent water quality impacts to designated uses. The unique stream habitat of bedrock, boulders and plunge pools likely affected the fauna. Because of the uniqueness of the habitat, this site was judged to be a poor candidate for biological sampling.

Back Brook is a small drainage basin that drains the remainder of the Village, flowing directly into the Hudson River at the northern portion of the Village's boundary on the Hudson River. According to the State's *Lower Hudson River Waterbody Inventory/Priorities Waterbodies List Report*, "Aquatic life use support and recreational uses in these tribs (i.e. "Minor Tribs to East of Hudson: H -62 thru -92), are thought to experience minor impacts due to nutrient enrichment from nonpoint sources."

New development in the coastal area should avoid potential impacts from nonpoint runoff. Care should be taken to ensure that future development does not disrupt existing natural drainage channels. Nonpoint source pollutants should be properly addressed through storm-water pollution prevention plans (SWPPP). Green infrastructure practices to be included in SWPPPs should include preserving and restoring natural landscape features (such as forests, floodplains and wetlands), reducing the amount of land covered by impervious surfaces, incorporating green roofs in new and existing construction, as well as the use of pervious pavement, rain gardens, vegetated swales, planters and stream buffers.

#### **K. WETLANDS**

Wetland areas greater than 12.4 acres are mapped by the New York State Department of Environmental Conservation (NYSDEC), and are protected under Article 24 of the Environmental Conservation Law. Smaller wetland areas are subject to regulation by the US Army Corps of Engineers. The Village of Cold Spring does not have a local wetlands law.

A portion of NYSDEC Wetland WP-7 (Foundry Cove, a part of Constitution Marsh, a Class I wetland) is located in the southern corner of the Village south of Market Street. The wetland's regulated 100 foot adjacent area covers a portion of Market Street, Constitution Drive, and Kemble Avenue. This 279-acre tidal marsh is managed by the National Audubon Society as a wildlife sanctuary. It provides refuge to wildlife of the Hudson River Estuary. In addition to a number of threatened and endangered species, the marsh includes an anadromous fish concentration area and a waterfowl winter concentration area. Common breeding birds include Marsh Wren, Louisiana Waterthrush, Spotted Sandpiper, Virginia Rail and many others. Refer to Map 12, Water Resources.

Along the Village's northeastern boundary a portion of the 100 foot adjacent area associated with NYSDEC wetland WP-22 (a Class I wetland) covers Cedar Street, Locust Ridge and a portion of Mountain Avenue and Maple Terrace. This wetland is associated with the Chestnut oak forest on Bull Hill and the Oak-tulip tree forest on the Breakneck Scofield Fishkill Ridge.

Federal jurisdictional wetlands are coincident with the NYSDEC wetlands, and can also be found to the west of Foundry Brook.

#### **L. WATER QUALITY**

The Hudson River is the dominant watercourse in the Village of Cold Spring. The river is a partially stratified estuary with hydrodynamics characterized by river geometry, freshwater inflow, tidal motion and a density induced circulation. The Hudson River has been classified for water quality standards by the New York State Department of Environmental Conservation (DEC).

The DEC has classified streams, lakes and rivers in New York State according to best use. Letter classes such as A, B, C, and D are assigned to fresh surface waters, and SA, SB, SC, I, and SD to saline (marine) surface waters. The classifications are used to regulate water quality and enforce water quality standards.

The water quality classifications used by DEC are as follows:

**Class AA:** Source of water supply for drinking, culinary or food processing purposes and any other usage.

**Class A:** Source of water supply for drinking, culinary or food processing purposes and any other uses with treatment.

**Class B:** Primary contact recreation and any other uses except as a source of water supply for drinking, culinary or food processing purposes.

**Class C:** Suitable for fishing and all other uses except as a source of water supply for drinking, culinary or food processing purposes.

**Class D:** Suitable for secondary contact recreation but will not support the propagation of fish.

The DEC has classified the reach of the Hudson River adjacent to Cold Spring as "SB." This classification is the same as "Class B" above, except that the "S" identifies that the water is brackish or saline. The best usages of Class SB waters are primary and secondary contact recreation and fishing. These waters are suitable for fish, shellfish, and wildlife propagation and survival.

Water quality standards established by the DEC for particular constituents are presented below for "SB" waters:

Total Coliform:  $\leq 2,400/100$  ML

Fecal Coliform:  $\leq 200/100$  ML

Dissolved Oxygen: 5.0 ML

Any uses along the Hudson River that would raise the coliform counts or reduce the level of dissolved oxygen would be in violation of these standards and subject to penalties. Under the present standard, the waters of the Hudson River in the vicinity of Cold Spring meet the standards for public swimming areas.

In general, sources of pollution to water bodies may be classified as either point or non-point. Point sources are discrete sources of pollution such as sewage treatment plant discharges or industrial effluent. Non-point pollution enters a water body from more diffuse sources, such as runoff from streets and parking lots, rooftops, lawns and bare soils. Historically, pollution control has focused on point sources since these are more often readily apparent. Since the Federal Water Pollution Control Act was passed in 1972, significant progress has been made in controlling pollution from point sources, yet more remains to be done.

Those point and nonpoint sources of pollution that have degraded and continue to degrade the water quality of the Hudson River include storm water run-off, industrial discharges and leaks from petroleum and chemical storage tanks, discharges from sewage treatment plants, pollution from marinas and boats, agricultural fertilizers and pesticides, and construction site run-off.

In the Village of Cold Spring, water quality impairments could result from any of the above sources of pollution. The Village of Cold Spring recognizes the need to maintain high water quality in surface waters within the Village and adjacent portions of the Hudson River.

In addition to the Hudson River, two other streams are located within the Village. Foundry Brook, which runs along the southern boundary of the Village, has been classified by the DEC as Class C, indicating it is suitable for fishing and all other uses except as a source of water supply for drinking, culinary or food processing purposes. A second stream, Back Brook (sometimes known as Margaret's Brook) connects NYSDEC wetland WP-22 and Little Stony Point Cove. It is located partially underground, surfacing several times before emptying into the cove north of Mayor's Park. This stream is not a State classified stream. Refer to Map 12, Water Resources.

#### **M. SUBMERGED AQUATIC VEGETATION**

Water quality in the Hudson River is enhanced by the presence of submerged aquatic vegetation (SAV), which is found north and south of the Cold Spring waterfront and in Foundry Cove (see Map 10, "Natural Resources"). The location of SAV in the Hudson River is mapped by the NYSDEC Hudson River Estuary Program. SAV has diverse ecological functions. It acts as nurseries for juvenile fish, provides important habitat and feeding areas for waterfowl, and produces organic matter that is an integral part of the Hudson River food web. SAV is an important source of oxygen in the water and it used as a key measure of water quality. It improves the clarity of the river by reducing the likelihood of algal blooms.

#### **N. UTILITIES**

##### **Water Supply**

The Village has a municipal water system that distributes approximately 300,000 gallons of water per day to all residents and businesses in Cold Spring and the neighboring Village of Nelsonville, as well as to a few properties in the Town of Philipstown. Village water is supplied by gravity from two reservoirs located about four miles from the Village to a cofferdam. Two dams built by the Foundry owners in the mid-19<sup>th</sup> century can hold up to 15 million gallons of

water in total. Several years ago, the two main reservoir dams were designated by the DEC as “Class C” High Hazard Potential, which resulted in the suspension of the Village’s insurance coverage for the dams. The Village has subsequently engaged engineers to determine what repairs to the dams will be needed, and coverage has been partially reinstated. In the Spring of 2011, the Village discovered that it has water rights to Jaycox Pond, a small reservoir located about 2 miles northeast of the Village, and has negotiated an agreement with property owners to guarantee future access. A brook from that pond runs a few hundred feet from the Village’s filtration plant.

The filtration plant was completed in 1997. It is located just off Fishkill Road about a mile and a half from the Village boundary, adjacent to a cofferdam with 1.5 million gallons of capacity. Storage tanks installed with the filtration plant can hold about 540,000 gallons of water. The \$3.3 million bond used by the Village to pay for the filtration plant and storage tanks will be repaid by 2017.

An audit conducted by the New York State Comptroller’s office stated in a September 2009 report that 39 percent of the water processed by the Village was not accounted for: the New York State standard is that no more than 10 percent be unaccounted for. The causes could include problems with water meters, leaks in pipes, or measuring errors in processing. A concerted effort to find leaks in the delivery pipes resulted in the discovery, in March 2010, of two major leaks; the repairs saved thousands of gallons daily. While today, the percentage spread between the amount of water that is processed and the amount of water that is billed, reported monthly, is typically in the mid-teens, there have been spikes to nearly 40 percent waste levels. The Village is currently considering the replacement of the mechanical water meters that were installed in 1997 with digital meters that could allow it to more quickly identify the location of leaks in the system.

The Village has the ability to tap the Catskill Aqueduct, which runs nearby, in emergencies. When drought conditions developed in the summer of 2010, the Village was forced to tap into the aqueduct for the first time. Two fires in the past decade have shown that the municipal water system does not meet Needed Fire Flow (NFF) requirements in some areas. A June 2010 engineering study proposed that the Village line some sections of the water main, and in 2011, the Village floated a \$1.5 million bond to pay for the lining of the water main from the filtration plant to the railroad tracks, and projects that the job will be completed by June 2013. After the 2002 Grand Union fire, a dry hydrant was installed just east of the railroad tracks at Main Street, with the pipe running under the tracks to the Hudson, to provide an adequate volume of water for fire fighting.

### **Sewage Treatment System**

The Village’s wastewater treatment facility was completed in 1972 and is designed to have capacity to handle the needs of both Cold Spring and Nelsonville, although Nelsonville has never been connected to the system. Wastewater from the area of the Village uphill from Garden Street is gravity fed to the treatment plant via Main Street and Garden Street. In the area north

of Main Street and west of Garden Street, wastewater is gravity fed to the West Street pump station, which pumps the waste back uphill to join the main Garden Street line. Another pump station on Kemble Avenue services Benedict Road, Kemble Avenue, Constitution Drive, The Boulevard, and Forge Gate, and another smaller pump station by the Metro North parking lot services Market Street. All of these pump stations pump the wastewater uphill via new sewer lines to connect to the main gravity fed line along Garden Street. Importantly, the Market Street and West Street pump stations are both within the 100-year flood zone for the Village. The Grandview Terrace/Hamilton Avenue area gravity feeds directly to the treatment plant.

The Village is addressing problems with inflow and infiltration in its sewer lines, which in heavy rains can cause discharges into the Hudson River from the sewage treatment plant. The Village has taken videos of the interiors of sewer pipes along Main Street, and completed some projects sealing the joints between the laterals and the mains under Main Street and Depot Square, where the leakage is the most severe, and in other sections of the system. The Village has a Municipal Separate Storm Sewer System (MS4) and storm water is handled separately from the sewage treatment system. In recent years flooding in some areas of the Village has occurred due, in part, to an increase in impervious surfaces. A portion of a million dollars in two federal grants awarded to the Village in 2005 will be used to address storm water problems in several areas in the Village, often where there are steep slopes.

## **Energy**

Most Village households (88 percent) use heating oil from a number of local providers to heat their homes. A very few use wood, coal, electricity, or propane gas. There is no natural gas service in the Village and the closest gas lines are a number of miles away. A high proportion of homes in the Village were built before 1939 and these homes tend to be less energy efficient. Central Hudson provides electric service to the Village. Very few power lines in the Village are buried.

## **O. TRANSPORTATION**

The Village of Cold Spring is easily accessible from major highways and the Hudson Line of Metro-North Railroad. It can also be accessed from its waterfront. Refer to Map 2, Regional Setting.

The main arteries that carry vehicular traffic through the Village and connect it with major population and commercial centers beyond include Route 301, which enters the Village from the east and becomes Main Street, and Route 9D, which passes through the Village from south to north. These State roads connect the Village to a network of high-speed, limited access highways that link the Hudson River Valley to New York City, upstate New York and the New England states. Route 9D connects to Route 84, which connects to the New York State Thruway just west of the Newburgh-Beacon Bridge, while Route 301 connects to the Taconic State Parkway, which is about eight miles from the Village.

In 2012, the NYS Department of Transportation estimated the Annual Average Daily Traffic (AADT) on Route 301 from Route 9D to County Route (Fishkill Road) 10 was 5,791 trips. On Route 9D from Route 301 north to the Putnam County/Dutchess County line the estimated AADT was 5,072 trips, and from Route 301 south to the Town of Philipstown the AADT was 6,426 trips.

Traffic flow problems in the Village include the Foodtown/Benedict Road area, where conflicts between delivery trucks and pedestrians create hazardous conditions, and the need for more interconnected streets in the quadrant of the Village located north of Morris Avenue and Main Street (in the neighborhood of the Haldane Central School). Currently, there is no direct alternative route in that quadrant to bypass the intersection of Morris Avenue and Main Street if that intersection is obstructed. Finally, Lunn Terrace is the only road that crosses the railroad tracks and provides access to the waterfront area from highways that connect Cold Spring to its neighboring communities. Pedestrians can access the waterfront from Lunn Terrace, an underpass at the bottom of Main Street, and elevators and a pedestrian bridge at the Metro-North station.

While there has not been any bus service to the Village for about five years, the Metro-North Commuter Railroad, a division of the Metropolitan Transit Authority, provides passenger rail service from Putnam County to New York City (the northern terminus is Poughkeepsie in Dutchess County). The Cold Spring station is located on Market Street adjacent to the Hudson River. The frequent trains give Cold Spring residents easy access to New York City and to the transfer hubs for Amtrak, and this has contributed to a rising commuter population. Commuting is an important part of village life: according to the 2000 Census, only about 18 percent of employed people who live in the Village also work in the Village – a change from the days 150 years ago when 700 ironworkers walked to the West Point Foundry. It is not surprising that annual Metro-North ridership from the Cold Spring station almost tripled from 1978 to 2009 (from 120,000 to 353,000).

The Metro-North station serves a wide region and attracts many commuters who drive to the station. This has caused parking problems on local streets. The Cold Spring commuter parking area was expanded in the late 1990s to 223 spaces, and by 2008 was running at full capacity. Moreover, the Village's well-preserved historic character, spectacular setting, and proximity to well-known hiking trails make it a popular destination for tourists, which further adds to parking problems, especially on Main Street, an area that developed in the era before the automobile. In 2005, Village Streets west of the railroad tracks were designated for residential parking permits to prevent commuters from taking spaces needed by locals. A parking study conducted in 2008 confirmed that weekend shortages were real, but also noted that overall parking in the Village was more abundant than people realized, with approximately 2,500 on- and off-street, non-driveway spaces in the Village. Parking is free at the large Metro-North lot on

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<sup>1</sup> AADT is a standard measure of two-way daily traffic volume, adjusted for weekly and seasonal variations.

weekends and holidays. The Village has been considering metering spaces along Main Street, Depot Square and the Municipal Parking lot as a source of revenue, which would also manage the vacancy rate (and access to parking) through economic incentives. Consideration may also be given to constructing a new parking facility east of the Metro-North station.

The Village's small size, compact neighborhoods, interconnected streets, and mix of uses encourage walking. However, many of the newer neighborhoods lack sidewalks (refer to Map 13), and many of the older neighborhoods have missing segments of sidewalks and few traffic calming devices, such as crosswalks and bumpouts to reduce the length of the crosswalk. Several areas in the Village have clear pedestrian-vehicular conflicts and dangerous delivery routes—such as trucks making deliveries to Foodtown, the Post Office and Drug World, pedestrian crossings along Morris and Chestnut, Benedict and Marion, and along Main Street from Route 9D to the railroad. Many hikers who arrive by rail to hike the trails on Breakneck Mountain and Bull Hill must walk along unprotected, hazardous road shoulders to get to their destinations. Putnam County provides a trolley service in the Village on Friday afternoons and weekends, but it does not stop at the popular trailheads north of the Village. Enhancing the trolley service and improving pedestrian facilities in the Village would contribute to the quality of life and safety for residents and visitors.

The Village's interconnected street network also encourages bicycling, and bicycle facilities, such as bike racks, would enhance the convenience of this mode of transportation (refer to Map 13).

The closest major airport is Stewart International airport across the Hudson River in Newburgh. The Mahopac Airport in Putnam County provides facilities for small private aircraft.

The Hudson River is a major water route for heavy freight. Although the Village does not have docking facilities on the river for freight barges, the Downey Dock, which is privately owned, previously held oil tanks and took deliveries for a fuel service company, and might potentially handle something similar in the future. Two small marinas in the Village, the Main Dock and the Cold Spring Boat Club, provide docking facilities for small boats. The Main Dock additionally allows docking of commercial boats subject to issuance of a permit from the Village. The small marinas allow access to the Village from its waterfront.

## **P. SCENIC RESOURCES**

Cold Spring is located within the Hudson Highlands Scenic Area of Statewide Significance (SASS), which encompasses a twenty mile stretch of the Lower Hudson River and its east and west shorelands. The Hudson Highlands SASS extends from its northern boundary, which runs from the northern tip of Scofield Ridge, Denning Point and the base of Storm King Mountain, to its southern boundary at Roa Hook and the southern limits of Bear Mountain State Park. Refer to Map 14.

The Hudson Highlands SASS is a nationally significant scenic region of the Hudson River Valley, rich in natural beauty, cultural and historical features. The SASS's aesthetic significance is

drawn from its combined aesthetic of landscape character, uniqueness, public accessibility and public recognition.

The Hudson River and the earlier glaciers that covered the region carved a spectacular gorge through the Hudson Highlands. Between Storm King and Breakneck Ridge, where the high peaks drop straight to the water, the Hudson River corridor is a fjord, deepened by glacial action and filled by the rising sea as the ice melted. This landscape feature is unique in New York State and rare in the eastern United States.

The settlement and transportation patterns of the Highlands are heavily influenced by the area's topography, respecting the natural features in their layout and location. Settlements such as the Village of Cold Spring are limited to the lowland plateaus and lower hillsides and appear tightly clustered within the landscape. Large historic estates are located throughout the SASS, taking advantage of the spectacular views from the hillsides above the hamlets. More recent residential and commercial development shows less respect for the topography of the area. Subdivision of farmsteads and estates, and commercial strip development along major highways has resulted in a dispersal of the historic settlement pattern, leading to an increasing suburbanization of the Hudson Highlands.

The present-day land use pattern of the Hudson Highlands is dominated by State parkland, preserving much of the open space of the SASS for its aesthetic, recreational and natural resource values.

The Hudson Highlands have long been significant in the culture and history of both New York and the United States. The Highlands are well-known as a Romantic setting for the Hudson River School of landscape painters and the Knickerbocker writers.

The Hudson Highlands SASS consists of 28 subunits. The Cold Spring subunit (HH-25) consists of the Villages of Cold Spring and Nelsonville. It features a tightly-knit settlement with a strong locational and historical relationship with the Hudson River. A portion of the Constitution Marsh Subunit (HH-23) is also located within Cold Spring. Whether within or outside a designated SASS, all proposed actions subject to review under federal and State coastal acts or a Local Waterfront Revitalization Program must be assessed to determine whether the action could affect a scenic resource and whether the action would be likely to impair the scenic beauty of the resource.

### **Cold Spring Subunit (HH-25)**

The Village of Cold Spring is oriented along an east-west road that rises inland away from the Hudson River and affords many residences a river view. Views down Main Street, framed by the buildings and street trees, are directed to the Hudson River, while the surrounding Hudson Highland peaks provide the backdrop to the Village. Storm King Mountain to the north is visible from many locations in the subunit, and the steep slopes of Crows Nest, directly across the Hudson River, are dominant in views to the west. Views from the river are of the historic wa-

terfront, including the docks, Village garage and salt shed, residences and the restored Chapel of Our Lady (now the Chapel Restoration), and of Main Street rising up the wooded hillsides of the subunit. There is a strong composition of many scenic components with many interesting focal points, including the numerous and varied structures located on the estates that dot the wooded hillsides of the adjacent HH-20 Garrison Four Corners subunit, and the peaks of Storm King and Crows Nest and the United States Military Academy at West Point on the western shore of the Hudson River.

As shown on Map X below, topography of the Cold Spring subunit is composed of a flat waterfront area along the shores of the Hudson River, Foundry Cove and a low protrusion into the Hudson River. Beyond this the subunit rises gently to the sloping valley hillsides on the flanks of Bull Hill and along the valley of the Foundry Brook. The vegetation of the subunit is a mix of mature street plantings and woodland. The Hudson River is the main water feature in the subunit, and Foundry Brook runs along the south boundary.

### **Topographic Map of Cold Spring.**

The waterfront park, with its bandstand and dock, is heavily used by the public and provides spectacular views of the Hudson River and the surrounding uplands of the Hudson Highlands. Together with Dockside, this park is the focus of public waterfront activity for the region around Cold Spring and is one of the most accessible public spaces on the Hudson River in Putnam County. The subunit is visible from NY Route 218 on the west bank of the Hudson as it hugs Storm King Mountain and from the United States Military Academy at West Point.

The Cold Spring subunit is included in the Hudson Highlands SASS because it is of high scenic quality. There is much variety in the physical and cultural components of the subunit, including variety in the topography, vegetation and the many building styles. The subunit is unified by the tight, historic pattern of development. The built areas of the subunit contrast with the rugged Hudson Highlands landscape that surrounds it. The location of such a large and well preserved historic village on the shores of the Hudson River is unique.

The development of the Village as an industrial center rather than the typical Hudson River pattern of development based around a commercial waterfront is unique in the region. It is also unique in combining a very historic and well-preserved riverfront Village with some of the Hudson River's most dramatic topography. The historical and architectural value of the subunit is recognized by the inclusion of the Cold Spring Historic District, the West Point Foundry, and nine properties in the Village of Nelsonville in the Hudson Highlands Multiple Resource Area listed on the State and National Registers of Historic Places.

The subunit is generally well maintained. There are no discordant features visible other than the Village garage and salt shed, although the railroad and some recent commercial development in the eastern portion of the Village detract from the overall scenic quality of the subunit. The Marathon Battery factory which operated on Kemble Avenue from 1952 to 1979 left a harmful environmental legacy in this subunit. Although this Federal Superfund site has recently

been remediated, portions of the site continue to be monitored and sparging for residual pollutants was in operation as late as the Fall of 2012.

### **Constitution Marsh Subunit (HH-23)**

The Constitution Marsh subunit is located on the east shore of the Hudson River south of the Village of Cold Spring. The subunit is approximately 2 miles long and 0.5 miles wide. It is located in the Town of Philipstown and the Village of Cold Spring. Refer to Map 14.

This subunit is composed of wetlands, marshes, creeks, coves, tidal flats, and bordering upland areas. Foundry Brook, Indian Brook and Philipse Brook are the main streams which drain into the marsh. The extensive marsh contains several meandering streams, areas of open water, tidal flats and a distinctive pattern of drainage channels that were created by Henry Warner, in the mid 1800's in his attempt to grow wild rice in the marsh. The vegetation is a rich mix of marsh plants, hedgerow and woodlands. Foundry Cove and Constitution Marsh are separated from the Hudson River by the railroad tracks, which run through the subunit on a causeway. Constitution Marsh is a much-valued wildlife area with large populations and varieties of fish and wildlife. Few structures exist in the subunit.

In the southern part of the Village of Cold Spring is the site of the West Point Foundry. The historical and architectural value of the site has been recognized through its listing on the National and State Registers of Historic Places. Ideally located for industrial activity, the site had many natural advantages including river transportation, water power, timber, iron ore and proximity to the defenses at West Point. The site was continuously occupied from 1817 until early in the 20<sup>th</sup> Century. In the mid-19<sup>th</sup> century it consisted of an iron foundry, a brass foundry, a gun foundry, boring mill, pattern shops, machine shops, boiler shops, a turning shop, coal house, store, pattern houses, fire house, a carpenter shop, a weigh house and furnaces. Several additional industrial buildings were added at the turn of the 20<sup>th</sup> century.

Little remains of this once-thriving industrial area. The foundry is now an important archaeological site. The dams that provided water power are still visible on Foundry Brook, and the docks, wagon roads and railbeds are still identifiable. Building foundations and sections of walls are visible, and the remnants of industrial activity, including slag, ashes, rusted metal and old machinery mounts, are present throughout the area. The main remaining intact structure is the large, two story brick office building which is in a badly deteriorated state. An interpretive park is now being constructed on the site, and is expected to open in 2013.

Views from the subunit are extensive. The views of the Hudson River are somewhat contained by bends in the river. Access into the marsh by canoe and from a boardwalk provides spectacular views of the subunit and surrounding subunits. Views from the Hudson River are of the wooded bluffs along the shoreline and the steep wooded upland dotted with estates. Several very prominent focal points are fully or partially visible. These include the West Point Military Academy, Constitution Island, Dick's Castle, Boscobel, Eagle's Rest (now known as St. Basil Academy), Storm King, and the surrounding peaks of the Hudson Highlands.

Much of the Constitution Marsh subunit is owned by New York State and managed as a wild-life sanctuary by the National Audubon Society, offering public access to the marsh from Indian Brook Road. The subunit is also visible from the Hudson River, the passenger trains that run through the subunit, the overlooking estates, some of which are open to the public, and from subunits on the western shoreland of the Hudson River, notably from the United States Military Academy at West Point and local roads.

The Constitution Marsh subunit is widely recognized as a landmark on the Hudson River and is valued as an important scenic and wildlife habitat area. The architectural and historical significance of the old West Point Foundry site is recognized in its listing on the State and National Registers of Historic Places. Eighty-six acres of the old West Point Foundry site are now part of an archaeological site, with the abandoned Victorian office building the major visible landmark.

The Constitution Marsh subunit is included in the Hudson Highlands SASS because it is of high scenic quality and features an extensive area of tidal marsh and flats surrounded by steep wooded slopes. The variety of scenic components includes open water, streams, marsh and wetland vegetation and a woodland edge. The extensive tidal wetland is a scenic component that is unique in the Hudson Highlands and rare on the Hudson River. Much of the subunit is in public ownership, and a trail system and boardwalk provide access into the marsh.

The Constitution Marsh subunit is visible from the Hudson River and surrounding subunits. The subunit is a unique and valued landscape feature in the Hudson Highlands, and the marsh is known as the middleground in views from West Point. The subunit is generally well-maintained. There are no significant discordant features within the subunit, although the railroad tracks and associated utilities are a prominent landscape feature and detract from the visual quality of the subunit.

#### **Q. UNDERWATER LANDS**

The Public Trust Doctrine is a set of American property law principles that defines the nature of public and private interests in lands beneath "navigable waters," including those subject to the ebb and flow of the tides. The Hudson River, which is tidal to the Federal Dam at Troy, falls under the Public Trust Doctrine. The doctrine, derived from ancient and English common law principles, provides the historic understanding that the air, the running waters, and the sea are common to all people, and guarantees the public's right to reach and use tidal lands and waters.

The doctrine serves two functions. The first is to define the geographic extent of public ownership of lands under water. In New York State, the boundary is the mean high water line. Therefore, the State has sovereign control and ownership of the foreshore, tidal waters and submerged land under tidal waters - below the mean high water line.

The second primary function of the Public Trust Doctrine is to define the nature of the State's ownership interest in these lands. The State holds title to these lands as trustee for the public, and must administer the use of these lands in the public interest. In New York State, the courts have established that uses including navigation, commerce, and fishing as well as recreation and ecological preservation, are valid uses of public trust lands and waters. When the tide is in,

the public has the right to use public trust lands for swimming, fishing, boating and other lawful recreational activities. When the tide is out, the public has the right to gain access to these lands to lounge or walk along the foreshore.

Property owners whose lands abut public trust resources have rights such that the public cannot access public trust land across private land without the owner's permission. Additionally, these property owners possess riparian rights to the Hudson River entitling them to access navigable water. These rights are limited as to the type of use, which may be placed in the water, and they must be reasonably exercised. By the nature of location over the water, the exercise of these rights almost always interferes with public use of the water and lands subject to the Public Trust Doctrine.

In New York State, adjacent upland owners can also apply to purchase or lease underwater lands. During the 18th and 19th centuries, the State of New York sold large expanses of public trust lands and waters to adjacent land owners to promote the development of commerce. In many cases, these owners placed fill in the Hudson River to create new land. In more recent years, private uses of public trust waters include marinas, commercial fishing operations, and docks and piers for shipping, and recreational boating. For the most part, grants were limited and a public interest in the underwater land remains intact. While the courts have consistently recognized the Public Trust Doctrine as a sovereign right held for the people, they have also recognized the validity of grants of public trust land to riparian owners. The courts have held that where some types of grants have been made by the State without any express reservation of the public rights, the public trust and accompanying public rights are extinguished, although the State may still regulate such lands under its police power and may authorize local governments to do so as well. The courts have also held that some grants may be invalid if the grant is not in the public interest.

There has been a recent emphasis on the importance of the public's right to access and enjoy Public Trust lands as a recreational resource and the use of the Public Trust Doctrine to better protect New York's coastal areas and their living resources.

An accurate inventory of the public trust lands and those lands that have been leased or granted to private interests within the Village of Cold Spring is very important since the ownership of underwater lands may have an important impact on the ability to implement some of the policies of the Village's LWRP. Before considering any development activity or land purchases along the waterfront area, prospective developers and owners are advised to check on the ownership of the adjacent underwater lands. This must be done at the NYS Office of General Services (OGS) office in Albany. OGS is the administrator of State lands, including underwater lands, and maintains a series of "Water Grant Index Maps" that identify lands within State ownership, as well as grants, easements, and leases previously issued by the State to various public and private entities.

Municipal, State, and federal agencies should consider the public's rights under the Public Trust Doctrine during their regulatory review of development proposals. In many cases it can pro-

vide a rationale for modifying or denying permits when an activity would impair public trust resources or if the use is inconsistent with the Public Trust Doctrine. It is important to understand the nature of the ownership of underwater lands since existing State grants, easements and leases to upland owners for use of public trust lands do not necessarily extinguish the public's rights to use these resources. Remaining public rights depend on the specific grant, easement or lease and in some cases require judicial interpretations. In addition, the federal government has tremendous powers under the Federal Navigation Servitude to regulate, and even absolutely prohibit, activities in the navigable waters of the United States, which includes the Hudson River.

## **R. SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS**

### **Hudson River Mile 44-56**

Cold Spring lies in the northern portion of Hudson River Mile 44-56, which extends 12 miles on the Hudson River from Cornwall in Orange County to Cortlandt in Westchester County. This reach is designated by the State as a "significant coastal fish and wildlife habitat." Refer to Appendix 6.

This fish and wildlife habitat encompasses all of the main river channel below mean low water over this approximately 12 mile reach. This section of the river is very narrow and deep (up to 200 feet deep in places) with strong currents and a rocky bottom. The area is characterized by higher water flows than occur upriver (based on local tributary freshwater inflow) and seasonal changes in salinity.

Hudson River Mile 44-56 is significant because it is generally the southern limit of freshwater spawning in the River. It is the major spawning area along the Hudson for striped bass and white perch, and a possible nursery area for Atlantic sturgeon and shortnose sturgeon. It is also a migration corridor for all anadromous fish spawning upriver. Hudson River Mile 44-56 is the most extensive area of this habitat type in the Hudson River, and contains the majority of deepwater (and greatest maximum depth) in the entire Hudson estuary. Associated with the fisheries resources in Hudson River Mile 44-56 is a significant concentration of wintering bald eagles.

### **Constitution Marsh**

Also located within Cold Spring is a portion of a second significant coastal fish and wildlife habitat, Constitution Marsh (refer to Appendix 7). This fish and wildlife habitat is an approximately 400-acre wetland separated from the Hudson River by Constitution Island and the Metro North railroad. Foundry Cove, the portion of this site that is located in Cold Spring, comprises shallows, deepwater and limited segments of marsh.

Constitution Marsh is one of the largest, undeveloped, tidal wetlands on the Hudson River. The predominant ecological communities in the area, (tidal marshes and flats) are among the most valuable fish and wildlife habitats in the Hudson Valley. However, the Marsh has been subject to chemical pollution (especially cadmium and nickel) resulting from past discharges of

wastewater from the Marathon battery factory, leading to its designation as an EPA superfund site. The highest levels of concentration occurred at the north end of Constitution Marsh in Foundry Cove; contaminated sediment was dredged from this site and all remedial construction was completed in 1995. The EPA has deleted the site from the National Priorities List. Constitution Marsh was not remediated as it is believed that dredging of the marsh would cause extensive environmental degradation.

Despite the degradation at Foundry Cove, Constitution Marsh is a very important habitat for marsh-nesting birds. Concentrations of herons, waterfowl, osprey and shorebirds also occur in Constitution Marsh during spring and fall migrations. It is also a significant spawning and feeding ground for anadromous and resident freshwater fish.

The diversity and abundance of wildlife species in Constitution Marsh are unusual in the lower Hudson River. Opportunities for birdwatching, wildlife photography and informal nature study attract visitors from throughout the Hudson Valley. In addition, the National Audubon Society has an active program of environmental education and research.

#### **S. HAZARDOUS WASTE SITES**

Two hazardous waste sites are located in the Village of Cold Spring, the former Cold Spring Manufactured Gas Plant and the former Marathon Battery Company. Refer to Map 15.

1. Prior to 1887, a manufactured gas plant was located at 5 New Street near the Hudson River on a parcel that is now owned by the Village of Cold Spring and is leased to the Cold Spring Boat Club. The manufactured gas plant used a coal carbonization process that involved heating coal, converting it to coke, and releasing a combustible gas that was piped into the surrounding community for lighting, heating and cooking purposes. The principal waste product was coal tar, which condensed from the manufactured gas as it cooled and has contaminated the soil and groundwater at the site. The presence of this hazardous waste has created significant threats to human health associated with potential exposure to soil and groundwater, and to the environment with the potential for impacts to the sediment and surface water of the adjacent Hudson River.

To eliminate or mitigate these threats, the NYSDEC, in a Record of Decision (ROD) dated February 2010, selected a remedial program for the site consisting of source removal and institutional/engineering controls; however this plan is still being discussed with the Village and the NYSDEC (which plans to do additional testing). Remediation will be under the State Superfund. As proposed in the ROD, soil from the most heavily contaminated source area east of the existing Boat Club Building, which includes the subsurface remnants of the former manufacturing gas plant structure, would be excavated and transported off-site to a disposal facility. To the north and west, excavation would be limited by New Street and will extend as close to the Boat Club building as possible without impacting the building's structural integrity. Significant contamination would remain under the Boat Club, and a barrier wall would be installed between the excavation and the remaining contamination

under the building. The existing Boat Club building would function as a cover to prevent exposure to the underlying contamination. If the Boat Club building is ever demolished, or if there is a significant change of use of this structure, the NYSDEC would evaluate the need for additional remediation prior to redevelopment.

Institutional controls will provide for the continued monitoring of the remaining contamination, restrict the use of groundwater, and will require a site management plan that will address any future intrusive activities.

2. The 340-acre Superfund site includes a now-demolished battery factory and 11 surrounding acres, the Hudson River in the vicinity of the Cold Spring pier, Foundry Cove and Marsh, and Constitution Marsh. The battery factory operated from 1952 to 1979, producing military and commercial batteries, discharging toxic substances – most notably cadmium and nickel – into the Village sewer system, thereby extensively contaminating the former battery factory grounds, Foundry Cove, Constitution Marsh, and the Hudson River. After the United States sued the factory owners in 1970 to halt the discharge of toxic chemicals, government officials attempted a partial cleanup of the site, during which the southern portion of the factory grounds was used for dewatering and ultimately entombing contaminated sediment dredged from Foundry Cove. After this remediation effort proved inadequate, in 1981, soon after passage of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) declared the Marathon site a Superfund site. Remedial investigations were then performed, followed by remediation of the site in the early 1990s. In 1996, after demolishing all structures on the factory grounds and excavating and refilling the site, and excavating and removing sediment from most of Foundry Cove and the area near the Cold Spring pier, the EPA completed its Superfund remediation and delisted the site from the National Priorities List. Deed restrictions imposed by the EPA on the former factory grounds prohibit groundwater wells anywhere on the site and excavation deeper than 15 feet within the pedestal area, where a cadmium nitrate tank had leaked into the soil down to the groundwater table 26 feet below the ground surface. The soils have been excavated and replaced with clean soils and the cadmium in the groundwater is not mobile and does not present a risk to human health or the environment. As shown on Map 15, the pedestal area is on the eastern edge of the site adjacent to Kemble Avenue. The EPA continues to test sediment and monitors the former factory grounds to track contamination levels.

A small groundwater plume of volatile organic compounds (VOCs), which are probable carcinogens, according to the EPA, currently exists under the former factory grounds, radiating from the location of an old solvent shed. In June 2008, the EPA's Third Five-Year Review Report on the Marathon Battery Site raised concerns about vapor intrusion at adjacent residential properties and the delineation of the groundwater plume. In 2009, the EPA performed vapor intrusion sampling at a number of residences adjacent to the plume and installed additional groundwater monitoring wells to fully delineate the plume. In July 2011, the EPA issued an Addendum to the 2008 Report, which contained a map of the plume showing that it underlies much of the northern portion of the former battery grounds as well as residences along the eastern side of Constitution Drive. In the Addendum, the EPA

concluded that, “[c]urrently, there are no exposure pathways that could result in unacceptable risks.” There are three possible VOC exposure pathways related to human health risk: inhalation, ingestion and dermal contact. The 2009 vapor intrusion investigation studied the inhalation pathway. The groundwater in this area is unavailable to the residents, thereby eliminating the ingestion and dermal pathways. The residents are connected to the public water supply. Because several attempts at remediation of the plume have failed, a pilot study to treat the plume using air sparging and soil vapor extraction (AS/SVE) was performed in 2012. Initial results show that the AS/SVE process was able to remove VOCs from the groundwater and the unsaturated soils. The pilot study will be continued in 2013. A five-year report on the site is due in June 2013.

## T. SUMMARY OF GOALS, ISSUES, AND OPPORTUNITIES

The main goals for revitalization of the Village of Cold Spring, in accordance with the 2012 Comprehensive Plan and the 2011 Local Waterfront Revitalization Strategy, are to:

- **Protect the small town character of the Village** by updating the Village Code consistent with the recommendations of the Village’s adopted *Comprehensive Plan*, preserving the authentic “living” character of Main Street, encouraging volunteerism, and cooperating with surrounding municipalities. Over time, the Village should reconnect with its roots by encouraging a traditional scale and pattern of development and redevelopment that is designed to promote walkable neighborhoods.
- **Restore and revitalize underutilized waterfront sites** by improving existing parks and providing additional public recreation facilities, particularly public access and recreation opportunities to the waterfront to open up the use of the Village's waterfront for residents and tourists alike. Link public sites along the waterfront and throughout the Village. Take advantage of the riverfront by improving public access to the river, developing a RiverWalk, and developing Docksider as a natural park with a small food concession.
- **Utilize the waterfront as a resource for alternative transportation modes** by improving access for passenger boats and working with the Boat Club.
- **Protect and improve the Village's natural resources and conserve energy:** care for the shoreline and habitat, protect scenic views, steep slopes, and the water supply, promote green technology and use of alternate sources of energy.
- **Enhance the economic vitality of the Village** by encouraging businesses that serve residents, improving parking, making the Village a destination for visitors, promoting strong marketing, and enhancing both the Main Street and Chestnut Street commercial areas.
- **Ensure that community facilities and services meet Village needs** and are efficient and affordable, with upgrades to water distribution, sewer system, storm sewers, the fire-

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house, police and emergency services, retaining the Post Office and sharing or consolidating services where cost-effective.

- **Control the growth in property taxes** by encouraging development that is tax positive and by seeking other sources of revenue including metered parking, switching to user fees for some services, seeking more grants, and finding ways to pay for upgrades of aging infrastructure.

### **Issues and Opportunities:**

1. Artificial fill at Dockside makes the shoreline unstable, especially along the western shore where the river runs swiftly. A 2006 study by the Open Space Institute estimates the cost of shoreline stabilization at over \$500,000. In reaching an agreement with the State for managing Dockside, the Village's obligations with regard to shoreline stabilization will need to be addressed. It is likely that the state will select Dockside for a demonstration project to plan for testing newer types of stabilization, such as the use of vegetation plantings or organic materials ("soft" or non-structural stabilization), rather than control practices using hardened surfaces ("hard" or structural stabilization).
2. Ensuring that new development and infill development in the Village is consistent with the traditional features of the Village, with its walkable, mixed-use neighborhoods. This is particularly true of large undeveloped or underdeveloped sites, such as the Marathon Battery site and Butterfield Hospital. A number of areas should be rezoned for mixed-use to encourage the redevelopment of vacant, underutilized or deteriorated sites (such as the former Butterfield Hospital and the Marathon Battery site) consistent with the design principles of traditional walkable neighborhoods.
3. While many visitors arrive at Cold Spring by boat, there is currently no regular ferry service to the Village. Commercial passenger boat docking would provide access to neighboring communities and would allow tourists to visit the Village without an adverse impact on parking. In 2011, the Village Board voted to allow commercial passenger boats, including tour boats and ferries, to dock in Cold Spring, with permits issued on a case-by-case basis.
4. According to the December 31, 2010 report of the New York State Sea Level Rise Task Force, the Hudson River in the Mid-Hudson Valley Region will see increases in water levels from 1 to 4 inches by the 2020s, 5 to 9 inches by the 2050s, and 8 to 18 inches by the 2080s. However, in a scenario of rapid ice-melt, those increases become 4 to 9 inches by the 2020s, 17 to 26 inches by the 2050s, and 37 to 50 inches by the 2080s – enough to flood Dockside, Mayor's Park, and other waterfront properties. It will be necessary to develop strategies to address shoreline stabilization and to cope with the impact of sea level rises on affected properties.
5. New development in the coastal area should avoid potential impacts from non-point runoff. Care should be taken to ensure that future development does not disrupt existing natural drainage channels. Non-point source pollutants should be properly ad-

dressed through stormwater pollution prevention plans (SWPPP). Green infrastructure practices to be included in SWPPPs should include preserving and restoring natural landscape features (such as forests, floodplains and wetlands), reducing the amount of land covered by impervious surfaces, incorporating green roofs in new and existing construction, as well as the use of pervious pavement, rain gardens, vegetated swales, planters and stream buffers.

6. Parking problems on local streets, and especially on Main Street, which was developed in an era before the automobile, occur on busy weekends. Parking shortages, and possibly metering spaces as a source of revenue, should be addressed. Improving pedestrian and bicycling facilities throughout the Village will also help to alleviate traffic congestion and parking shortages.
7. Significant commercial and residential development west of the railroad is constrained by limited access (only one bridge allows for vehicular access) and by the fact that most of the area lies within a floodplain. The Village recently modified its Floodplain Management law (Chapter 52 of the Village Code) to ensure that the Village is in compliance with the Federal Emergency Management Agency's National Flood Insurance Program (NFIP) standards in order to continue its participation in the NFIP. The new law addresses construction and reconstruction in flood-prone areas of the Village, with specific requirements for construction materials and methods, location of utilities, and anchoring and elevation of structures. In light of the extensive damage to the immediate waterfront caused by storms in 2011 and 2012, as well as sea level rise projections resulting from climate change, the Village should evaluate whether the recently enacted measures are sufficiently protective of public health and safety.
8. The absence of a secondary vehicular access to the Marathon/West Point Foundry Preserve/Campbell area is a major barrier to development. Suggestions for improvement include extending Lunn Terrace to connect with the Boulevard (which has met with strong opposition from neighbors) or, with less public discussion, extending Lunn Terrace south along the railroad to join the Scenic Hudson path toward the Foundry to connect with Kemble Avenue.
9. Vehicular/pedestrian conflicts in the Foodtown/Benedict Road area should be addressed to improve safety for pedestrians.
10. Although less publicly discussed, connecting Fishkill Avenue and Craigside Drive would provide a direct alternative way to travel between Main Street and Morris Avenue if the signalized intersection were obstructed

[Section on Issues and Opportunities to be completed when LWRP has finished chapter on Implementation.]

## Section III: Waterfront Revitalization Policies

Section III presents the Local Waterfront Revitalization Program (LWRP) policies and their associated standards. The policies and standards are to be used in guiding development and re-development of Cold Spring, consistent with the economic, environmental, and cultural characteristics of the Village. They take the place of the statewide policies of the New York State Coastal Management Program. The policies are comprehensive and reflect existing laws and authority regarding development and environmental protection in the Village. Together, these policies and their standards are to be used to determine an appropriate balance between economic growth and environmental protection that will permit the beneficial use of waterfront resources in the Village without adverse impacts to coastal resources of the Hudson River and adjacent upland areas.

The policies reflect local conditions and issues, creating a policy framework to achieve the Village's vision for the community. Cold Spring's local policies reflect the statewide policies and include standards adopted through local regulations to ensure implementation of the Local Waterfront Revitalization Program. The policies are the basis for Federal and State consistency determinations for activities affecting the waterfront area. Definitions of terms used in the policies appear at the end of the chapter.

As discussed in Section 1 of this LWRP, the entire incorporated Village of Cold Spring lies within the Local Waterfront Revitalization Area (LWRA). While the majority of policies in this Section apply to the entire LWRA, some policies are particular to the waterfront area immediately adjacent to the Hudson River (as in the case, for example, of policies that pertain to water-dependent uses). Throughout this Section, whenever a policy applies to the entire LWRA, the text will refer to the Waterfront Revitalization Area or the Village of Cold Spring. The term "waterfront" is generally reserved for instances when a policy applies only to the area immediately adjacent to the Hudson River.

The policies are organized under four headings: Developed Waterfront Policies, Natural Waterfront Policies, Public Waterfront Policies, and Working Waterfront Policies. Following the policy heading is a narrative explaining the rationale for the local policies and standards. The following is the list of the Village of Cold Spring LWRP Policies:

### **Developed Waterfront Policies**

- Policy 1: Foster a pattern of development in the Village of Cold Spring that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development.
- Policy 2: Preserve historic resources of the Village of Cold Spring.
- Policy 3: Enhance visual quality and protect outstanding scenic resources.

### **Natural Waterfront Policies**

- Policy 4: Minimize loss of life, structures and natural resources from flooding and erosion.
- Policy 5: Protect and improve water quality and supply in the Village of Cold Spring.

Policy 6: Protect and restore the quality and function of ecological resources throughout the Village of Cold Spring

Policy 7: Protect and improve air quality in the Village of Cold Spring.

Policy 8: Minimize environmental degradation from solid waste and hazardous substances and wastes.

### **Public Waterfront Policies**

Policy 9: Improve public access to the waterfront and recreational use of public lands.

### **Working Waterfront Policies**

Policy 10: Protect water-dependent uses in the waterfront and promote the siting of new water-dependent uses in suitable locations.

Policy 11: Promote sustainable use of living marine resources in the waterfront.

Policy 12: Protect agricultural lands in the Village. (Not applicable.)

Policy 13: Promote appropriate use and development of energy and mineral resources.

## **DEVELOPED WATERFRONT POLICIES**

**Policy 1 Foster a pattern of development in the Village of Cold Spring that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development.**

The Village's 407 acres are largely developed with a mixture of commercial, residential, community, and recreational uses. Most of the structures and sites associated with these uses are in good condition. Only a few could be considered deteriorated or underutilized. There are also a few vacant parcels on its immediate waterfront.

It is the intention of this Local Waterfront Revitalization Program that, in general, as areas in the Village become available for development or redevelopment, the principles of Smart Growth and, specifically, traditional neighborhood development which emulates the features of historic villages such as Cold Spring, serve as guides.

The LWRP sets forth a vision of future land uses in the Village that sees some clusters of properties as best interpreted as a whole, with an integrated plan that addresses the area comprehensively, rather than piecemeal parcel-by-parcel development. These areas are associated with the following sites, and include some of the surrounding properties: the former Butterfield Hospital, the Chestnut Street commercial area, the Village Garage area, and the Marathon site. Each of these areas should emulate and reflect the traditional features of the Village, with its walkable, mixed-use neighborhoods that are the essence of what residents have said they value most about the community. Such an approach gives the residents of Cold Spring, who have participated in an extensive public participation process to develop ideas for these areas, a greater say in the future of their community, rather than simply reacting to outside proposals. This approach also gives greater flexibility to developers by allowing a wider range of compatible uses

and will streamline the review process by clearly indicating the community's preferences.

Development that does not reinforce the traditional pattern of land uses would result in an undesirable loss of the community and landscape character of the Village and the greater Hudson Valley Region. Development, public investment, and regulatory decisions should preserve open space and natural resources and sustain the historic Village waterfront as a center of activity.

The long standing planning goals of the Village are aimed at preserving and enhancing the character of the waterfront and its relationship to the Hudson River, and providing better opportunities for recreation and public access that are compatible with the existing scale of development and the availability of services in the community. The waterfront is a focal point of the community. In this area, priority should be given to enhancing views of the River and creating opportunities for public access. Whenever a site has water frontage, water-dependent uses should be favored. Otherwise, new uses in waterfront locations should be in some way related to waterfront activities.

This policy is intended to foster a pattern of development that enhances the quality of life and provides for the beneficial use of waterfront resources in the Village. The primary components of this policy are to: strengthen the waterfront as a center of activity; encourage water-dependent uses along the Hudson River; protect and improve stable residential areas; improve recreation and public access opportunities; and preserve and protect remaining open space and significant natural resources. Development that does not reinforce the Village's traditional land use pattern and improve the quality of life would adversely impact the community character of Cold Spring.

The Village of Cold Spring will encourage the investment of capital in projects that improve recreation and public access opportunities and that support water-dependent and water-enhanced uses along the waterfront.

State, federal, and local agencies must ensure that any direct funding and permitting actions further the revitalization of waterfront areas within the Village of Cold Spring. When any such action, or similar action, is proposed, it must be analyzed to determine if the action would contribute to or adversely affect the Village's waterfront revitalization plans and efforts.

**1.1 *Concentrate development and redevelopment in order to revitalize deteriorated and underutilized uses and strengthen the traditional waterfront focus of the community.***

- U. Ensure that improvements to underutilized, deteriorated, and vacant sites in the Village:
  - 4. Enhance the visual and historic character of the Village;
  - 5. Provide economic and recreational activities while addressing certain development or support needs such as appropriate parking based upon Smart Growth principles;

6. Promote traditional neighborhood development that is well integrated into the fabric of the community;
7. Protect and enhance the environmental resources that support the area's economy and improve its quality of life.

Focus revitalization efforts in the Village primarily on the immediate waterfront, including Dockside Park, the Main Dock, the Boat Club, the Campbell Estate, and the West Point Foundry Preserve.

- Revitalize these sites with water-dependent or water-enhanced uses that improve and promote public access and recreation to draw people to the waterfront and help to foster additional revitalization efforts in the Village.
- 9.
  10. A master plan has been developed for Dockside Park to enhance the site as a natural park with a small food concession. Continue efforts to secure funding and technical assistance for this action, including shoreline stabilization, in order to achieve this goal for the site.
  11. Continue to explore ways to encourage passenger service at the Main Dock and increased use of the Boat Club for pleasure boats.
  12. Continue to support the efforts of Scenic Hudson to create interpretive parks for Foundry Dock Park and the West Point Foundry Preserve, and to develop plans for the Campbell property.
  13. Create a pedestrian and bicycle trail "RiverWalk" to connect these waterfront sites and to link the waterfront to a prospective Cold Spring to Beacon trail and to residential neighborhoods.
4. Ensure that all development or uses of the waterfront recognizes the unique qualities of the waterfront by:
    5. Using building and site design to make beneficial use of the River location and associated waterfront resources;
    4. Minimizing consumption of waterfront lands that does not meet the intent of this policy or that would result in potential adverse impacts on natural resources;
    2. Limiting shoreline alteration and enhancing shoreline stabilization;
    2. Incorporating recreational activities, public access, open space and other such amenities into waterfront designs, as appropriate to the use, to enhance the subject site and the surrounding community, and to increase visual and physical access to the River;

Designing the waterfront as a focus for activity that draws people to the waterfront and links the waterfront to upland neighborhoods in the Village;

11. Providing and improving integrated linkages between the waterfront and upland portions of the community;
  - (g) Using appropriate signage and other amenities to attract people and ensure better way-finding to and along the waterfront.
  - (h) Reinforcing community identity by highlighting local history and recognizing the importance of the Village as a settlement by Native Americans, and its significance in the industrial and cultural history of the nation;
  - (i) Ensuring that design and siting of uses and structures complements the surrounding community and landscape, particularly the National Register Historic District and Local Historic District; and
  - (j) Using native, non-invasive plants as components of landscape design to improve habitat and water quality, and to lessen water demands.
  - (k) Taking into consideration the probable impact of climate change.
4. Four upland areas of the Village have been identified as having the potential for development or redevelopment. These include the Marathon Battery site, the Butterfield Hospital site, the Chestnut Street commercial area, and the Village Garage area. Consideration has been given to opportunities for mixed-use development and redevelopment of these sites, to offer commercial, municipal, and residential uses. Part of the Village Garage site is proposed to include an esplanade and scenic overlook so it can be revitalized for public use and enjoyment. Investment and plans for Village, , and particularly for the development or redevelopment of vacant or underutilized sites in upland areas of the Village, will be guided in accordance with the following principles:
  - (a) Integrate development into the fabric of the community with its compact, walkable neighborhoods, village-scale lots, historic buildings, and streets forming a connected network, all of which reinforce a strong sense of place.;
  - (b) Locate new development and redevelopment where infrastructure and vehicular access is adequate or can be upgraded to accommodate new development;
  - (c) Provide adequate and safe facilities for pedestrians and bicyclists, and calm traffic flow to improve public safety and enhance community character;
  - (d) Promote the economic health of the Village and be “tax positive,” wherever possible. Property tax revenues from new development or redevelopment should be significantly greater than the total cost of services required by those properties, including school costs;
  - (e) Protect the natural environment, green spaces, scenic landscapes, and the health of residents;
  - (f) Recognize environmental constraints as a limiting factor for development and devise ways to blend environmental preservation into site design, where ever possible, to achieve development without adversely impacting important environmental resources;

- (g) Restore environmental quality to degraded areas for both resource preservation and revitalization;
- (h) Do not allow new development to adversely impact the character of adjacent neighborhoods and the people who live there;
- (i) Minimize traffic congestion; and
- (j) Incorporate green building and landscaping techniques into all redevelopment and new development.

**1.2        *Ensure that development or uses make beneficial use of their waterfront location.***

1. There is a limited amount of land with a waterfront location in the Village. Any new development of these waterfront parcels must be carefully planned as follows:
  - (a) Give priority to public access and water-dependent recreational uses over other types of development for waterfront parcels.
  - (b) Accommodate water-enhanced uses where they are compatible with surrounding development, do not displace or interfere with water-dependent uses, and reflect the unique qualities of a waterfront location through appropriate design and orientation.
  - (c) Protect and enhance existing water-dependent and water-enhanced uses.
  - (d) Avoid development along the shoreline that is not dependent on a waterfront location or that cannot make beneficial use of such a location.
  - (e) Ensure that new water-dependent and water-enhanced uses are compatible with existing residential areas and are sensitive to the natural environment.
  - (f) Ensure that development preserves and enhances, where practicable, views of the River, water quality, habitat, shoreline stability, and public access.
  
2. To ensure that water-dependent and water-enhanced uses make beneficial use of their waterfront location, site and design such uses to:
  - (a) Attract people to or near the waterfront and provide opportunities for access to the Hudson River;
  - (b) Provide public views to or from the water;
  - (c) Minimize consumption of waterfront land and protect sensitive natural and cultural resources;
  - (d) Not cause significant adverse impacts to community character;
  - (e) Improve the link between the waterfront and the adjoining business district on Main Street and the train station; and

- (f) Ensure that infrastructure and parking areas are maintained and improved to properly support existing and new uses along the waterfront using Smart Growth principles such as shared parking ratios.

3. Avoid uses that would:

- (a) Result in unnecessary and avoidable loss of significant waterfront resources;
- (b) Ignore their waterfront setting as indicated by design or orientation; and
- (c) Do not, by their nature, derive economic benefit from a waterfront location.

**1.3 *Protect and improve stable residential areas.***

1. Ensure that the Village's existing residential neighborhoods continue to be important to the overall community character and economic viability of Cold Spring as follows:

- (a) .Avoid new uses when their size or scale would significantly impact the character of the Village or otherwise lead to a loss of economic, environmental, and aesthetic values.
- (b) Ensure that new construction, redevelopment and associated screening, such as fences and landscaping, do not reduce or eliminate vistas that connect local residents or visitors to the Hudson River and Hudson Highlands or views that are otherwise important to the surrounding area.
- (c) Design public access improvements to better establish the connection between residential neighborhoods and the waterfront.
- (d) Create linkages between neighborhoods and public lands along the waterfront through the development of the RiverWalk trail that would provide a pedestrian path immediately along the waterfront.
- (e) Install sidewalks wherever they are missing to enhance walkable neighborhoods.
- (f) Protect historic churches, which are a prominent feature in several residential neighborhoods. Some, such as St. Mary's in the Highlands Episcopal Church, are surrounded by relatively open spaces which are used by the public as playgrounds or gathering places for parades and public events, and are financially vulnerable. (St. Mary's has recently announced its intention to seek solutions to its financial challenges that include consideration of the sale of its great lawn.)

**1.4 *Maintain and enhance natural areas, recreation and open space lands.***

Natural areas, open space and recreational lands provide public benefits that may not be immediately tangible. In addition to scenic and recreational benefits, these lands may also support habitat for important fish and wildlife, provide watershed management for flood control, and serve to recharge ground water. Such areas include wetlands, forested areas, ridgelines and steep slopes, shorelines, floodplains, and significant habitats.

1. Maintain and enhance natural areas, recreation and open space lands as follows:
  - (a) Avoid the expansion of infrastructure into undeveloped areas where such expansion would promote development that would be detrimental to waterfront resources, important natural resources, or in any way impact or reduce opportunities for public recreation.
  - (b) Site new development only where infrastructure is adequate or can be upgraded to accommodate it, taking into consideration the effects of climate change and sea level rise.
  - (c) Similarly, site new infrastructure outside of future floodplains, taking into consideration the effects of climate change and sea level rise.
  - (d)
2. To enhance community character and maintain the quality of the natural and man-made environment, identify and avoid or properly mitigate to the maximum extent practicable potential adverse impacts that may result from site development, including impacts to existing neighborhoods, the physical environment, and economic factors. Minimize potential adverse impacts as follows:
  - (a) Avoid alterations to natural features that would result in increased shoreline erosion, damage by coastal storms, and flooding.
  - (b) Design development and redevelopment to take advantage of significant site characteristics, limit the disturbance of important natural resources, foster visual compatibility with the surrounding area, and maintain the continuity of public access along the water's edge.
3. The long-term vision of the Village is to create a continuous network of public parks and access along the waterfront. Specifically it is the intent of the Village to:
  - (a) Increase docking for passenger boats at the Main Dock.
  - (b) Encourage increased use of the Boat Club for pleasure boats.
  - (c) Improve Dockside as a natural park with a small food concession and other basic amenities.
  - (d) Improve part of the Village Garage site with an esplanade and Overlook Park.
  - (e) Improve pedestrian access between the West Point Foundry Preserve, Foundry Dock Park and the Main Dock.
  - (f) Connect these public waterfront parks with a RiverWalk trail from Foundry Dock Park to Little Stony Point that is universally accessible and wide enough to allow for pedestrian and bicycle travel.

**1.5 *Minimize adverse impacts of new development and redevelopment on the Village.***

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1. Enhance community character and maintain the quality of the natural and man-made features in the Village of Cold Spring as follows:
  - (a) Identify and avoid or properly mitigate to the maximum extent practicable potential adverse environmental impacts of new development and redevelopment on existing land uses, the natural environment, and the local economy.
  - (b) Ensure that development reflects the recognition of existing site characteristics, limits disturbance of land and water, and is visually compatible with the character of the surrounding area.
  - (c) Ensure that the size and scale of development or redevelopment is compatible with the character of the surrounding area and the Village as a whole. This is particularly important when new residential development is proposed. Characteristic features of historic residential neighborhoods in the Village include narrow lots with homes located close to each other and to the street, garages (if provided) are detached and set toward the back of the property, and sidewalks and street trees lining the road. These features help to define the public space of the street as an outdoor room, and encourage walking. When new residential development is proposed in the Village, these historic neighborhood patterns must be maintained and emulated. Where the characteristics of historic neighborhoods vary from these norms of narrow lots with houses near the street, such as along Morris Avenue between Main Street and Craigside Drive, priority should be given to emulating the size and siting of existing homes in the surrounding neighborhood.
  - (d) Identify and avoid or properly mitigate to the maximum extent practicable cumulative and secondary adverse impacts from development and redevelopment. Cumulative impacts are the result of the incremental or increased impact of repetitive actions or activities when added to other past, present or future actions or activities. Secondary impacts are those that are foreseeable, but occur at a later time or at a greater distance from the action, and are caused by an action or activity, whether directly or indirectly.
2. Minimize potential adverse impacts on existing development as follows:
  - (a) Incorporate the features of traditional neighborhood design into new development and redevelopment;
  - (b) Integrate the waterfront with upland neighborhoods by providing physical linkages between them; and
  - (c) Prevent displacement or impairment of water-dependent uses.
3. Minimize potential adverse economic impacts as follows:
  - (a) Prevent deterioration of the waterfront and the surrounding area by eliminating derelict and dilapidated conditions;

- (b) Avoid uses and project designs that detract from community character of the waterfront;
- (c) Prevent the isolation of community uses and people from the waterfront; and
- (d) Protect and enhance the economic base of the community and promote diverse economic activity.

## **Policy 2 Preserve historic resources of the Village of Cold Spring.**

Historic resources and archaeological sites in the Village of Cold Spring are tangible reminders of the community's early development and its rich waterfront tradition, providing a connection to past generations and events. Cold Spring has significant historic and archaeological sites, including a National Register Historic District, a Local Historic District, individual sites that are listed on the State and National Registers of Historic Places, and a nationally significant archaeological site associated with the waterfront's notable industrial heritage. In addition, the New York State Archaeological Sensitivity Map (NYSOPRHP, 1992) identifies the entire Village of Cold Spring as an area of archaeological sensitivity. Historic and archaeological sites are important components in defining Cold Spring's distinctive identity and character. Preservation of Cold Spring's historic resources fosters civic pride in the heritage of the community.

The intent of this policy is to preserve the historic and archaeological resources in the Village. Concern extends not only to the specific site or resource, but to the area adjacent to and around specific sites and resources. The quality of adjacent areas is often critical to maintaining the quality and value of the resource. The effective preservation of historic resources must also include efforts, where appropriate, to restore or revitalize important resources.

Historic resources that would be covered under this policy include those structures, districts, areas and sites that are listed or designated as follows:

- Any resource on, or determined to be eligible for listing on, the State or National Register of Historic Places;
- Any historic resource in a federal or state park established solely or in part to protect and preserve the resource;
- Any archaeological resource that is on the inventories of archaeological sites maintained by the New York State Department of Education or the Office of Parks, Recreation and Historic Preservation; and
- Any locally designated historic or archaeological resources protected by a local law or ordinance.

Cold Spring has adopted a local law entitled "Historic District" which is designed to protect the historic resources and the architectural and cultural heritage of the Village's Local Historic District, which encompasses the National Register Historic District. In identifying those elements that are important in defining the character and value of an historic resource, designation in-

formation, available documentation, and original research should be used. Chapter 64 of the Village Code, entitled "Historic District," outlines the standards by which a property within the Village may be designated a landmark or included within the Village's local Historic District. In accordance with Chapter 64, a property may be designated a landmark or be added to the District if it:

- Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the community, region, state or nation;
- Is identified with one or more historic personages who significantly contributed to the development of the community, region, state or nation;
- Embodies the distinguishing characteristics of one or more architectural styles, construction methods or historic periods;
- Is the work of a designer whose work has significantly influenced an age;
- Because of a unique location of singular physical characteristics, represents an established and familiar visual feature of the community; or
- Is a distinctive and significant entity whose component parts may lack individual distinction.
- 

## **Policy Standards**

### **2.1 *Maximize preservation and retention of historic resources.***

1. Thoroughly evaluate potential impacts to historic resources within the Village of Cold Spring during the State Environmental Quality Review (SEQR) process. Utilize all practical means to preserve identified resources and to avoid or mitigate potential adverse impacts.
2. Preserve the historic character of the resource by protecting historic materials and features consistent with the standards of Chapter 64 of the Village Code.
3. Repair historic materials and features consistent with the standards of Chapter 64 of the Village Code.
4. Foster uses that maximize retention of the historic character of a resource and minimize alterations so as to preserve and retain the character of the structure. To assist with implementation of Chapter 64 of the Village Code, the Village has adopted Design Standards which the Architectural Review Board consults when reviewing proposals. The Village has also undertaken a detailed survey of all buildings within the Village's Historic District, which provides an overview of key characteristics of resources that are particularly worthy of preservation and protection. This document should be reviewed and once it has been adopted, it should be consulted whenever a property comes up for review. Alterations of historic buildings in the Historic District must be consistent with

the provisions of the local law. In accordance with Chapter 64, alterations of properties throughout the Historic Districts, must:

- (a) Be compatible with the property's historic character, and with exterior features of neighboring properties, in terms of general design and character, scale, proportion, arrangement of windows and other openings, roof shape, texture and materials.
  - (b) Retain exterior architectural features of the designated property which contribute to its historic character as seen from the street.
  -
5. Minimize the loss of historic resources or the historic character of the Village when it is not possible to completely preserve the resource. Relocate historic structures only when the resource cannot be preserved in place. Permit demolition of a resource only when all alternatives have been determined infeasible in the planning process, unless necessary for public safety, or to eliminate an unacceptable intrusion. **[NB This is a State policy. See page III-12 for the definition of historic resource that this policy applies to.]**
  6. Avoid potential adverse impacts of development and redevelopment on adjacent or nearby historic resources as follows:
    - (a) Protect historic resources by ensuring that new development is compatible with the historic character of the affected resource.
    - (b) Design new development with a size, scale, proportion, mass and with a spatial relationship compatible with the historic resource.
    - (c) Design new development using features, forms, details, textures and materials compatible with similar features of the historic resource.
  7. Limit adverse cumulative impacts on historic resources.
    - (a) Minimize the potential adverse cumulative impact on an historic resource, whether it is an individual resource or part of a group of related resources which may be adversely impacted by the loss or diminution of any one of the members of the group.
    - (b) Minimize the potential cumulative impacts of a series of otherwise minor interventions on an historic resource.
    - (c) Minimize potential cumulative impacts from development adjacent to the historic resource.

## 2.2 *Protect and preserve archaeological resources.*

The area in and around the Village of Cold Spring was originally inhabited by the Wappinger Indians, the northern branch of the Delaware (or Lenape) tribe. It was an area that first attracted European explorers in the 17<sup>th</sup> century. Subsequently, in the 19<sup>th</sup> century, Cold Spring became

the site of one of the nation's largest foundries, which encouraged the development of one of the area's earliest commercial districts. As a result, the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) has identified the entire Village of Cold Spring as an area of archaeological sensitivity.

Potential impacts to archaeological resources within the Village must be thoroughly evaluated during the SEQR review process. OPRHP will be contacted when considering development or redevelopment projects within the Village. When a development action is proposed that involves land disturbance, a cultural resource investigation will be conducted to determine whether cultural resources are present in the project area. If cultural resources are discovered as a result of the initial survey, a detailed evaluation will be conducted to provide adequate data to allow for a determination of the significance of the archaeological resources.

If the potential for impacts to an archaeological resource exists, adverse impacts shall be minimized by redesigning the project, mitigating direct impacts on the resource, or recovering significant artifacts prior to construction. The site shall also be documented.

Disturbance or adverse impacts to any archaeological resources situated on or under lands owned by the State of New York should be avoided. These resources may not be appropriated for private use.

With respect to activities that involve excavation in the Village of Cold Spring, public agencies and utilities should contact the New York State Office of Parks, Recreation and Historic Preservation to determine appropriate protective measures for archaeological resources.

### **2.3 *Protect and enhance resources that are significant to the waterfront culture.***

Thousands of vessels have traversed the Hudson River, many of which foundered, sank, or were abandoned. Researchers have identified over 300 shipwrecks in the Hudson River between Albany and New York City, including the suspected remains of Revolutionary War vessels. New York State holds title to all shipwrecks determined to be abandoned under the Abandoned Shipwrecks Act of 1987. Abandoned shipwrecks that lie embedded in underwater lands in New York State are archaeological sites that are protected under state and federal laws, and must not be disturbed. The NYS Museum has the authority to issue permits for legitimate archaeological research of shipwrecks. Removal of artifacts from these sites without a permit is unlawful. To protect these archaeological sites from looting, the state does not reveal the location of shipwrecks.

Historic shipwrecks are those which, by reason of their antiquity or their historic, archaeological or cultural value, have state or national importance and are eligible for inclusion on the State or National Register of Historic Places. To protect and enhance historic resources that are significant to the waterfront culture of the Village of Cold Spring, the following standards shall apply to historic shipwrecks:

1. Preserve historic shipwrecks in place to ensure the least degree of intervention. When preservation is not feasible, record and lawfully recover shipwrecks or their artifacts.

2. Manage shipwrecks to provide for public appreciation, use and benefit. The nature of public use and benefits associated with shipwrecks is very diverse. Sport divers should have reasonable access to explore shipwrecks. Additional public appreciation and enjoyment of shipwrecks can be achieved through interpretive access, which describes the history and value of the resource. Archaeological research on historic shipwrecks is particularly important where research can be reasonably expected to yield information important to understanding the past.
3. Avoid disturbance to shipwrecks unless the shipwreck poses a navigation hazard or would impede efforts to restore the natural resource values.
4. Prevent unauthorized collection of shipwreck artifacts and associated direct or cumulative impacts.
5. Maintain the natural resource values that are associated with shipwreck sites, which may be sensitive to disturbance.

### **Policy 3 Enhance visual quality and protect outstanding scenic resources.**

Waterfront landscapes possess inherent scenic qualities that draw people to the water's edge. In the case of the Village of Cold Spring, these scenic qualities are enhanced by the Hudson Highlands that surround the waterfront and represent some of the tidal Hudson River's most dramatic topography. The entire Village of Cold Spring is located within the Hudson Highlands Scenic Area of Statewide Significance (SASS), a nationally significant scenic region of the Hudson River Valley. The aesthetic significance of the Cold Spring subunit of the Hudson Highlands SASS derives from the contrast between the Village's compact historic development pattern and the rugged Hudson Highlands that surround it. The location of such a large and well preserved historic village on the shores of the Hudson River is unique. The historic and architectural value of the subunit is recognized by the inclusion of the majority of the Village's central business district in a National Register Historic District. Surrounding Main Street are historic residential neighborhoods that exemplify the best features of traditional neighborhood design. The visual quality and scenic resources of Cold Spring are important resources that should be enhanced and protected. The intent of this policy is to protect and enhance visual quality and protect recognized scenic resources of the Village. Since the Cold Spring subunit of the Hudson Highlands SASS recognizes the visual quality of the Village's highly scenic natural setting and its historic development pattern, implementation of the policies under subsection 3.1 and 3.2 below will protect the aesthetic values associated with the SASS.

#### **3.1 *Protect and improve the visual quality of Cold Spring.***

The visual quality of Cold Spring is a major contributor to the community character of the Village. The highly scenic quality of the Village's setting in the natural environment of the Hudson Highlands, as viewed both to and from the river, contributes significantly to the quality of life of residents and attracts numerous visitors to the Village. The Village includes a nationally recognized historic central business district, which is one of the Village's strongest visual elements, along with its historic residential neighborhoods, the well-defined waterfront with its parks and

bandstand, historic structures including the Chapel Restoration, and open space. These resources must be protected and enhanced.

1. Avoid potential adverse impacts on the visual quality of the Village of Cold Spring as follows:
  - (a) Enhance existing scenic characteristics by minimizing introduction of discordant features. Avoid structures or activities that introduce visual interruptions to the natural landscape along the shoreline and ridgelines as viewed both to and from the river, such as intrusive artificial light sources or large structural intrusions into open areas. Require fully shielded outdoor lighting fixtures and lighting levels that do not to exceed the recommended levels set by the Illuminating Engineering Society of North America. Lighting should be sufficient to illuminate the intended area, but not excessive.
  - (b) Restore deteriorated and remove degraded visual elements, and screen activities and views which detract from visual quality.
  - (c) Preserve existing vegetation and establish new vegetation to enhance scenic quality both to and from the river, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements such as parking lots, utility buildings, and boat storage areas, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing within public parks, at Village street ends, and along rights-of-way creates or enhances views of the waterfront.
  - (d) Group or orient structures to preserve open space, minimize impacts on the shoreline and ridgelines, and provide visual organization.
  - (e) Anticipate and prevent impairment of dynamic landscape elements that contribute to ephemeral scenic qualities.
  - (f) Recognize water-dependent uses as important additions to the visual interest of the waterfront.
  - (g) Protect scenic values associated with public lands, including public trust lands and waters, and natural resources.

### **3.2 *Protect and enhance the visual quality of the National Register Historic District and the Local Historic District***

The Village's central business district along Main Street and the surrounding residential neighborhoods offer a special visual ambience that must be preserved and enhanced. These areas of the Village have been recognized by their inclusion in a National Register Historic District and a Local Historic District.

1. Continue efforts to improve and enhance the visual quality of Main Street by burying overhead utility lines, planting street trees, prohibiting uses that disrupt the pedestrian orientation of the district, installing signage compatible with the Village's historic character directing people to the waterfront, the train station, trailheads, and parking, and

other aesthetic improvements. Such efforts would improve the attractiveness of Main Street, boost economic activity and property values, and improve its connection to the waterfront.

2. Ensure that new development of historic residential neighborhoods is consistent with the features of traditional village streets.
3. Continue to preserve and restore historic buildings and architectural features through the implementation of the Village's Design Standards by the Architectural Review Board, which also ensures that new buildings and other structures are compatible with the significant historic character of the districts.

## NATURAL WATERFRONT POLICIES

### **Policy 4 Minimize loss of life, structures, and natural resources from flooding and erosion.**

This policy seeks to protect life, structures and natural resources from the hazards of flooding and erosion. The policy reflects State flooding and erosion regulations and provides measures for the reduction of hazards and protection of resources. This policy applies to all floodplain areas in the Village of Cold Spring.

The Village of Cold Spring contains flood zones that have been designated by the Federal Emergency Management Agency and are depicted on Flood Insurance Rate Maps (see Map X). The Village participates in the National Flood Insurance Program and development in the floodplain is regulated under Chapter 52 of the Village Code--Floodplain Management. This law is designed to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Pursuant to Chapter 52, all construction and other development that is proposed within regulated areas of special flood hazards requires a floodplain development permit from the Village Building Inspector and must be in compliance with the standards outlined in the law.

#### **4.1 *Minimize losses of human life and structures from flooding and erosion hazards.***

1. Use the following management measures, which are presented in order of priority:
  - (a) Avoid development other than water-dependent uses in coastal hazard areas;
  - (b) Locate new structures, and relocate existing structures when feasible, as far away from flooding and erosion hazards as possible unless they are functionally depended on a location on or in coastal waters, are in areas of substantial public investment, or reinforce the role of a developed working waterfront;
  - (c) Use vegetative non-structural measures which have a reasonable probability of managing flooding and erosion, based on shoreline characteristics including exposure, geometry, and sediment composition;

- (d) Enhance existing natural protective features and processes, and use non-structural measures which have a reasonable probability of managing erosion;
  - (e) Use hard structural erosion protection measures for control of erosion only where the above measures are not sufficient to protect the principal use, or the use is water-dependent or reinforces the role of a waterfront redevelopment area.
  - (f) Minimize risks to public health and safety resulting from flooding and sea level rise on electricity transmission systems.
2. Mitigate the impacts of erosion control structures.
  3. Repair the Boat Club bulkhead.
  4. Develop sediment and erosion control guidelines for the stream corridors that discharge into the Hudson River to improve water quality and minimize the need for dredging and associated disposal costs. Coordinate this effort with adjoining communities that lie within the watershed areas, in an effort to manage impacts resulting from actions undertaken in these areas.
  5. Manage development in floodplains outside of coastal hazard areas so as to avoid adverse environmental effects, to minimize the need for structural flood protection measures, and to meet Federal flood insurance program standards.

#### **4.2 *Preserve and restore natural protective features.***

1. Prevent development in natural protective features except development as specifically allowed in 6 NYCRR Part 505.8.
2. Maximize the protective capabilities of natural protective features by:
  - (a) Avoiding alteration or interference with shorelines in a natural condition
  - (b) Enhancing existing natural protective features;
  - (c) Restoring impaired natural protective features; and
  - (d) Managing activities to minimize interference with, limit damage to, or reverse damage which has diminished the protective capacities of the natural shoreline.
3. Minimize interference with natural coastal processes by:
  - (c) Providing for natural supply and movement of unconsolidated materials;
  - (d) Minimizing intrusion of structures into coastal waters and interference with coastal processes; and
  - (e) Mitigating any unavoidable intrusion or interference.
4. Seek funding to undertake shoreline stabilization of Dockside.

**4.3** *Protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects.*

1. Retain ownership of public trust lands that have become upland areas due to fill or accretion resulting from erosion control projects.
2. Avoid losses or likely losses of public trust lands or use of these lands, including public access along the shore, which can be reasonably attributed to or anticipated to result from erosion protection structures.
3. Mitigate unavoidable impacts to ensure that there is no adverse impact on adjacent property, natural resources, and public trust lands and their use.

**4.4** *Manage navigation infrastructure to limit adverse impacts on coastal processes.*

1. Manage navigation channels to limit adverse impacts on coastal processes by designing channel construction and maintenance to protect and enhance natural protective features and prevent destabilization of adjacent areas.
2. Make beneficial use of suitable dredged material.

**4.5** *Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.*

Give priority in the expenditure of public funds to actions that will protect public health and safety, mitigate flooding and erosion problems caused by previous human intervention, protect areas of intensive development, and protect substantial public investment in land, infrastructure, and facilities.

The expenditure of public funds for flooding and erosion projects is limited to those circumstances where public benefits exceed public cost, and is prohibited for the exclusive purpose of providing flooding and erosion protection for private development.

Factors to be used in determining public benefits attributable to the proposed flood or erosion control measures include the economic benefits derived from protection of public infrastructure and investment, and the extent of existing or potential public use.

**4.6** *Consider sea level rise when siting and designing projects involving substantial public expenditures.*

The New York State Energy Research and Development Authority has developed a number of scenarios projecting sea level rise in the coming years. This ranges from a 5 to 10 inch rise by the 2020s to a 41 to 55 inch rise by 2080. The sea has already risen in New York Harbor more than 15 inches since the 1860s, with harbor tide gauges showing a rise of between 4 and 6 inches since 1960. Sea level rise and coastal flooding from storm surge will affect New York's entire

ocean and estuarine coastline from Montauk Point to the Battery and up the Hudson River to the federal dam at Troy. While sea-level rise may be lower for portions of the Mid-Hudson River than the coastline, Cold Spring has developed its policies in anticipation of the highest projected level of rise. Climate change is sure to exacerbate conflicts between goals for economic development, habitat protection, and public safety. These competing goals require stronger inter-agency coordination and new laws and regulations.

The following local policies apply to projects involving substantial public expenditures:

1. Guide existing development out of flood prone areas and prevent new development from siting in existing and projected flood prone areas to minimize losses.
2. During SEQR reviews for projects in the coastal risk management zone, include an assessment of potential coastal flooding and other effects of climate change for the expected "lifetime" of the project, structure or facility using the higher end of the projected ranges in New York State's accepted sea level rise and storm surge projections.
3. Require proposed projects or actions to account for potential impacts due to projected sea level rise, using state-accepted projections during the functional lifetime of the proposed project, including impacts to shore protection measures, upland uses and adjacent areas and for potential vulnerabilities following the useful lifespan of the project.
4. Projects or actions should not compromise existing public access to the water as sea level rises. Where public access is constrained by the design of a project, replacement access, including links to adjacent publicly accessible areas, should be provided. Projects or actions should be designed to increase public access wherever possible consistent with the Village LWRP.
5. For projects in coastal risk management zones, include estimates of construction and maintenance costs for the functional lifetime of the proposed project.
6. Where actions involve a structural shoreline protection project, the following criteria apply:
  - (a) Demonstration by the project sponsor that protection is appropriate to, and compatible with, both the character and purpose of the activity, or cannot be achieved through one or a combination of non-structural measures;
  - (b) Provide redundant, non-structural measures, to the extent feasible, so that in the event of failure of the structural protective measures, life and safety are not imperiled and essential services are maintained or quickly restorable;
  - (c) The action should not result in an unavoidable barrier to migration of an existing tidal wetland habitat or submerged aquatic vegetation and should not cause adverse impacts to adjacent properties or ecological systems. If the project or action does result in an unavoidable barrier, require the proponent of the project sponsor to

demonstrate that the creation of such barrier or causation of adverse impacts is unavoidable because reasonable alternatives do not exist and that the benefits of the proposed project or action outweigh its adverse impacts. Require the project sponsor to further demonstrate that the proposed project or action minimizes the effect of such barrier or adverse impacts, and provides for mitigation to offset all unavoidable effects;

- (d) All maintenance costs will be the responsibility of the project sponsor, and the mechanism for funding and implementing long-term maintenance needs must be specified in the agency decision.

**Policy 5 Protect and improve water quality and supply in the Village of Cold Spring.**

The purpose of this policy is to protect the quality of surface water in the Village of Cold Spring, including the Hudson River, Foundry Brook, and Back Brook. Water quality considerations include the management of both point and non-point source pollution. Water quality protection and improvement must be accomplished by managing new, and remediating existing, sources of water pollution. It is an additional purpose of this policy to ensure a sufficient quantity of surface water in the reservoir for the Village water supply system to protect the Village's water supplies. The quantity of surface waters in the Village must also be controlled to prevent flooding and to protect the health, safety and welfare of Village residents.

New York State classifies surface waters based upon best usage. The reach of the Hudson River adjacent to Cold Spring is classified as "SB." The best uses of Class SB waters are primary and secondary contact recreation and fishing. These waters are suitable for fish, shellfish, and wild-life propagation and survival. The waters of the Hudson River in the vicinity of Cold Spring meet the standards for public swimming areas. Foundry Brook is classified C, with best use being fishing. Back Brook is not a State classified stream.

A primary source of water quality degradation in the Village of Cold Spring is non-point source pollution, which reaches surface water bodies through unconfined or indiscrete means. The best way to control the rate of non-point contamination generation and transport in upland areas is through the use of best management practices, such as stormwater management planning for both existing and new development as well as the use of low impact development measures wherever possible, through reductions in fertilizer and pesticide usage, proper disposal of automobile waste oils, and proper use of winter deicing agents, among many other water quality practices. Public education is an important means of implementing some of the best management practices.

**5.1 Prohibit direct or indirect discharges that would cause or contribute to the contravention of water quality standards in local surface waters.**

1. Prevent point source discharges to the surface waters of the Hudson River and local streams, and avoid land and water uses that would:

- (a) Exceed discharge limits specified by State Pollution Discharge Elimination System (SPDES) permits for municipal discharges.
- (b) Exceed established and applicable effluent limitations, or cause or contribute to the contravention of water quality classifications and use standards; or
- (c) Materially and adversely affect the quality of receiving waters.

2. Ensure effective treatment of sanitary waste and industrial discharges by:

- (a) Maintaining efficient operation of treatment facilities;
- (b) Providing, at a minimum, effective secondary and, where appropriate, tertiary treatment for sanitary sewage;
- (c) Modifying existing sewage treatment facilities to provide improved nitrogen removal capacity where needed;
- (d) Incorporating into the design for new or upgraded wastewater treatment facilities the capacity for tertiary treatment, when funding is available;
- (e) Reducing demand on treatment facilities by:
  - Addressing inflow and infiltration of stormwater into the wastewater collection system, which has caused hydraulic overload situations where the quantity of water reaching the treatment facility exceeds the capacity of the system, resulting in effluent being discharged untreated into the Hudson River;
  - Eliminating and preventing unauthorized collection system hookups, including illegal connections of downspouts to the sewer system;
  - Limiting discharge volumes and pollutant loadings to below authorized levels where possible; and
  - Requiring the installation of low-flow water conservation fixtures in all new development and when replacing fixtures in existing development;
- (f) Addressing impacts of extreme tides and sea level rise on the West Street pumping station;
- (g) Addressing issues related to the unmapped sewer line running through back yards on the south side of Parrott Street;
- (h) Educating the public about problems at the wastewater treatment plant caused by household grease and items like “disposable” wipes;
- (i) Controlling, through reductions, the loadings of toxic materials discharged into the Hudson River by including limits on toxic metals as part of wastewater treatment plant effluent permits and by enforcing existing pretreatment requirements;
- (j) Providing and managing on-site wastewater disposal (septic) systems by:

Allowing on-site systems only when connection with the public sewer system is not feasible; and

- Encouraging evaluation and implementation of alternative or innovative onsite sanitary waste systems and technologies to remediate systems that currently do not adequately treat or separate effluent.

5.2 *Minimize non-point source pollution of local surface waters and manage activities that cause non-point source pollution.*

1. Minimize sources of non-point pollution to local surface waters by using the following approaches, which are presented in order of priority.

(a) Limit or eliminate non-point sources of pollution by:

- Reducing or eliminating the introduction of materials that may contribute to non-point source pollution;
- Prohibiting outdoor or uncontained storage of materials that may contribute to the pollution of surface waters, such as winter deicing agents;
- Minimizing land use activities that would increase off-site stormwater runoff and the transport of pollutants;
- Controlling and managing stormwater runoff to minimize the transport of pollutants, restore (to the greatest extent possible) degraded natural stormwater runoff conditions, and achieve a no-net increase of runoff where unimpaired stormwater runoff conditions exist;
- Retaining existing or establishing new vegetation to maintain and provide soil stabilization and filtering capacity. This is particularly needed in the section of Back Brook that runs through the Springbrook condominiums, where little or no natural vegetation exists along the stream and the bank is eroding. Planting of native shrubs and other plants along the edge of the Brook could help prevent further erosion. A DEC Hudson River Estuary Program, known as “Trees for Tribs” exists that can assist with getting suitable plantings for the site, if volunteer labor and local support is offered.
- Preserving natural hydrological conditions to maintain natural surface water flow characteristics and retain natural watercourses and drainage systems (when present); and
- Where natural drainage systems are absent or incapable of handling the anticipated runoff demands, developing open vegetated drainage systems as a preferred approach, with long and indirect flow paths to decrease peak runoff flows. Closed drainage systems should only be used where site constraints and stormwater flow demands make open systems infeasible.

(b) Reduce pollutant loads to surface waters by managing unavoidable non-point sources and using appropriate best management practices as determined by site characteristics, design standards, operational conditions, and maintenance programs.

3. Reduce non-point source pollution using the following management measures:
  - (a) For new development, manage total suspended solids in stormwater runoff to remain at predevelopment loading levels.
  - (b) For site development, limit activities that increase erosion or the amount of velocity of stormwater runoff.
  - (c) For construction sites, reduce erosion, control sedimentation, and limit and control the use of chemicals and nutrients.
  - (d) Plan, site and design new streets and pedestrian areas to manage erosion and sediment loss through low impact development techniques and limit the disturbance of land and vegetation to the minimum necessary.
  - (e) Plan and design bridges to protect ecosystems.
  - (f) For streets and bridges minimize, to the greatest extent possible, the runoff of contaminants to surface waters.
  - (g) Use vegetative and other natural means, wherever possible, to protect river and stream banks and shorelines from erosion.
  - (h) Encourage the use of best management practices to prevent non-point source pollution, including:
    - Limiting the application of fertilizers, herbicides and pesticides and avoiding the use of synthetic fertilizers that contribute nitrates and phosphorus to runoff;
    - Avoiding secondary discharges of pollutants, such as petroleum products to storm drains that discharge directly to surface waters; and
    - Properly cleaning up pet wastes and controlling litter.
  - (i) Prohibit all direct and indirect discharges of refuse or litter into surface waters, and upon public lands contiguous to and within 100 feet of the Hudson River and streams.
  - (j) Remove and dispose of floatables and litter from surface waters and the shoreline of the River.
  - (k) Implement pollution prevention and education programs to reduce the discharge of litter in the River, streams and the Village storm drains.
  - (l) Undertake regular maintenance and cleaning of storm drains that discharge to the Hudson River and streams.

### **5.3 *Protect and enhance the surface water quality in the Hudson River and its tributary streams.***

1. To the greatest extent possible, improve the water quality of the River and streams based on an evaluation of physical factors (pH, dissolved oxygen, dissolved solids, nutrients,

odor, color and turbidity), health factors (pathogens, chemical contaminants, and toxicity), and aesthetic and nuisance factors (oils, floatables, refuse and suspended solids).

2. Minimize the disturbance of the River and streams, including their beds and banks, in order to prevent soil erosion, increased turbidity, and irregular variation in velocity, temperature, and level of water.
3. Protect the surface water quality of the River and streams from adverse impacts associated with excavation, fill, dredging and the improper disposal of dredged materials.
4. Utilize, where feasible and economically practicable, street sweeping resources to reduce the amount of pollutants, sediments and litter that enters surface waters through stormdrains.

**5.4 *Limit the potential for adverse impacts of watershed development on water quality and quantity.***

1. Protect water quality by ensuring that watershed development:
  - (a) Protects areas that provide important water quality benefits;
  - (b) Maintains natural characteristics of drainage systems; and
  - (c) Protects areas that are particularly susceptible to erosion and sediment loss.
2. Limit the impacts of individual development projects to prevent cumulative water quality impacts upon the watershed which would result in a failure to meet water quality standards.

**5.5 *Protect and conserve the quality and quantity of potable water.***

1. Prevent contamination of potable waters in the reservoir for the Village water supply system by limiting discharges of pollutants and limiting land uses which are likely to contribute to contravention of surface and groundwater quality classifications affecting potable water supplies. Special consideration should be given to impacts of road de-icing agents in the watershed, and particularly on Fishkill Road and Lake Surprise Road where they run adjacent to Foundry Brook.
2. Prevent depletion of existing potable water supplies through conservation methods or restrictions on water supply use and withdrawals and allowing for continuing recharge of reservoirs and potable aquifers.
3. Limit cumulative impacts of development on surface water recharge areas to ensure replenishment of potable surface water supplies and groundwater aquifer areas that are contributory to such surface waters.
4. Ensure that the reservoir dams are repaired to NYSDEC standards.

5. Maintain the physical infrastructure and rights to the Catskill aqueduct water.
6. Minimize loss of water in the delivery system to the extent possible.
7. Maintain rights to Jaycox pond water as a back up source of water.

**Policy 6 Protect and restore the quality and function of ecological resources throughout the Village of Cold Spring.**

The ecosystem is a community of living organisms (plants, animals, and microbes) interacting with each other and with their natural environment as a system. Certain natural resources that are important for their contribution to the quality and biological diversity of the ecosystem have been specifically identified by the State for protection. These natural resources include regulated tidal and freshwater wetlands; designated Significant Coastal Fish and Wildlife Habitats; and rare, threatened, and endangered species. In addition to specifically identified discrete natural resources, the quality of the ecosystem also depends on more common, broadly distributed natural resources, such as the extent of forest cover and the population of resident and overwintering songbirds, which collectively affect the quality and biological diversity of the ecosystem.

In the Village of Cold Spring, resources that contribute to the diversity of the local ecosystem and to the quality of life in the Village include the Hudson River and its tributary streams, wetlands areas, forest cover, and discrete plant and animal populations.

**6.1 *Protect and restore ecological quality.***

There are two State-designated Significant Coastal Fish and Wildlife Habitats in or adjacent to the Village of Cold Spring, including Hudson River Mile 44-56 and Constitution Marsh. There are also certain areas that should be restored and protected as habitat for fish and wildlife. Submerged aquatic vegetation (SAV) is found in the Hudson River north and south of the waterfront and in Foundry Cove (see Map 10, "Natural Resources"). SAV has diverse ecological functions. It acts as nurseries for juvenile fish, provides important habitat and feeding areas for waterfowl, and produces organic matter that is an integral part of the Hudson River food web. SAV is an important source of oxygen in the water and it used as a key measure of water quality. It improves the clarity of the river by reducing the likelihood of algal blooms.

Stream corridors and wetlands provide numerous benefits including, but not limited to, habitat for wildlife, erosion and flood control, natural pollution treatment and filtration, groundwater protection, and aesthetic open space. Freshwater wetlands in the Village are primarily located along Foundry Brook in the vicinity of Foundry Cove and Constitution Marsh, and along Back Brook at the Village's northern boundary. The shoreline also includes a tidal wetland inlet east of the railroad tracks. To further the protection and restoration of these resources, the excavation of existing wetlands or the placement of fill in these areas should be avoided. Adequate buffers should be provided and maintained between wetlands and adjacent uses to ensure protection of their character, quality, value and function. Buffers areas should also be considered along stream corridors.

## 6.2 *Protect and Restore Significant Coastal Fish and Wildlife Habitats.*

Significant Coastal Fish and Wildlife Habitats are areas that have been as identified by the NYSDEC as being critical to the maintenance or re-establishment of species of fish and wildlife in the coastal area. These habitats have been designated by the Secretary of State to be protected for the habitat value they provide and to avoid permanent adverse changes to the coastal ecosystem. State-designated Significant Coastal Fish and Wildlife Habitats are described in individual Significant Coastal Fish and Wildlife Habitat narratives and outlined on boundary maps prepared by the Department of State (see the Section II Inventory and Analysis and Appendix X for more detail on the habitats).

Significant fish and wildlife habitats are those habitat areas which exhibit to a substantial degree one or more of the following characteristics:

- Is essential to the survival of a large portion of a particular fish or wildlife population.
- Supports a species which is either endangered, threatened, or of special concern as those terms are defined at 6 NYCRR Part 182.
- Supports fish or wildlife populations having significant commercial, recreational or educational value, or is of a type which is not commonly found in the state or a coastal region of the state, and are difficult, or even impossible, to replace in kind.

Uses or activities in these areas should be avoided which would:

1. Destroy habitat values through direct physical alteration, disturbance, or pollution, or the indirect effects of actions that would result in a loss of habitat.
2. Significantly impair the viability of a habitat beyond the tolerance range of fish and wildlife species through:
  - degradation of existing habitat elements,
  - change in environmental conditions,
  - functional loss of habitat values, or
  - adverse alteration of physical, biological, or chemical characteristics.
3. Where destruction or significant impairment of habitat values cannot be avoided, potential impacts of land use or development should be minimized through appropriate mitigation. Use mitigation measures that are likely to result in the least environmentally damaging feasible alternative. Mitigation includes:
  - (a) Avoidance of potential adverse impacts, including:
    - Avoiding ecologically sensitive areas;
    - Scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions; and

- Preventing fragmentation of intact habitat areas.
- (b) Minimization of unavoidable potential adverse impacts, including:
- Reducing scale or intensity of use or development;
  - Designing projects to result in the least amount of potential adverse impact;
  - Choosing alternative actions or methods that would lessen potential impact;
  - Specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment; and
  - Specific protective measures included in the narratives for each designated Significant Coastal Fish and Wildlife Habitat area and as summarized below.

For the Significant Coastal Fish and Wildlife Habitats in the Cold Spring waterfront area, the following shall apply:

Hudson River Mile 44-56:

1. Any activity that substantially degrades water quality, increases turbidity, increases sedimentation, or alters flows, temperature, or water depths in the Hudson River Mile 44-56 would result in significant impairment of the habitat.
2. Of primary concern in this deep estuarine area is diversion of freshwater flows out of the Hudson, contamination by toxic chemicals, major structural alterations to the underwater habitat (e.g., dredging, filling, or construction of jetties), and thermal discharges.
3. All species may be adversely affected by water pollution, such as chemical contamination (including food chain effects resulting from bioaccumulation), oil spills, excessive turbidity or sediment loading, nonpoint source runoff, and waste disposal (including vessel wastes).
4. Discharges or runoff of sewage effluent, pesticides, or other hazardous materials into the river would be detrimental to many of the resident aquatic species and also to the potential human uses of those resources.
5. Any physical modification of the habitat or adjacent wetlands, through dredging, filling or bulkheading could result in a direct loss of valuable habitat area.
6. Transient habitat disturbances, such as dredging or in-river construction activities, could have significant impacts on striped bass populations during spawning and incubation periods (May to July, primarily).
7. Habitat disturbances would be most detrimental during bird nesting and fish spawning and nursery periods, which generally extend from April through August for most warm water species.

8. Thermal discharges, depending on time of year, would have variable effects on use of the area by migratory and freshwater resident species.
9. Activities that result in the presence of significant electric, magnetic, or electromagnetic field may affect benthic communities, migratory fish movement, and fish egg and larval development.
10. Entrapment or impingement from installation and operation of water intakes could have a significant impact on juvenile and/or adult fish concentrations, including endangered species.
11. Activities that would enhance migratory, spawning, or nursery fish habitat, particularly where an area is essential to a species' life cycle or helps to restore an historic species population would be beneficial.

Constitution Marsh:

1. It is essential that any potential impacts on Constitution Marsh be evaluated with respect to its use for environmental research and education, and the need to maintain natural or controlled experimental conditions.
2. Any activity that substantially degrades water quality, increases turbidity or sedimentation, reduces freshwater inflows, or alters tidal fluctuations in Constitution Marsh would result in significant impairment of the habitat.
3. Elimination of wetlands or shallow areas, through dredging, filling, or bulkheading, would result in a direct impact on valuable fish and wildlife habitats.
4. Activities that would subdivide this relatively large, undisturbed area into smaller fragments should be restricted.
5. Habitat management activities, including expansion of productive littoral areas, may be designed to maintain or enhance populations of certain fish or wildlife species.
6. Despite past remedial action, contaminated soils remain. Any activity, other than further remediation, that would mobilize existing contaminants should be avoided.
7. Elimination of existing adjacent wetland and forested habitats would adversely affect the habitat. Existing vegetated riparian buffer zones and woodlands bordering Constitution Marsh should be maintained for their value as cover, soil stabilization, perch sites, and buffer zones. Significant human encroachment into the adjacent area could adversely affect certain species of wildlife. Habitat disturbances would be most detrimental during bird nesting, and fish spawning and nursery periods, which generally extend from April through August for most warm water species.
8. The submerged aquatic vegetation beds would be negatively impacted by changes in the littoral zone through dredging and/or filling as well as changes in water quality. Where opportunities exist, appropriate restoration of intertidal and subtidal shallow habitats should be undertaken using the best available science and proper monitoring protocols.

Restoration and enhancement efforts should be monitored, and the associated habitat effects should be reported and evaluated.

9. The presence of invasive species and the expansion of their range within the habitat may result in changes in native plant, vertebrate and invertebrate species composition and abundance. In particular, changes in plant communities may affect marsh-nesting birds. Control of invasive plant species, through a variety of means, may improve fish and wildlife species use of the area. Control methods, including biological controls and regulated use of herbicides must only be implemented, if other methods of control have been explored, and then only under permit with strict adherence to all precautionary measures to avoid impacts to non-target species. The primary goals of such efforts must be recovery and maintenance of habitat for native fish and wildlife species.

### 6.3 *Protect and restore tidal and freshwater wetlands.*

Wetlands provide numerous benefits, including, but not limited to, habitat for fish and wildlife, erosion and flood control, natural pollution treatment, groundwater protection, and aesthetic open space.

1. The following measures can further the protection or restoration of wetlands:
  - (a) Comply with the statutory and regulatory requirements of the Freshwater Wetlands Act and Stream Protection Act; and
  - (b) Prevent the net loss of wetlands by:
    - Avoiding placement of fill in, or excavation of, wetlands;
    - Minimizing adverse impacts resulting from unavoidable fill, excavation or other activities;
    - Providing compensatory mitigation for adverse impacts that may result from unavoidable fill, excavation or other activities remaining after all appropriate and practicable minimization has been accomplished; and
    - Providing and maintaining adequate buffers between wetlands and adjacent or nearby uses and activities in order to ensure protection of the character, quality, value and function of the wetlands area.
  - (c) Restore wetlands wherever practical to foster their continued existence as natural systems.
2. The Village should protect wetlands through its existing local review and approval process for Site Plan, Subdivision and Special Permits. Priority should be given to designing new development to avoid wetlands and regulated adjacent areas. When potential impacts to wetlands and buffers is determined to be unavoidable, disturbance to wetlands should be minimized to the maximum extent practicable, and the impacts of land use or development should be mitigated to the greatest extent possible.

3. Evaluate and implement measures to restore the tidal wetland inlet east of the railroad tracks.

#### **6.4** *Protect vulnerable fish, wildlife, and plant species, and rare ecological communities.*

Rare fish, wildlife and plant species, and significant natural communities are located within the Village of Cold Spring. The following measures can protect these resources:

1. Avoid potential adverse impacts, such as:
  - (b) Avoiding ecologically sensitive areas,
  - (c) Scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions, and
  - (d) Preventing fragmentation of intact habitat areas.
2. Where potential adverse impacts to rare species and ecological communities cannot be avoided, potential impacts of land use or development should be minimized to the greatest extent. Use mitigation measures that are likely to result in the least environmentally damaging alternative. Mitigation includes:
  - (a) Reducing the scale or intensity of the use or development,
  - (b) Designing projects to result in the least amount of potential adverse impacts, and
  - (c) Choosing alternative actions or methods that would lessen potential impacts.
- (3) Protect rare species and ecological communities through the Village's existing local review and approval process for Site Plan, Subdivision and Special Permits. Require applicants to submit to the Planning Board information regarding rare species and ecological communities from the New York State Department of Environmental Conservation Natural Heritage Program and the US Fish and Wildlife Service during the review process.

#### **Policy 7** **Protect and improve air quality in the Village of Cold Spring.**

This policy provides for the protection of air quality in the Village of Cold Spring.

##### **7.1** *Control or abate existing and prevent new air pollution.*

New land uses and development in the Village of Cold Spring should comply with the following:

1. Limit pollution resulting from new or existing stationary air contamination sources consistent with:
  - a) Attainment or maintenance of any applicable air quality standards,
  - b) Applicable New Source Performance Standards,

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- c) Applicable control strategy of the State Implementation Plan, and
  - d) Applicable Prevention of Significant Deterioration requirements.
2. Recycle or salvage air contaminants using best available air cleaning technologies.
  3. Limit pollution resulting from vehicle or vessel movement or operation, including actions that directly or indirectly change transportation uses or operation resulting in increased pollution, consistent with attainment or maintenance of applicable ambient air quality standards, and applicable portions of any control strategy of the State Implementation Plan.
  4. Restrict emissions of air contaminants to the outdoor atmosphere that are potentially injurious to human, plant and animal life, or that would unreasonably interfere with the comfortable enjoyment of life or property.

**7.2**      *Limit discharges of atmospheric radioactive material to a level that is as low as practicable.*

State air quality standards regulate radioactive materials and pollutants. For actions with a potential impact on air quality, the Village shall provide necessary information, as appropriate, to the State to enable the effective administration of air quality statutes pertaining to atmospheric radioactive material.

**7.3**      *Capture and recycle chloroflourocarbon compounds during service and repair of air-conditioning and refrigeration units to the greatest extent possible.*

State air quality standards regulate chloroflourocarbon pollutants. For actions with a potential impact on air quality, the Village shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to chlorofluorocarbon.

**7.4**      *Limit sources of atmospheric deposition of pollutants to the waterway, particularly from nitrogen sources.*

State air quality standards regulate sources of nitrogen pollution. For actions with a potential impact on air quality, the Village shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to the atmospheric deposition of pollutants in the region, particularly nitrogen sources.

**Policy 8**    **Minimize environmental degradation from solid waste and hazardous substances and wastes.**

The intent of this policy is to protect the public from sources of contamination and to protect the waterfront resources of the Village of Cold Spring from degradation through proper control and management of wastes and hazardous materials. In addition, this policy is intended to promote the expeditious remediation and reclamation of hazardous waste sites to permit redevelopment.

Attention is also required to identify and address sources of soil and water contamination resulting from landfill and hazardous waste sites and in-place sediment contamination in the Village of Cold Spring.

**8.1        *Manage solid waste (as defined under ECL §27-0701 and 6 NYCRR Part 360-1.2) to protect public health and control pollution.***

1. Plan for proper and effective solid waste disposal prior to undertaking major development or redevelopment activities that generate solid waste.
2. Manage solid waste in accordance with the following solid waste management priorities:
  - a) Reduce the amount of solid waste generated, such as by encouraging composting and recycling;
  - b) Reuse material for the purpose for which it was originally intended or recycle material that cannot be reused; and
  - c) Use land burial or other approved methods to dispose of solid waste that is not being reused or recycled.
3. Create and support a market for maximum resource recovery by using materials and products manufactured with recovered materials, and recovering materials as a source of supply for manufacturing materials and products.
4. Prevent the discharge of solid wastes into the environment by using proper handling, management, disposal and transportation practices.

**8.2        *Manage hazardous wastes (defined under ECL §27-0901 and 6 NYCRR Part 371) to protect public health and control pollution.*** Manage hazardous waste in accordance with the following priorities:

- a) Eliminate or reduce generation of hazardous wastes to the maximum extent practical;
  - b) Recover, reuse, or recycle remaining hazardous wastes to the maximum extent practical;
  - c) Use detoxification, treatment, or destruction technologies to dispose of hazardous wastes which cannot be reduced, recovered, reused, or recycled;
  - d) Use land disposal as a last resort; and
  - e) Prohibit the siting of any new facility that would generate significant quantities of hazardous wastes, or the disposal of any hazardous wastes within the Village.
2. Remediate inactive hazardous waste disposal sites:

a) Expedite the remediation of hazardous substances at the Boat Club and at the Marathon Battery site to ensure maximum protection of public health and the environment, and to permit redevelopment of these sites.

b)

**8.3** *Protect the environment from degradation due to toxic pollutants (defined under ECL §17-0105) and substances hazardous to the environment and public health (defined under ECL §37-0101).*

1. Prevent the release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources in the Village.
2. Prevent environmental degradation due to persistent toxic pollutants by:
  - a) Limiting discharge of bioaccumulative substances;
  - b) Avoiding the resuspension of toxic pollutants and hazardous substances and wastes; and
  - c) Avoiding the re-entry of bioaccumulative substances into the food chain from existing sources.
3. Prevent and control environmental pollution due to release of radioactive materials as defined under 6 NYCRR Part 380.
4. Protect public health, public and private property, and fish and wildlife from inappropriate use of pesticides (those substances defined under ECL §33-0101 and 6 NYCRR Part 325).
  - a) Limit use of pesticides to effectively target actual pest populations as indicated through integrated pest management.
  - b) Prevent direct and indirect entry of pesticides into waterways.
  - c) Minimize exposure of people, fish and wildlife to pesticides.
5. Report, respond to, and take action to correct all unregulated releases of substances hazardous to the environment.

**8.4** *Prevent and remediate discharge of petroleum products.*

1. Prevent discharges of petroleum products by following methods approved for the handling and storage of such products, and by using approved design and maintenance principles for storage facilities.
2. Ensure that exterior and interior oil and propane tanks are well secured in an upright position so they do not tip over if flood waters come in contact with them, potentially causing leakage of fuel oil or propane into surface waters.
3. Clean up and remove any petroleum discharge that occurs in the Village, giving first priority to minimizing environmental damage.

**8.5** *Site solid and hazardous waste facilities to avoid potential degradation of waterfront resources.*

Solid and hazardous waste facilities are not considered as appropriate uses for the Village of Cold Spring and the siting of such uses in this area should be prohibited.

**8.6** *Transport solid waste and hazardous substances and waste in a manner which protects the safety, well-being, and general welfare of the public; the environmental resources of the State; and the continued use of transportation facilities.*

## **PUBLIC WATERFRONT POLICIES**

### **Policy 9 Improve public access to the waterfront and recreational use of public lands.**

Cold Spring is fortunate that much of its waterfront is accessible to the public. Public parkland, such as the Waterfront Park and Dockside, small marinas, such as the Main Dock and the Boat Club, and private lands that are, or will soon be, open to the public, such as Scenic Hudson's Foundry Dock Park and West Point Foundry Preserve, abound along the waterfront. However, physical and visual access to portions of the Village's waterfront is limited for the general public, particularly at the Village Garage site. At Dockside, limitations on reaching or viewing the waterfront are heightened by a lack of public amenities such as small boat launches, a pedestrian path, and a few parking spaces.

This policy incorporates measures necessary to provide enhanced public access along the Hudson River waterfront. The need to maintain and improve existing public access and facilities is necessary to ensure that use of these sites and facilities is optimized in order to accommodate existing and future demand. The objective of the Village is to improve and increase public access to the waterfront and enhance recreational opportunities for residents and visitors alike. Areas of particular importance include Dockside and the Village Garage. The Village is working with the State on a plan to improve access and recreational opportunities at Dockside (refer to Appendix 1, Dockside Park). The LWRP includes a draft plan to create a small esplanade and scenic Overlook Park on the Village Garage site, and consideration has been given to additional redevelopment possibilities for the rest of the property. Improving Dockside and the Village Garage site will capitalize on available opportunities to provide additional visual and physical public access of the waterfront along with appropriate opportunities for recreation.

The necklace of parks along the Village's waterfront presents an opportunity to enhance pedestrian and bicycle access in the Village with a trail. The Village should continue to pursue and promote the development of a multi-use trail--the "RiverWalk"--connecting parks along the full length of the waterfront and linking these waterfront sites to a prospective Cold Spring to Beacon trail and to upland residential neighborhoods. Enhancing pedestrian and bicycle access to the waterfront will alleviate some of the need for additional parking in this area. Although some additional parking is needed, too much additional parking would adversely impact the natural character of the parks and the existing residential neighborhoods adjacent to the water-

front. The need for parking can be minimized by encouraging walking and bicycling. Directional signage to ensure better wayfinding to and along the waterfront, as well as to Main Street, the train station, trailheads, and parking, is another amenity that is needed to enhance public access along the waterfront.

**9.1 *Promote appropriate and adequate physical public access and recreation throughout the waterfront area.***

Public access and recreation facilities can improve quality of life for residents, attract tourists and help to enhance the economic vitality of the Village. The following standards should be utilized to guide future decision making with regard to improving public access and expanding recreational opportunities along the Hudson River waterfront.

1. Where feasible, provide convenient, well-defined, physical public access to and along the waterfront for water-related recreation.
2. Provide a level and type of public access and recreational use that takes into account the following factors:
  - (a) Proximity to the business district and adjacent residential areas,
  - (b) Public demand for access and recreational resources,
  - (c) The sensitivity of natural resources that may be affected,
  - (d) Accessibility of the recreation site or facility,
  - (e) The needs of special groups such as the elderly or persons with disabilities, and
  - (f) The compatibility of the recreation site or facility with on-site and adjacent land uses.
3. Protect and maintain existing public access and water-related recreation facilities.
  - (a) Prevent any on-site or adjacent development project or activity from directly or indirectly impairing physical public access and recreation or adversely affecting the quality of such access and recreation.
  - (b) Prevent physical deterioration of existing access and recreation facilities due to lack of maintenance or overuse.
  - (c) Protect and maintain the infrastructure supporting public access and recreational facilities.
  - (d) Improve existing pedestrian access to and along the waterfront.
4. Provide additional physical public access and recreational facilities, where appropriate, along the waterfront.
  - (a) Promote the acquisition of additional public lands to meet existing public access and recreational needs.
  - (b) Encourage the provision of public access and recreational facilities on non-public waterfront lands.

- (c) Provide for pedestrian access to the waterfront from upland residential neighborhoods.
  - (d) Provide access and recreational opportunities to all members of the public whenever access or recreation is directly or indirectly supported through federal or state projects or funding.
  - (e) Any transfer of public land holdings immediately adjacent to the River should retain a public interest that will be adequate to preserve public access and recreational opportunities.
5. Provide and improve physical linkages between public access sites, open space and Hudson River waters.
- (a) Support and encourage the development of a RiverWalk trail connecting parks along the full length of the waterfront from Foundry Dock Park to Little Stony Point and linking the waterfront to a prospective Cold Spring to Beacon trail and to upland residential neighborhoods. The trail would be universally accessible and wide enough to allow for pedestrian and bicycle travel.
6. Provide physical public access to water-related recreation facilities on the waterfront whenever development or activities are likely to affect the public's use and enjoyment of public waterfront lands and waters.
7. Provide incentives for private development projects that provide public access and/or water-related recreational facilities.
8. Restrict public access and recreation only where incompatible with public safety and the protection of natural resources.

**9.2 *Provide public visual access from public lands to waterfront lands and waters or open space at all sites where physically practical.***

To the greatest extent possible, opportunities to view the Hudson River from public lands should be expanded to allow full appreciation of this resource and to increase the attractiveness of the waterfront for residents and tourists. The following standards should be applied with respect to increasing visual access to the River.

- 1. Avoid loss of existing visual access by:
  - (a) Designing and siting structures to limit physical blockage of existing views by new development or activities;
  - (b) Protecting view corridors provided by streets and other public areas leading to the waterfront; and
  - (c) Protecting visual access to open space areas associated with natural resources.
- 2. Minimize loss of visual access by:

- (a) Designing and siting structures to minimize obstruction of existing views by new development or activities; and
  - (b) Providing for view corridors to the waterfront in those locations where new structures would block views of the River from upland public vantage points.
  - (c) Visual access requirements may be reduced where site conditions, including vegetative cover or natural protective features, block potential views.
3. Provide compensatory mitigation for loss of visual access by:
- (a) Providing public visual access from vantage points on the site where development of the site would block visual access from upland public vantage points.
  - (b) Providing for additional and comparable visual access at nearby locations if physical access cannot be provided on site.
4. Increase visual access to the River by:
- (a) Creating publicly accessible areas for visual access to the River on publicly owned lands such as the Village Garage site;
  - (b) Providing interpretive exhibits at appropriate locations for visual access to enhance public understanding and enjoyment of the River, its scenic features, history and associated water-dependent uses;
  - (c) Allowing vegetative or other screening of uses that detract from the visual quality of the waterfront; and
  - (d) Clearing excess or overgrown vegetation along the waterfront in areas where practical and environmentally acceptable. However, under no circumstances should vegetation be cleared in areas where it would result in erosion.

**9.3 *Preserve the public interest in and use of lands and waters held in public trust by the State, and other public entities.***

1. Limit grants, leases, easements, permits or lesser interests in lands underwater to those instances where they are consistent with the public interest in the use of public trust lands.
2. Determine ownership, riparian interest, or other legal right prior to approving private use of public trust lands under water.
3. Limit grants, including conversion grants, in fee of underwater lands to exceptional circumstances.
4. Avoid substantial loss of public interest in public trust lands by assessing the cumulative impact of individual conveyances of grants, easements, and leases of public trust lands.
5. Reserve interests or attach conditions to preserve the public interest in use of underwater lands which will be adequate to preserve public access, recreation opportunities, and other public trust purposes.

6. Evaluate opportunities to re-establish public trust interests in existing grants which are not used in accordance with the terms of the grant, or are in violation of the terms of the lease, or where there are significant limitations on public benefits resulting from the public trust doctrine.
7. Where feasible, establish and maintain ownership of the waterfront, or utilize conservation easements, to ensure public use and access.

**9.4**        *Assure public access to public trust lands and navigable waters.*

1. Maintain access and recreational use of navigable waters and public trust lands under water.
2. Provide for free and unobstructed use of all navigable waters for navigation, recreation and other public trust purposes, including the incidental rights of public anchoring.
3. Provide for free and substantially unobstructed passage along the Hudson River shoreline as long as public access and recreation is compatible with natural resource values:
  - (a) Limit public access and recreational activities where uncontrolled public use would lead to impairment or erosion of the shoreline.
  - (b) Provide public access for fish and wildlife resource related activities, including fishing and crabbing, provided that the level of access would not result in a loss of resources necessary to continue supporting these uses.
4. Allow obstructions to public access when necessary for the operation of water-dependent uses and their facilities.

**WORKING WATERFRONT POLICIES**

**Policy 10**    **Protect water-dependent uses in the waterfront and the promote siting of new water-dependent uses in suitable locations.**

Water-dependent uses in the Village of Cold Spring are located along the Hudson River waterfront. The intent of this policy is to protect and enhance existing water-dependent uses along the waterfront and to ensure adequate infrastructure for their efficient and orderly operation. Water-dependent uses are vital to the economic health of the Village and the enjoyment of its residents, and include Foundry Dock Park, the Boat Club, the Main Dock, Dockside, and the Cold Spring wastewater treatment facility as discussed in Section II.

**10.1**        *Protect existing water-dependent uses.*

Actions should be avoided that would interfere with or adversely impact existing water-dependent uses (such as small marinas and docks, fishing and crabbing areas, and public utility uses) that require a waterfront location to effectively operate. Such uses should be protected and promoted.

**10.2** *Minimize adverse impacts of new and expanding water-dependent uses, provide for their safe operation, and maintain regionally important uses.*

The adverse impacts of new and expanding water-dependent uses should be minimized.

1. Site water-dependent uses in locations where:
  - Waterside and upland access, as well as upland space for parking and other support facilities, is adequate;
  - Necessary infrastructure exists or is easily accessible, including adequate roads, water supply, and sewage disposal facilities;
  - Necessary infrastructure exists or can be provided, including adequate shoreline stabilization structures and a limited amount of parking;
  - Water quality classifications are compatible with the use;
  - Impacts to important natural resources, such as wetlands, wildlife habitats, and fish spawning grounds, can be avoided or minimized to the greatest extent possible; and
  - Appropriate nearshore depth minimizes the need for dredging.
2. Expand small marinas to:
  - Incorporate public access to the river through the provision of access from upland, boat ramps, and docking facilities;
  - Avoid or minimize adverse impacts on natural resources and the character of the surrounding area; and
  - Not be sited at locations that possess important natural resource values, such as Significant Coastal Fish and Wildlife Habitats.
3. Allow appropriately sized tour boats and ferry services at the Main Dock to increase the transportation efficiency of people.

**10.3** *Protect and improve the economic viability of water-dependent uses.*

Certain water-dependent uses include non water-dependent uses that are complementary and supportive to the water-dependent use and do not impair the ability of such a use to function. These non water-dependent uses often mix easily with water-dependent uses, provide beneficial support, and positively affect the character of the working waterfront.

1. Non water-dependent accessory or mixed use developments may be allowed provided:
  - Accessory uses are subordinate and functionally related to the principal water-dependent use and contribute to sustaining the water-dependent use;
  - Mixed uses support the water-dependent use and are accompanied by a demonstrable commitment to continue operation of the water-dependent use;

- Uses are sited and operated so as not to interfere with the principal operation of the site for a water-dependent use; and
  - Uses do not preclude future expansion of a water-dependent use.
2. Locations that exhibit important natural resource values, such as wetlands and fish and wildlife habitats, should be avoided, or potential impacts must be effectively mitigated.
  3. Other uses may be incorporated in the waterfront, particularly water-enhanced and marine support services provided these uses:
    - Improve the waterfront and its character;
    - Do not interfere with the efficient operation of another water-dependent use;
    - Make beneficial use of a waterfront location through siting and design to increase public enjoyment of the waterfront.

**10.4** *Allow water-enhanced uses that complement and improve the viability of water-dependent uses.*

In addition to water-dependent uses, certain uses that are enhanced by a waterfront location may be appropriate to locate along the waterfront in the Village of Cold Spring. Water-enhanced uses are activities that do not require a location on the waterfront to function, but such a location could add to the public enjoyment and use of the area. Water-enhanced uses are generally of a recreational, cultural, commercial or retail nature.

1. When determining if a water-enhanced use is appropriate for siting along the waterfront, the following factors should be considered:
  - The use would provide an economic incentive to prevent the loss of a water-dependent use;
  - The use would be sited and operated so as not to interfere with water-dependent uses;
  - The use would complement a water-dependent use;
  - The use would be sited in a manner that does not preclude future expansion of a water-dependent use;
  - The activity makes beneficial use of a waterfront location through siting and design to increase public enjoyment of the waterfront, improve the economic viability of the area, and enhance community character;
  - The use would be sited and operated so as not to interfere with public access along the water's edge.
  - The use would not substantially interfere with the ability to view the river.

**10.5**      *Enhance the Village's waterfront as a quality of life amenity to attract potential businesses, jobs, and visitors to the Village and region.*

1. The waterfront is one of the Village's greatest assets. It must be properly developed, consistent with the objectives of Policy 1, to enhance this area as an important part of the Village's economy and as a safe, healthy and enjoyable place to live, work and visit.
2. Efforts to improve the waterfront must be properly planned and be consistent with the Village's overall vision for the area.
3. Adequate public access, sufficient parking facilities, and other support services should be available.
4. Public access should be provided as an important component of waterfront development projects and be linked to the existing and proposed network of bicycle and pedestrian trails.

**Policy 11 Promote sustainable use of living marine resources in the waterfront area.**

Living marine resources play an important role in the social and economic well-being of the people of waterfront communities. Commercial and recreational uses of living marine resources in the Hudson River constitute an important contribution to the economy of the region and the State. The continued recreational use of these resources depends on maintaining long-term health and abundance of fisheries resources and their habitats, and on ensuring that the resources are sustained in usable abundance and diversity for future generations. This requires the State's active management of fisheries, protection and conservation of habitat, restoration of habitats in areas where they have been degraded, and maintenance of water quality at a level that will foster occurrence and abundance of these resources. Allocation and use of the available resources must: (1) be consistent with the restoration and maintenance of healthy stocks and habitats, and (2) maximize the benefits of resource use so as to provide valuable recreational experiences and viable business opportunities for commercial and recreational fisheries.

This policy provides standards to ensure maintenance and health of living marine resources. It recognizes the importance of commercial and recreational use of fisheries stock in our local waters and calls for the equitable allocation of resources. This policy also focuses on providing adequate infrastructure and support facilities for recreational and commercial users.

**11.1**      *Ensure the long-term maintenance and health of living marine resources in the Hudson River*

1. Ensure that commercial and recreational use of living marine resources is effectively managed in a manner that:
  - Eliminates contaminant threats to local marine communities.
  - Places primary importance on maintaining the long-term health and abundance of fisheries.

- Results in sustained useable abundance and diversity of the resource.
  - Does not interfere with population and habitat maintenance and restoration efforts.
  - Uses best available scientific information in managing the resources.
  - Minimizes waste and reduces discard mortality of fishery resources.
2. Protect and manage native stocks and restore sustainable populations of indigenous fish, wildlife species, and other living marine resources.
  3. Foster the occurrence and abundance of marine resources in the Hudson River through the protection and enhancement of water quality, and the protection, enhancement and restoration of spawning grounds and other breeding habitat.
- 11.2**      *Provide for and promote the recreational use of marine resources in the Hudson River.*
1. Maximize the benefits of marine resource use so as to provide a valuable recreational resource experience and viable business opportunities for recreational and commercial fisheries.
  2. Where fishery conservation and management plans require actions that would result in resource allocation impacts, ensure equitable distribution of impacts among user groups, giving priority to existing fisheries in the State.
  3. Protect public health and ensure that marketable fishery resources are not contaminated.
    - Advise the public regarding health risks of consuming fish contaminated with toxins.
    - Restrict the harvest of fish when they are contaminated with toxins exceeding established public health thresholds.
    - Maintain water quality and wholesomeness of the fishery and marketable marine resources to protect public health.
  4. Provide adequate infrastructure to meet recreational needs, including appropriate fishing access, dockage, and parking (where appropriate).
    - Foster direct public recreational use of marine resources from the shoreline.
    - Encourage the provision of areas suitable for shoreline fishing, where feasible, when considering public access as a part of development plans for waterfront properties.
  5. Promote commercial charter businesses from the Main Dock.

**Policy 12 Protect agricultural lands in the waterfront area.**

The intent of this policy is to conserve and protect agricultural land by preventing the conversion of farmland to other uses and protecting existing and potential agricultural production.

The Village of Cold Spring has no active agricultural land. This policy is therefore not applicable.

**Policy 13 Promote appropriate use and development of energy and mineral resources.**

Cold Spring's compact walkable neighborhoods facilitate energy conservation by minimizing vehicular transportation. However, a large proportion of the existing buildings in the Village are old and tend to be less energy efficient than newer construction. This policy calls for conservation of energy resources in the Village of Cold Spring. In dealing with energy problems, the first order of preference is the conservation of energy. Energy efficiency in transportation and site design, and efficiency in energy generation are the best means for reducing energy demands. Reduced demand for energy reduces the need for construction of new facilities that may have adverse impacts on waterfront resources.

The Village of Cold Spring has a long history of industrial use. The West Point Foundry, the manufactured gas plant that was once located on what is now the Boat Club site, and the Marathon Battery Company facility are the three most prominent examples. Recently, the legacy of industrial use has provided a desire to develop the waterfront with cleaner, more acceptable uses that provide broader benefits to the public. There are no existing power generating facilities along the Cold Spring waterfront, and there are no sites along the Village's waterfront where the benefits of developing power generating facilities are not outweighed by the economic costs and the potential adverse impacts on natural resources and to the public. In addition, land uses associated with mineral extraction are not considered desirable for the waterfront.

**13.1 *Conserve energy resources and promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation.***

The conservation of energy should be an important part of all future planning. Energy efficiency can be achieved through several means that fall under the jurisdiction of local governments, including:

- Integrating various modes of transportation (pedestrian, bicycle, automobile, and waterborne) into new development and redevelopment;
- Designing residential development with the features of traditional village neighborhoods, such as narrow lots with buildings located close to each other and to the street, detached garages located to the rear of lots, front porches, sidewalks, street trees, and other features that encourage walking;
- Designing non-residential development with a primary orientation towards pedestrians rather than vehicles by locating parking lots behind buildings away from the street;
- Integrating access to public transportation and providing secure bicycle lanes and bicycle parking in new development and redevelopment;

- Incorporating energy efficient design in new development and redevelopment using recognized standards such as Energy Star and LEED, and energy conservation targets such as the 2030 Challenge issued by Architecture 2030, to reduce greenhouse gas emissions of the building sector;
- Planning sites using energy efficient design, with a consideration for solar utilization, protection from wind, and landscaping for thermal control;
- Promoting greater energy efficiency through upgrades of existing public facilities, such as municipal buildings and street lighting.
- Promoting greater energy generating efficiency through upgrades of existing public facilities.

**13.2** *Ensure maximum efficiency and minimum adverse environmental impact when siting major energy generating facilities.*

Major energy generating facilities are considered inappropriate uses that would not provide a significant benefit in the Cold Spring and should therefore not be sited in the Village. This policy is therefore not applicable.

**13.4** *Minimize adverse impacts from aboveground and underground fuel storage facilities.*

In accordance with the standards of Title 17, Article 23 of the Environmental Conservation Law and the Federal Safety Standards (40 CFR Part 193):

- Ensure that storage and retention of petroleum products in the Village of Cold Spring is performed in accordance with NYSDEC regulations;
- Because of the high potential for hazard associated with liquefied natural gas facilities, these facilities are considered inappropriate and would not provide significant public benefit along the Cold Spring waterfront and, thus, such uses should not be sited in this area; and
- Natural resources must be protected by complying with local, county and state regulations and oil spill contingency plans.

**13.5** *Minimize adverse impacts associated with mineral extraction.*

Commercial mining and other mineral or gravel extraction activities are considered inappropriate uses for the Village of Cold Spring and should be prohibited. This policy is therefore not applicable.

## DEFINITIONS

Selected terms used in the policies are defined as follows:

**Accretion** means the gradual and imperceptible accumulation of sand, gravel, or similar material deposited by natural action of water on the shore. This may result from a deposit of such material upon the shore, or by a recession of the water from the shore.

**Agricultural land** means land used for agricultural production, or used as part of a farm, or having the potential to be used for agricultural production. Agricultural lands include lands in agricultural districts, as created under Article 25-AA of the Agricultural and Markets Law; lands comprised of soils classified in soil groups 1, 2, 3, or 4 according to the New York State Department of Agriculture and Markets Land Classification System; or lands used in agricultural production, as defined in Article 25-AA of the Agriculture and Markets Law.

**Aquaculture** means the farming of aquatic organisms, including fish, mollusks, crustaceans, and aquatic plants. Farming implies some form of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators, etc. Farming also implies ownership of the stock being cultured.

**Best management practices** means methods, measures, or practices determined to be the most practical and effective in preventing or reducing the amount of pollutants generated by non-point sources to a level compatible with water quality standards established pursuant to section 17-0301 of the Environmental Conservation Law. Best management practices include, but are not limited to, structural and non-structural controls, and operation and maintenance procedures. Best management practices can be applied before, during, or after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

**Boating facility** means a business or accessory use that provides docking for boats and encompasses 4,000 square feet or greater of surface waters, as measured by the outermost perimeter of the dock, and is designed to accommodate six (6) or more boats.

**Coastal Barrier Resource Area** means any one of the designated and mapped areas under the Coastal Barrier Resources Act of 1982, (P.L. 97-348), and any areas designated and mapped under the Coastal Barrier Improvement Act of 1990 (P.L. 101-591), as administered by the U.S. Fish and Wildlife Service, and any future designations that may occur through amendments to these laws.

**Coastal Hazard Area** means any coastal area included within an Erosion Hazard Area designated by the New York State Department of Environmental Conservation pursuant to the Coastal Erosion Hazard Areas Act of 1981 (Article 34 of the Environmental Conservation Law), and any coastal area included within a V-zone as designated on Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency pursuant to the National Flood Insurance Act of 1968 (P.L. 90-448) and the Flood Disaster Protection Act of 1973 (P.L. 93-234).

**Development**, other than existing development, means any construction or other activity which materially changes the use, intensity of use, or appearance of land or a structure including any activity which may have a direct and significant impact on coastal waters. Development shall not include ordinary repairs or maintenance or interior alterations to existing structures or traditional agricultural practices. The term shall include division of land into lots, parcels, or sites.

**Historic maritime communities** are historic centers of maritime activity identified in Chapter 587, Laws of 1994, for the purpose of fostering the protection and beneficial enjoyment of the historic and cultural resources associated with maritime activity on Long Island Sound.

**Historic resources** means those structures, landscapes, districts, areas or sites, or underwater structures or artifacts which are listed or designated as follows: any historic resource in a Federal or State park established, solely or in part, in order to protect and preserve the resource; any resource on, nominated to be on, or determined eligible to be on the National or State Register of Historic Places; any cultural resource managed by the State Nature and Historic Preserve Trust or the State Natural Heritage Trust; any archaeological resource which is on the inventories of archaeological sites maintained by the Department of Education or the Office of Parks, Recreation, and Historic Preservation; any resource which is a significant component of a Heritage Area; any locally designated historic or archaeological resources protected by a local law or ordinance.

**Maritime center** means a discrete portion or area of a harbor or bay that is developed with, and contains concentrations of water-dependent commercial and industrial uses or essential support facilities. The harbor or bay area is a center for waterborne commerce, recreation, or other water-dependent business activity and, as such, is an important component of the regional transportation system. A maritime center is characterized by: sheltered and suitable hydrologic conditions; land- and water-based infrastructure, essential for the operation of water-dependent commercial and industrial uses, extant or easily provided; physical conditions necessary to meet the siting and operational requirements of water-dependent uses; close proximity to central business districts; and limited high value natural resources.

**Maritime support services** are industrial, commercial, or retail uses which provide necessary goods and services to water-dependent businesses, thus enabling these businesses to operate in an efficient and economically viable manner.

**Native or indigenous stock** means fish, shellfish, and crustaceans originating in and being produced, growing, living, or occurring naturally in the coastal waters.

**Natural ecological community** means a variable assemblage of interacting plant and animal populations that share a common environment.

**Natural protective features** means a nearshore area, beach, bluff, primary dune, secondary dune, or wetland, and the vegetation thereon.

**Public trust lands** are those lands below navigable waters, with the upper boundary normally being the mean high water line, or otherwise determined by local custom and practice. Public trust lands, waters, and living resources are held in trust by the State or by the trustees of individual towns for the people to use for walking, fishing, commerce, navigation, and other recognized uses of public trust lands.

**Rare ecological communities** are ecological communities which, according to the State Natural Heritage Program, qualify for a Heritage State Rank of S1 or S2; and those which qualify for a Heritage State Rank of S3, S4 or S5 and an Element Occurrence Rank of A.

**Traditional waterfront communities** means communities which historically have contained concentrations of water-dependent businesses; possess a distinctive character; and serve as focal points for commercial, recreational, and cultural activities within the region.

**Vulnerable fish and wildlife species** means those listed in 6 NYCRR Part 182.5 as Endangered Species, Threatened Species, and Special Concern Species.

**Vulnerable plant species** means those listed in 6 NYCRR Part 193.3 as Endangered Species, Threatened Species, Exploitably Vulnerable Species, and Rare Species.

**Water-dependent use** means a business or other activity which can only be conducted in, on, over, or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.

**Water-enhanced use** means a use or activity which does not require a location adjacent to coastal waters, but whose location on the waterfront adds to the public use and enjoyment of the water's edge. Water-enhanced uses are primarily recreational, cultural, retail, or entertainment uses.

**Waterfront Redevelopment Area** is the waterfront area which is part of or near a business district and contains blighted or underutilized properties which are adequate in size to accommodate significant redevelopment of regional or statewide benefit. The following factors shall be considered in identification of waterfront redevelopment areas: (1) evidence of community commitment and initiative; (2) participation in the Local Waterfront Revitalization Program; (3) adequacy of local land and water use regulations; (4) adequacy of infrastructure; (4) opportunities for local and regional economic growth; and (5) opportunities for improved public access, environmental quality, and creation of local activity centers.

## Section 4: Proposed Land and Water Uses and Proposed Projects

The Village's 407 acres are largely developed. It is the intention of this Local Waterfront Revitalization Program that, in general, as areas in the Village become available for development or redevelopment the following principles serve as guides. These principles are consistent with *Smart Growth* and, specifically, with *traditional neighborhood development* which emulates the features of historic villages such as Cold Spring. The community has expressed support that development and redevelopment should:

- 1) Be well integrated into the fabric of the community with its compact, walkable neighborhoods, village-scale lots, historic buildings, and streets forming a connected network, all of which reinforce a strong sense of place.
- 2) Promote the economic health of the Village and be "tax positive," wherever possible. In other words, property tax revenues from new development or redevelopment should be greater than the total cost of services required by those properties, including school costs.
- 3) Protect the natural environment, green spaces, scenic landscapes, and the health of residents.
- 4) Be sensitive to the impact of development on the character of adjacent neighborhoods and the people who live there.
- 5) Minimize traffic congestion..
- 6) Incorporate green building and landscaping techniques.

This LWRP identifies future land and water use in the Village of Cold Spring. As the Village engages more and more with the riverfront, the uses of properties with river views and access to the water become more important to the future of the community. For this reason, the LWRP focuses on two properties that have the potential to become significant waterfront resources for the community: the Village Garage site and Dockside. These sites are so important to the future of the Village that the Special Board conducted planning workshops and community forums specifically focused on these sites to determine the community's preferences; the Special Board also arranged to have illustrative concept plans prepared showing how the sites could be developed in the future to enhance the Village of Cold Spring

The LWRP sets forth a vision of future land uses in the Village that sees some clusters of properties as best interpreted as a whole, with an integrated plan that addresses the area comprehensively, rather than piecemeal parcel-by-parcel development. These areas are associated with the following sites, and include some of the surrounding properties: the former Butterfield Hospital, Foodtown, the Village Garage, and the Marathon site. Each of these areas should emulate and reflect the traditional features of the Village, with its walkable, mixed-use neighborhoods, that are the essence of what residents have said they value most about the community. Such an approach gives the residents of Cold Spring, who have participated in an extensive public participation process to develop the ideas for these areas, a greater say in the future of their communi-

ty, rather than simply reacting to outside proposals. It also gives greater flexibility to developers by allowing a wider range of compatible uses, and will streamline the review process by clearly indicating the community's preferences.

This Section includes a proposed Future Land and Water Uses Map (Figure XX) and an Existing Land Uses Map (Figure YY), both of which use the same color scheme for specific land uses for ease of reference. The Village's current Zoning Map (Figure ZZ) has also been included for reference. What follows is an explanation of each of the categories presented in the Future Land and Water Uses. This description is intended to provide a broad outline of the general character desired for each area of the community and does not include all uses. Specific uses will be defined in the subsequent zoning update. These uses should conform to the general character of the district described below, and in some cases may require a special permit to accomplish this.

**Residential.** These are primarily single-family neighborhoods with a limited amount of two-family and multi-family dwellings interspersed throughout the district, as is characteristic of a traditional village residential area. Conversion of existing single-family dwellings to two-family or multi-family units would be allowed subject to a special use permit to ensure that the predominantly single-family character of the building and neighborhood is retained. Home occupations occurring fully within the dwelling and which do not have any objectionable characteristics such as noise or traffic impacts ("Class I home occupations") would be permitted, while home occupations occurring wholly or partially in an accessory building, or within the dwelling but with the potential for impacts ("Class II home occupations") would only be authorized by special use permit to ensure that the home occupation is compatible with the residential use of the property and the neighborhood. B&B's would be allowed, subject to a special use permit that includes standards for signage, lighting, noise and parking, in a portion of owner-occupied single-family dwellings. Uses that would generate significant traffic, such as hospitals, would not be permitted. The features of traditional village neighborhoods, such as relatively small lots with buildings located close to the street, detached garages, front porches, sidewalks, street trees, and other features that encourage walking, should be retained and enhanced in this district.

**Residential - Multi-Family.** These post-war neighborhoods are entirely multi-family and this would continue to be a permitted use, along with Class I home occupations and community uses. As with the Residential District, uses that generate significant traffic would not be allowed. This district is almost fully built-out, and any infill development should conform to the predominant pattern of the existing neighborhood, bearing in mind the overall goal to enhance the Village's traditional walkable features.

**Residential – Potential Parks and Recreation.** The community preference is that these two private properties on the riverfront at the entrance to Dockside become part of continuous green space along the riverfront at some time in the future if the opportunity to purchase or place an easement on these parcels becomes available.

**Main Street District.** This area, of generally pre-war structures, would be predominantly commercial with some continuing residential uses. Commercial buildings with storefronts would be permitted to have a variety of commercial uses, such as retail, personal services, restaurants, and

offices, on the ground floor, and offices, galleries, theaters, and residential uses on upper floors. Lodging, such as inns, would be permitted on all floors of a building. The Zoning Law should be amended to permit all properties that are single-family residential, multi-family or row houses in this area as of the date of adoption of the amendments, to maintain those residential uses on all floors of the building and to convert back to such uses if they are subsequently used for commercial purposes. The provision restricting residential uses to upper stories would thus not apply to these particular buildings. A list of which buildings are single family residential, multi-family or row houses as of the date of adoption of the amendments should be created and maintained on file in the Village Clerk's office so there is no confusion regarding which properties are permitted to do this. Uses that are primarily oriented towards the automobile, such as car dealers and drive-throughs, would be prohibited since they detract from the pedestrian orientation of Main Street. Gas stations would be allowed subject to a special permit that requires access from a state road, amongst other conditions.

**Chestnut Street District.** This designation applies to the Drug World and Foodtown Plaza area. Permitted uses would include a wide range of commercial uses, such as retail, services, restaurants, and offices. Uses with the potential to generate significant traffic, such as theaters and galleries, and automobile-oriented uses, such as gas stations, would be allowed if they have direct access from a state road. New area and bulk standards should be established for this district to create a traditional Main Street environment if the area is redeveloped. To encourage such redevelopment, offices, galleries, theaters, and residential uses would be permitted on the upper floors of any building that conforms to traditional Main Street design and siting standards. Commercial uses would be permitted on the ground floor of buildings. To promote site layout that encourages walking, no drive-through establishments would be allowed. Community uses would be permitted on all floors of a building. A priority for this district is to improve traffic flow and pedestrian safety. A plan to improve traffic circulation, particularly truck delivery traffic, should be developed. Pedestrian safety can be enhanced with traffic calming devices, defined curb cuts, street trees, and benches. Enhanced landscaping within parking lots and in the planting strip adjacent to the sidewalk will soften views of the buildings and provide shade to reduce the "heat island" effect of the pavement.

**Mixed Use District.** This designation would include a variety of residential types (single-family, two-family and multi-family), live-work units, community uses, restaurants, inns, retail, research, office and light industrial uses, and open space. Some uses with more intensive traffic demands, such as health and medical facilities for example, would be allowed subject to a special use permit that limits such uses to sites with direct access to state or county roads. Senior citizen housing would be allowed by special permit and should be ensured to serve a portion of the local population. A mix of residential and commercial uses would be required to ensure that development in this district enhances the Village's tax base and minimizes traffic impacts by providing shops and services within walking distance of residences. A fiscal impact analysis and phasing requirements should be included in the Zoning for this district to ensure that growth occurs in an orderly and planned manner with an appropriate ratio of residential, commercial, and other non-residential uses in the overall plan. Development in this district would be subject to design standards to ensure that site layout, streetscape elements, and architecture are compatible with the character of traditional 19<sup>th</sup> century streets in the Village as discussed above under "Residen-

tial” (i.e., relatively small lots with buildings located close to the road, detached garages, front porches, sidewalks, street trees, and other features that encourage walking).

**Parks and Recreation.** This designation applies to the Waterfront Park, Dockside, proposed Overlook Park at the Village Garage Site, Mayors Park, Ronald McConville/Tots Park, West Point Foundry Preserve, Campbell, Foundry Dock Park, the Boat Club and area behind it up to Market Street. Permitted uses would include neighborhood and community parks and playgrounds, public plazas and bandstands, dog runs, bicycle and pedestrian trails, athletic fields and court games, clubs and camps, wildlife refuges and conservation areas, forestry, water dependent uses such as docks and boat launches, and commercial facilities incidental to the operation of public recreational uses, such as refreshment stands. B&B’s, restaurants, offices, and museums would be allowed subject to a special use permit that took into consideration factors such as traffic, property size and location.

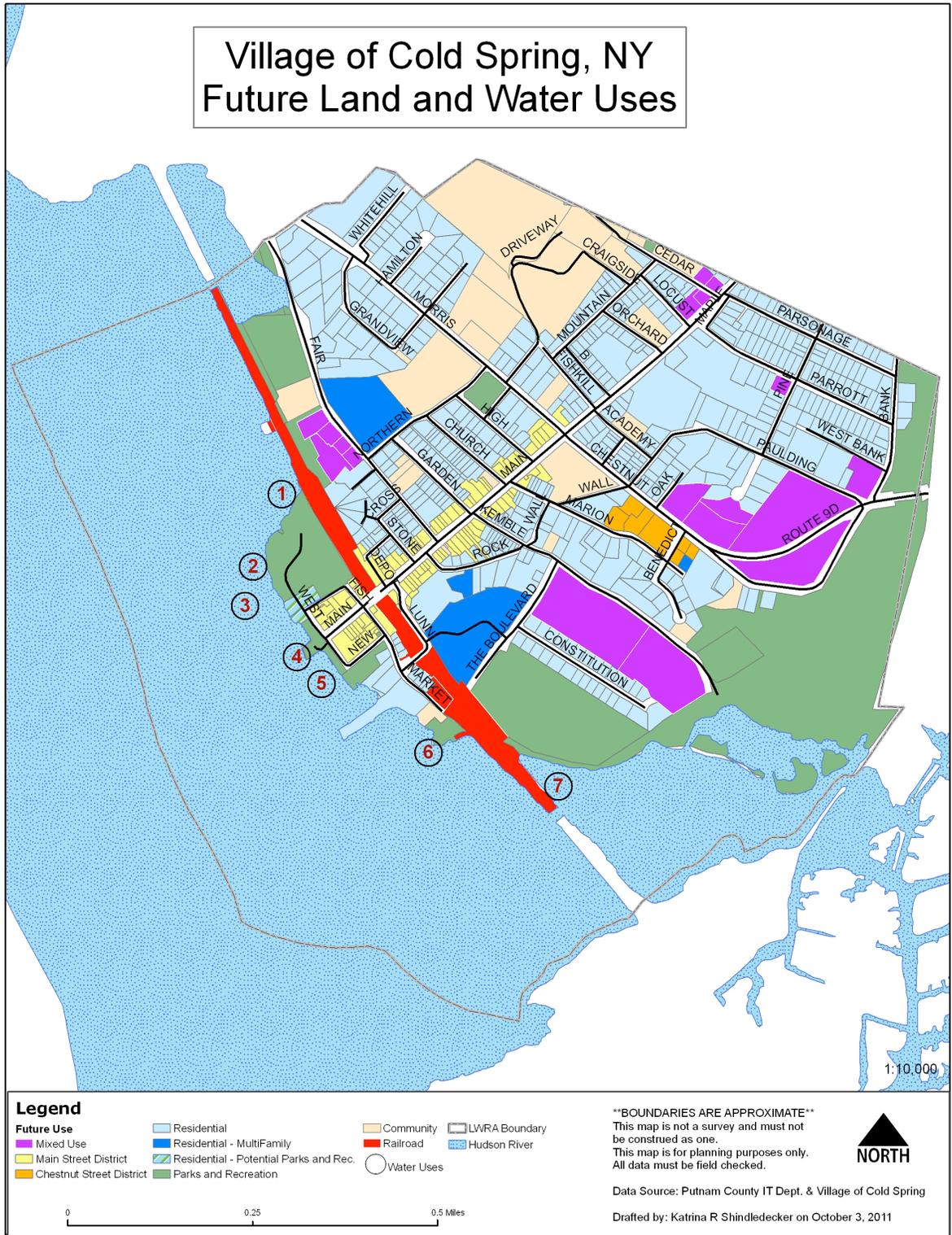
**Community Uses.** This designation includes municipal facilities such as the Village and Town Halls, the firehouse, municipal parking, and the Wastewater Treatment Plant. It also includes schools, religious uses, community facilities such as the VFW Hall, Butterfield Library, Historical Society and Museum, the Chapel Restoration, and other nonprofit facilities uses.

**Railroad.** Property owned or used by the railroad.

**Water Uses (see the numbered areas on the Future Land and Water Uses Map)**

1. Dockside – kayaks, canoes, car-top and other non-motorized boats
2. Dockside – fishing
3. Dockside – mooring buoys
4. Main Dock – temporary docking with permit for historic and other special boats, ferries, tour boats, passenger boats (see Village Code)
5. Boat Club launch and floating docks – powerboats and sailboats
6. Foundry Dock launch – kayak, canoe, and car-top non-motorized boats (except a limited number of permits for low-power motorized)
7. Foundry Cove – kayaks, canoes

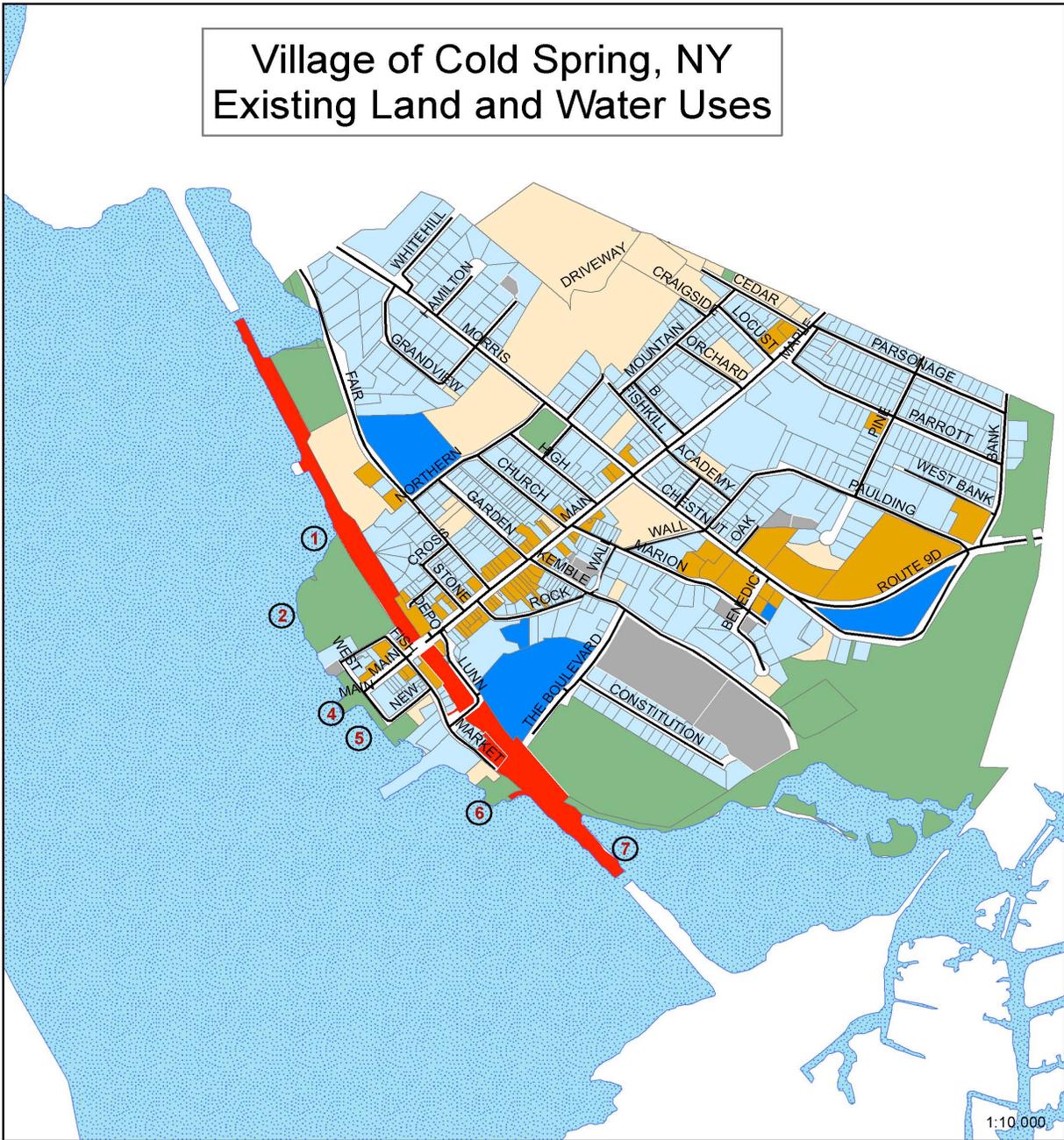
**Figure XX, Future Land and Water Uses Map**



**Figure YY, Existing Land and Water Uses Map**

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# Village of Cold Spring, NY Existing Land and Water Uses



### Legend

- |                                       |                           |              |
|---------------------------------------|---------------------------|--------------|
| Existing Uses (as of August 15, 2011) | Railroad                  | Hudson River |
| Commercial                            | Residential               | Water Uses   |
| Community                             | Residential - MultiFamily | Vacant       |
| Parks and Recreation                  |                           |              |

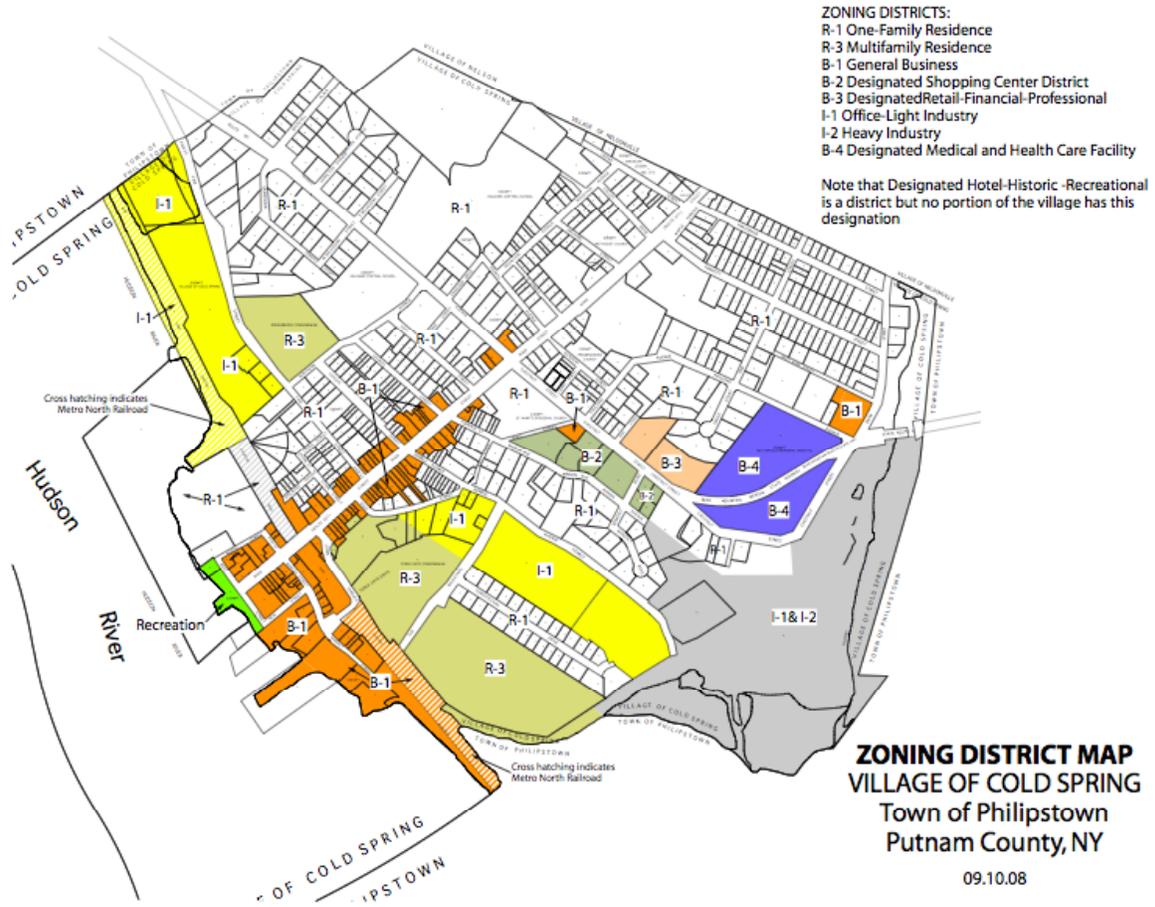
0 0.25 0.5 Miles

**\*\*BOUNDARIES ARE APPROXIMATE\*\***  
This map is not a survey and must not be construed as one.  
This map is for planning purposes only.  
All data must be field checked.



Data Source: Putnam County IT Dept. & Village of Cold Spring  
Drafted by: Katrina R Shindledecker on September 15, 2011

**Figure ZZ, Cold Spring Zoning District Map**



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## Proposed Projects

- 1) Dockside (See Appendix)
- 2) Village Garage Site (See Appendix)
- 3) Marathon (See Appendix)

4) **RiverWalk**: Access and enjoyment of the riverfront, with ADA accessibility, are high priorities for the residents of Cold Spring, as seen in responses to the Resident Survey conducted in May 2007, the community forum on October 20, 2007, discussions of the Vision and Goals in 2009, break-out discussions (on a RiverWalk, boating, Dockside) on April 24, 2010, and discussions of Dockside and the Village Garage Site on May 14 and September 17, 2011, as well as in other work throughout this planning process since 2006. Earlier, too, the idea of a RiverWalk was specifically included in the 1987 Master Plan.

Based on the extensive input from the community, the second Goal in the Vision and Goals is “Take full advantage of our location on the Hudson River”. As one way to fulfill that goal, the draft Comprehensive Plan and this LWRS include an Objective to “Develop a RiverWalk” with specific Recommendations for:

A) Design and construction of a RiverWalk from Foundry Dock Park along the river and through Dockside. This route of perhaps half a mile is uneven in quality, mostly along roads, some with sidewalks in poor condition, some with none, beginning and ending in parks. Design work is needed to provide continuity from section to section, safety, and beautification. Construction can be done in segments and phases.



B) Signage and a map for multiple pedestrian routes through the Village. The routes would go from varied neighborhoods and lead to the walk along the river itself.

C) Feasibility study for a loop path with a crossing over, or under, the railroad tracks. One route could be from Dockside on a causeway north along the railroad (with provision for safety) to the bridge across the tracks at Little Stony Point then back along Morris Avenue or Fair Street to Main Street, the riverfront and Dockside. Another possibility is an underpass from Dockside to the east side of the tracks at the Village Garage site, then out to Fair Street and back to the riverfront.



**2) Butterfield Hospital Site:** Butterfield Hospital, built in 1925 with funds bequeathed by Julia Butterfield, wife of General Daniel Butterfield, closed in 1993. Today the privately owned, 6.1-acre site is zoned as a Designated Medical and Health Care Facility. The site includes the 44,000-square foot former hospital building, which is used occasionally for training exercises for emergency personnel, and the Lahey Pavilion, which contains medical offices. In total, the building generates approximately \$110,000 in rent/leases per year. The southern lawn adjacent to the old hospital building is a gateway to the community and has been the scene of many Village festivals; the parking lot currently serves as a setting for the weekly Cold Spring Farmers' Market. In 2010, the Putnam County government negotiated with the owner to purchase the entire site, with the intention of using the former hospital building for municipal services. That plan stalled in late 2010, and recently (October 2011) the owner presented, for discussion purposes, concept drawings to the public and Village Board that included a 22,000 square foot, 2 ½ story municipal building (with commitments for 2,000 sf from the Village, 4,000 from the Town, and 6,000 from the County), 50-units of affordable housing and 40 units of market rate housing, with the open lawn on the south end of the property kept open, all in what would be a Planned Unit Development. The target date for breaking ground is May 2012.

For the future, this LWRP proposes that the site be designated "Mixed Use," and include in that Mixed Use area The Nest, the Grove and M&T Bank (see Land And Water Uses Section, for explanations). These could be evaluated for any future use as a whole or as parts, with consideration given to the impact of any proposed combination of uses, property tax implications, preservation of a substantial lawn as a Village Green, pedestrian and vehicular access, and the way any development integrates with the community.

Revenue generation for the Village is a high priority. Consideration should be given to such uses as private offices, research, and other commercial possibilities.

The consideration of uses for the Butterfield site should not be done without carefully weighing the impact on the Village Hall and the Town Hall. The Town Hall (photo at right) has its meeting space on the second floor, a serious problem for ADA compliance, and one that would be expensive to correct. Plans for an expansion of the building, which led to the Town's acquisition of a single-family property on Cedar Street north of the Town Hall several years ago, never materialized. This was in part due to the cost of upgrading the



historic structure, which is in Cold Spring's Historic District. If the functions now located in the Town Hall are moved, every effort should be made to preserve the building through adaptive reuse. The Village Hall (photo below, left)

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is an important anchor for Main Street, and contributes greatly to its authenticity. Moving some of the functions to a new facility on the Butterfield site, possibly police (although the presence of parked police cars contributes to the sense of a functioning Main Street), the building inspector, and the justice courts (and consolidating the Town, and Village courts), while leaving other public functions, such as the clerk's office and space for public meetings, may offer the best and most balanced solution – achieving efficiency, while retaining the active use of the building on Main Street.

- 3) **The Grove:** Formerly known as Loretto Rest, this historic building was the home of Dr. Frederick Lente, a renowned surgeon employed by the West Point Foundry in the 19<sup>th</sup> century. The architect was Richard Upjohn. The Village owns the property, which is currently zoned Designated Retail-Financial-Professional. Efforts over several years to develop a plan and find a use for the property have not been successful. The Grove is on the National Register of Historic Places. The third floor slate mansard roof, dating to the early 1870s, was removed in 2008 and replaced with a hip roof in the style believed to be original to the house – an action taken by the Village government, but not without controversy. The building is beloved by many in the community, but sits in some disrepair on a hill overlooking The Nest. Any future use should protect the property's status on the National Register, and, like the Butterfield Hospital site, should take into consideration the surrounding properties within its Mixed Use area. Suggestions for use of the building have included possibilities that would generate revenue for the Village such as a B&B, offices, or a function related to the adjacent Lahey Pavillion.



- 4) **The Cold Spring Boat Club:** The Boat Club is owned by the Village and leased, rent free, to the approximately 180-member non-profit organization. The bylaws stipulate that members be residents of Philipstown. There is a widely held view that a large majority of members are from outside the Village, which the Special Board was not able to confirm. The property includes a launch ramp and floating docks, and a structure built originally to manufacture trusses but since upgraded with member funds and sweat equity, sitting on 1.7 acres. The Village signed a 20-year lease in 2003 that includes a clause permitting termination of the lease in the event the building is destroyed. In 2006 the DEC discovered that the building sits on the former site of a Manufactured Gas Plant (MGP) and is the location of significant pollution from coal tar. After some public concern over a proposal to leave the building stand and simply excavate the contaminated soil from east of the building, the DEC has now agreed to test the soil under the building and review its recommended remedy. This LWRP recommends that any re-building of the structure or change in use of the property be done in collaboration with the Boat Club, improve resident access to the facilities, and yield revenue to the Village. Of particular and notable interest is providing restroom facilities to the public with direct outside access, which the Boat Club members will not be expected to maintain.

- 5) **Foodtown Area:** The Cold Spring Planning Board is reviewing a proposal for expanding the Foodtown store. This expansion represents Foodtown's exercise of an option in its lease, signed when it moved into the space in 2003.

This LWRP urges that a careful, qualitative traffic flow analysis be prepared that recommends ways of mitigating the serious problems with pedestrian, vehicular and delivery truck traffic in an area that includes a delivery zone backing on a new neighborhood with small children, and frontage on Route 9D (Chestnut Street). This LWRP also recognizes the potential for redevelopment in the Foodtown area that would permit upper floors with added revenue for both the owners and the Village and more effective integration of the area with the fabric of the traditional community.

- 6) **Main Street Project:** Several years ago, the Village was awarded two Federal grants, of \$800,000 and \$200,000, to upgrade sidewalks and storm water drainage, especially along Main Street, but including other areas of the Village as well. The Village is now in the final engineering phase of this project, with the possibility that work can begin within the next year. The LWRP recommends that the improvements in sidewalks and storm water management be consistent with the many recommendations listed elsewhere in this report, such as 1.7 and 1.10 in the Goals, Objectives and Recommendations.

- 7) **Playing Field Project:** In December 2010, a report on athletic field usage was presented at a public meeting at Haldane. The report presented evidence that existing fields were over-used and many were in poor condition. The report urged that the issues be addressed on a region-wide scale. Following that, an Athletic Field working group was established that was made up of Town, Village, School, and various club officials. The Village has agreed to share in the funding of the project, with the objective of defining options, their costs, and seeking solutions to the current deficiencies. Major renovation of the Haldane football field was completed in 2013. This LWRP agrees that the Village should participate in the review, but cautions that the available land in the Village is very limited, and an already high proportion (33%) is fully tax exempt. Emphasis should be placed on seeking recreation space outside the Village.



- 8) **Parking Lot East of Metro-North Station:** A parking lot east of the station was proposed in the 1987 Master Plan. This LWRP recommends that the feasibility be vigorously pursued, possibly with an ad hoc Parking Working Group established to determine the feasibility, benefits, and costs of such a facility, working with Metro-North and any other relevant agencies.

9) **Parking, metering:** A subcommittee of the Government, Infrastructure and Public Services (GIPS) Working Group recommended in October 2008 that multi-meter (“pay-and-display” style) parking meters be installed along Main Street, Depot Square and at the municipal lot, and that the Village consider a broader Parking Benefit District, with such meters along side streets, but only if the State allows a resident permit system to exempt residents along those side streets from metering. This LWRP recommends that a Parking Working Group be established to determine costs of meter acquisition, installation and maintenance through a competitive Request For Quotations, and if the projected net revenues are favorable, to install meters where they can assist with making spaces available without undue disruption to the access now enjoyed by residents.

10) **Parking and Safety at Ballfield and Drug**

**World lots:** The same subcommittee of GIPS proposed improvements to parking at two locations directly off Route 9D, the Haldane Ballfield and Drug World lots (photo, right). Both of these lots have no sidewalk, direct vehicular pull-in, and highly “vulnerable” pedestrian traffic (children at the ballpark lot, seniors at Drug World). This LWRP recommends that the Village direct a Parking Working Group to find solutions, and to seek funding for preparation of proposals from a traffic engineer for improvements at both locations.



11) **Sidewalk and Trails Access Improvement Program:** The implementation of sidewalk improvements under the Federal grant noted in #5, Main Street Project, above, affords a great opportunity to set standards and establish a 5-year plan to extend improvements throughout the Village. Some have observed that the number of hikers has increased in the past year, making it more important for the local economy and increasing the urgency of finding safe routes to the trailheads north of the Village. This LWRP recommends that a Working Group be established to provide continuity, help guide priorities, and report on progress in sidewalk improvement and access to trails. See also 1.7 in the Goals, Objectives and Recommendations section.

12) **Fire Company Building Improvement Project:** The Cold Spring Fire Company has long sought to upgrade its firehouse. The Special Board prepared a report on possible new locations for a firehouse, but the present direction seems to be to renovate the existing facility. This LWRP recommends that working with the Fire Company an ad hoc fire safety advisory committee be established to make recommendations on all aspects of fire safety in the Village, ranging from burying overhead power lines, to upgrading the firehouse, to fire sprinkler regulations.

13) **Water Distribution System Upgrades:** The Village’s water distribution system is over a hundred years old, and the principle reservoir dams may be half again that old. In June 2010 the Village obtained an engineer’s recommendations for improvements in the sys-

tem, which have begun to be acted upon, with the summer 2011 initiative to float a bond for \$1.5 million, principally for relining the distribution mains along Main Street. With the reservoir dams still receiving a low rating by the state (although efforts to remediate have been welcomed), hardly any other aspect of infrastructure improvement merits more attention, or resources, than this one.

**14) Storm Water Management Upgrade:** Just as the Main Street Project (#5) for sidewalk improvements creates opportunities throughout the Village, so, too, the funding of storm water upgrades can help direct attention and local resources to on-going storm water issues in other areas of the Village. Simply mapping the storm water system would be a helpful first step, and this LWRP recommends that this be done, and that system improvements be consistent with DEC storm water management guidelines.

**15) Wastewater Treatment Plant Upgrades:** The Village has undertaken a number of steps to improve the efficiency of the wastewater treatment plant, which was built in 1972, and will have to schedule replacement of many components over the next 10 years. This LWRP recommends that a schedule of replacements and upgrades, with projected costs, be prepared to assist with the project management and financing of needed improvements.

## Section 5: Techniques for Local Implementation of the Program

[NB: This section will include Revisions to the Village Code and to the Historic District Guidelines consistent with the Village's 2012 Comprehensive Plan and other recommendations in this LWRP. It will also include a section establishing procedures for a review of actions to determine their consistency with the LWRP, a draft of which follows below. ]

### Appendix A - Waterfront Consistency Review Law and Waterfront Assessment Form

#### Chapter 128. WATERFRONT CONSISTENCY REVIEW LAW

##### § 128-1. Title.

This chapter will be known as the Village of Cold Spring Waterfront Consistency Review Law.

##### § 128-2. Legislative authority, purpose and intent.

A. This chapter is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Section 915 of Article 42 of the Executive Law).

B. The purpose of this chapter is to provide a framework for agencies of the Village of Cold Spring to incorporate the policies and purposes contained in the Village of Cold Spring Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions located within the waterfront area; and to ensure that such actions and direct agency actions undertaken by Village agencies are consistent with the LWRP policies and purposes.

C. It is the intention of the Village of Cold Spring that the preservation, enhancement and utilization of the natural and manmade resources of the unique waterfront area of the Village occur in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate growth and economic development. Accordingly, this chapter is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing loss and degradation of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural waterfront processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

D. The substantive provisions of this article shall only apply while there is in existence a Village of Cold Spring Local Waterfront Revitalization Program which has been adopted in accordance with Section 915 of Article 42 of the Executive Law of the State of New York.

##### § 128-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### **ACTIONS**

Either Type I or Unlisted actions as defined in the State Environmental Quality Review Act ("SEQRA") regulations (6 NYCRR Part 617), which are undertaken by an agency and that

include:

A. Projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:

(1) Are directly undertaken by an agency; or

(2) Involve funding by an agency; or

(3) Require one or more new or modified approvals, permits, or review from an agency or agencies.

B. Agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;

C. Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and

D. Any combination of the above.

#### **AGENCY**

Any board, agency, department, office, other body, or officer of the Village of Cold Spring.

#### **CONSISTENT**

That the action will comply with the LWRP policy standards, conditions and objectives to the greatest extent practicable and, whenever practicable, will advance one or more of them.

#### **DIRECT ACTIONS**

Actions planned and proposed for implementation by an agency, including but not limited to, a capital project, rule making, procedure making and policy making.

#### **LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)**

The Local Waterfront Revitalization Program of the Village of Cold Spring, approved by the Secretary of State and incorporated into the New York State Coastal Management Program, with concurrence of this incorporation by the federal Office of Ocean and Coastal Resource Management (OCRM) pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law Article 42), a copy of which is on file in the Office of the Clerk of the Village of Cold Spring.

#### **WATERFRONT AREA**

The Waterfront Revitalization Area delineated in the Village of Cold Spring Local Waterfront Revitalization Program.

#### **WATERFRONT ASSESSMENT FORM (WAF)**

The form used by an agency to assist in determining the consistency of an action with the Local Waterfront Revitalization Program.

#### **128.4. Review of actions.**

A. Whenever a proposed action is located in the Village's waterfront area, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in Subsection H of this chapter.

B. Whenever an agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action to be located in the waterfront area, the applicant, or in the case of a direct action, the agency, shall prepare a Waterfront Assessment Form (WAF) to assist with the consistency review.

C. The agency shall refer a copy of the completed WAF to the Village of Cold Spring Planning

Board within ten (10) days of its submission and, prior to making its determination, shall consider the recommendation of the Planning Board with reference to the consistency of the proposed action.

D. After referral from an agency, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards set forth in Subsection H of this chapter. The Planning Board shall require the applicant to submit all completed applications, WAFs, environmental assessment forms (EAF), and any other information deemed necessary to its formulate its consistency recommendation.

E. The Planning Board shall render its written recommendation to the agency within 30 days following referral of the WAF from the agency, unless extended by mutual agreement of the Planning Board, the applicant or, in the case of a direct action, the agency.

(1) The recommendation shall indicate whether, in the opinion of the Planning Board, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and shall elaborate in writing the basis for the opinion. The Planning Board shall, along with the consistency recommendation, make any suggestions to the agency concerning modification of the proposed action to make it consistent with the LWRP policy standards or to advance such standards.

(2) In the event that the Planning Board's recommendation is not forthcoming within the specified time, the agency shall make its consistency decision without the benefit of the Planning Board's recommendation.

F. Where an Environmental Impact Statement (EIS) is being prepared or required, the draft EIS must identify applicable LWRP policies standards in Subsection H of this chapter, and include a thorough discussion of the effects of the proposed action on such policy standards.

G. In the event the Planning Board's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and state the manner and extent to which the action is consistent with the LWRP policy standards.

H. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following summary of LWRP policy standards, which are derived from and further explained and described in Section III (Policies) of the Village of Cold Spring LWRP, a copy of which is on file in the Village Clerk's office and available for inspection during normal business hours. In the case of direct agency actions, the agency shall also consult with Section IV (Proposed Uses and Projects) in making their consistency determination. The action must be consistent with the policies to:

(1) Foster a pattern of development in the Village of Cold Spring that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development (LWRP Policy 1).

(2) Preserve historic resources in the Village of Cold Spring (LWRP Policy 2).

(3) Enhance visual quality and protect outstanding scenic resources (LWRP Policy 3).

(4) Minimize loss of life, structures, and natural resources from flooding and erosion (LWRP Policy 4).

(5) Protect and improve water quality and supply in the Village of Cold Spring (LWRP

Policy 5).

(6) Preserve and restore the quality and function of ecological resources throughout the Village of Cold Spring (LWRP Policy 6).

(7) Protect and improve air quality in the Village of Cold Spring (LWRP Policy 7).

(8) Minimize environmental degradation from solid waste and hazardous substances and wastes (LWRP Policy 8).

(9) Improve public access to the waterfront and recreational use of public lands (LWRP Policy 9).

(10) Protect water-dependent uses in the Village of Cold Spring and promote the siting of new water-dependent uses in suitable locations (LWRP Policy 10).

(11) Promote sustainable use of living marine resources in the Village of Cold Spring (LWRP Policy 11).

(12) Not Applicable (LWRP Policy 12).

(13) Promote appropriate use and development of energy and mineral resources (LWRP Policy 13).

I. If the agency determines that the action would not be consistent with one or more of the LWRP policy standards, such action shall not be undertaken unless the determining agency makes a written finding with respect to the proposed action that:

(1) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;

(2) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;

(3) The action will advance one or more of the other LWRP policy standards and conditions; and

(4) The action will result in an overriding Town, regional or state-wide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards.

J. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Planning Board. Such files shall be made available for public inspection upon request.

§ 128-5. Enforcement.

A. The Village Building Inspector shall be responsible for enforcing this chapter.

B. No action within the Village's waterfront area which is subject to review under this chapter shall be commenced or undertaken until the Village Building Inspector has been presented with a written determination from an agency that the action is consistent with the Village's LWRP policy standards.

C. In the event that an activity is being performed in violation of this chapter or any conditions imposed thereby, the Village Building Inspector shall issue a stop-work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop-work order is in effect.

§ 128-6. Penalties for offenses.

A. A person who violates any of the provisions of, or who fails to comply with any condition

imposed by, this chapter shall have committed a violation punishable by a fine not exceeding \$500 for a conviction of a first offense and punishable by a fine of \$1,000 for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.

B. The Village Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty. The Village may also enforce this chapter by injunction or other civil proceeding.

§ 128-7. Severability.

The provisions of this chapter are severable. If any provision of this chapter is found invalid, such finding shall not affect the validity of this chapter as a whole or any part or provision hereof other than the provision so found to be invalid

DRAFT

## Section 6: Federal and State Actions and Programs Likely to Affect Implementation of the LWRP

State and federal actions will affect and be affected by implementation of a Local Waterfront Revitalization Program (LWRP). The active participation of select State and federal agencies is likely to be necessary in order to implement specific provisions identified within the LWRP. Under State law and the U.S. Coastal Zone Management Act, certain State and federal actions with-in or affecting the local waterfront area must be "consistent" or "consistent to the maximum extent practicable" with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

The first part of this section identifies the actions and programs of State and federal agencies, which should be undertaken in a manner consistent with the LWRP. *(This is a generic list of actions and programs, as identified by the NYS Department of State; therefore, some of the actions and programs listed may not be relevant to this LWRP.)* Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that a LWRP identifies those elements of the program which can be implemented by the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification, or approval programs; grant, loan, subsidy, or other funding assistance programs; facilities construction; and planning programs which may affect the achievement of the LWRP. Federal agency actions and programs subject to consistency requirements are identified in the New York State Coastal management Program, and by the implementing regulations of the U.S. Coastal Zone Management Act.

The second part of this section is a more focused and descriptive list of State and federal agency actions which are necessary to further implementation of the LWRP. It is recognized that a State or federal agency's ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above, may not apply; and that the consistency requirements cannot be used to require a State or federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section IV and Section V, which also discuss State and federal assistance needed to implement the LWRP.

### **A. STATE AND FEDERAL ACTIONS AND PROGRAMS WHICH SHOULD BE UNDERTAKEN IN A MANNER CONSISTENT WITH THE LWRP**

#### **1. STATE ACTIVITIES AGING, OFFICE FOR THE**

- 1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

**AGRICULTURE AND MARKETS, DEPARTMENT OF**

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Conservation Reserve Enhancement Program
- 4.00 Permit and approval programs:
  - 4.01 Custom Slaughters/Processor Permit
  - 4.02 Processing Plant License
  - 4.03 Refrigerated Warehouse and/or Locker Plant License
- 5.00 Farmland Protection Grants from the Environmental Protection Fund
- 6.00 Agricultural nonpoint Source Abatement and Control Grant Program
- 7.00 Farmers Market Grant Program
- 8.00 Community Gardens Capacity Building Grant Program
- 9.00 Management of Invasive Species funding

**ALCOHOLIC BEVERAGE CONTROL, DIVISION OF (STATE LIQUOR AUTHORITY)**

- 1.00 Permit and Approval Programs:
  - 1.01 Ball Park - Stadium License
  - 1.02 Bottle Club License
  - 1.03 Bottling Permits
  - 1.04 Brewer's Licenses and Permits
  - 1.05 Brewer's Retail Beer License
  - 1.06 Catering Establishment Liquor License
  - 1.07 Cider Producer's and Wholesaler's Licenses
  - 1.08 Club Beer, Liquor, and Wine Licenses
  - 1.09 Distiller's Licenses
  - 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
  - 1.11 Farm Winery and Winery Licenses
  - 1.12 Hotel Beer, Wine, and Liquor Licenses
  - 1.13 Industrial Alcohol Manufacturer's Permits
  - 1.14 Liquor Store License
  - 1.15 On-Premises Liquor Licenses
  - 1.16 Plenary Permit (Miscellaneous-Annual)
  - 1.17 Summer Beer and Liquor Licenses
  - 1.18 Tavern/Restaurant and Restaurant Wine Licenses
  - 1.19 Vessel Beer and Liquor Licenses
  - 1.20 Warehouse Permit
  - 1.21 Wine Store License
  - 1.22 Winter Beer and Liquor Licenses
  - 1.23 Wholesale Beer, Wine, and Liquor Licenses

**ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF**

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
  - 3.01 Letter Approval for Certificate of Need

- 3.02 Operating Certificate (Alcoholism Facility)
- 3.03 Operating Certificate (Community Residence)
- 3.04 Operating Certificate (Outpatient Facility)
- 3.05 Operating Certificate (Sobering-Up Station)

**ARTS, COUNCIL ON THE**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program.

**CHILDREN AND FAMILY SERVICES, OFFICE OF**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Bureau of Housing and Shelter Services/Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
  - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
  - 3.02 Operating Certificate (Children's Services)
  - 3.03 Operating Certificate (Enriched Housing Program)
  - 3.04 Operating Certificate (Home for Adults)
  - 3.05 Operating Certificate (Proprietary Home)
  - 3.06 Operating Certificate (Public Home)
  - 3.07 Operating Certificate (Special Care Home)
  - 3.08 Permit to Operate a Day Care Center

**CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

**EDUCATION DEPARTMENT**

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certification of Incorporation (Regents Charter)
  - 2.02 Private Business School Registration
  - 2.03 Private School License
  - 2.04 Registered Manufacturer of Drugs and/or Devices
  - 2.05 Registered Pharmacy Certificate
  - 2.06 Registered Wholesale of Drugs and/or Devices
  - 2.07 Registered Wholesaler-Re-packer of Drugs and/or Devices
  - 2.08 Storekeeper's Certificate
- 3.00 Administration of Article 5, Section 233 of the Education Law regarding the removal of archaeological and paleontological objects under the waters of the State.

**EMERGENCY MANAGEMENT, OFFICE OF**

- hazard identification,
- loss prevention, planning, training, operational response to emergencies,

- technical support, and disaster recovery assistance.

**EMPIRE STATE DEVELOPMENT (updated services are listed here <http://www.esd.ny.gov/AboutUs/Services.html> )**

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

**ENERGY RESEARCH AND DEVELOPMENT AUTHORITY**

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.
- 2.00 New Construction Program – provide assistance to incorporate energy-efficiency measures into the design, construction and operation of new and substantially renovated buildings.
- 3.00 Existing Facilities Program – offers incentives for a variety of energy projects

**ENVIRONMENTAL CONSERVATION, DEPARTMENT OF**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
  - 4.01 Capital projects for limiting air pollution
  - 4.02 Cleanup of toxic waste dumps
  - 4.03 Flood control, beach erosion and other water resource projects
  - 4.04 Operating aid to municipal wastewater treatment facilities
  - 4.05 Resource recovery and solid waste management capital projects
  - 4.06 Wastewater treatment facilities
  - 4.07 State Wildlife Grants
- 5.00 Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.
- 6.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).
- 7.00 Implementation of the Environmental Quality Bond Act of 1972, including:
  - (a) Water Quality Improvement Projects
  - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
- 8.00 Marine Finfish and Shellfish Programs.
- 9.00 New York Harbor Drift Removal Project.
- 10.00 Permit and approval programs:
 

Air Resources

  - 10.01 Certificate of Approval for Air Pollution Episode Action Plan
  - 10.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility

- 10.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 10.04 Permit for Burial of Radioactive Material
- 10.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 10.06 Permit for Restricted Burning
- 10.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

Construction Management

- 10.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

- 10.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 10.10 Commercial Inland Fisheries Licenses
- 10.11 Fishing Preserve License
- 10.12 Fur Breeder's License
- 10.13 Game Dealer's License
- 10.14 Licenses to Breed Domestic Game Animals
- 10.15 License to Possess and Sell Live Game
- 10.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 10.17 Permit to Raise and Sell Trout
- 10.18 Private Bass Hatchery Permit
- 10.19 Shooting Preserve Licenses
- 10.20 Taxidermy License
- 10.21 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 10.22 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- 10.23 Permit - Article 24, (Freshwater Wetlands)

Hazardous Substances

- 10.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 10.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 10.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

Lands and Forest

- 10.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 10.28 Floating Object Permit
- 10.29 Marine Regatta Permit
- 10.30 Navigation Aid Permit

Marine Resources

- 10.31 Digger's Permit (Shellfish)
- 10.32 License of Menhaden Fishing Vessel
- 10.33 License for Non-Resident Food Fishing Vessel
- 10.34 Non-Resident Lobster Permit

- 10.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 10.36 Permits to Take Blue-Claw Crabs
- 10.37 Permit to Use Pond or Trap Net
- 10.38 Resident Commercial Lobster Permit
- 10.39 Shellfish Bed Permit
- 10.40 Shellfish Shipper's Permits
- 10.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- 10.42 Permit - Article 25, (Tidal Wetlands)

Mineral Resources

- 10.43 Mining Permit
- 10.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- 10.45 Underground Storage Permit (Gas)
- 10.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

Solid Wastes

- 10.47 Permit to Construct and/or Operate a Solid Waste Management Facility
- 10.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

- 10.49 Approval of Plans for Wastewater Disposal Systems
- 10.50 Certificate of Approval of Realty Subdivision Plans
- 10.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
- 10.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
- 10.53 Permit - Article 36, (Construction in Flood Hazard Areas)
- 10.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 10.55 State Pollutant Discharge Elimination System (SPDES) Permit
- 10.56 Approval - Drainage Improvement District
- 10.57 Approval - Water (Diversion for) Power
- 10.58 Approval of Well System and Permit to Operate
- 10.59 Permit - Article 15, (Protection of Water) - Dam
- 10.60 Permit - Article 15, Title 15 (Water Supply)
- 10.61 River Improvement District Approvals
- 10.62 River Regulatory District Approvals
- 10.63 Well Drilling Certificate of Registration
- 10.64 401 Water Quality Certification

- 11.00 Preparation and revision of Air Pollution State Implementation Plan.
- 12.00 Preparation and revision of Continuous Executive Program Plan.
- 13.00 Preparation and revision of Statewide Environmental Plan.
- 14.00 Protection of Natural and Man-made Beauty Program.
- 15.00 Urban Fisheries Program.
- 16.00 Urban Forestry Program.
- 17.00 Urban Wildlife Program.

**ENVIRONMENTAL FACILITIES CORPORATION**

1.00 Financing program for pollution control facilities for industrial firms and small businesses.

2.00 Clean Vessel Assistance Program

**FINANCIAL SERVICES, DEPARTMENT OF** (the services listed below need to be updated)

1.00 Permit and approval programs:

- 1.01 Authorization Certificate (Bank Branch)
- 1.02 Authorization Certificate (Bank Change of Location)
- 1.03 Authorization Certificate (Bank Charter)
- 1.04 Authorization Certificate (Credit Union Change of Location)
- 1.05 Authorization Certificate (Credit Union Charter)
- 1.06 Authorization Certificate (Credit Union Station)
- 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
- 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
- 1.09 Authorization Certificate (Investment Company Branch)
- 1.10 Authorization Certificate (Investment Company Change of Location)
- 1.11 Authorization Certificate (Investment Company Charter)
- 1.12 Authorization Certificate (Licensed Lender Change of Location)
- 1.13 Authorization Certificate (Mutual Trust Company Charter)
- 1.14 Authorization Certificate (Private Banker Charter)
- 1.15 Authorization Certificate (Public Accommodation Office - Banks)
- 1.16 Authorization Certificate (Safe Deposit Company Branch)
- 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
- 1.18 Authorization Certificate (Safe Deposit Company Charter)
- 1.19 Authorization Certificate (Savings Bank Charter)
- 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
- 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
- 1.22 Authorization Certificate (Savings and Loan Association Branch)
- 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
- 1.24 Authorization Certificate (Savings and Loan Association Charter)
- 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
- 1.26 Authorization Certificate (Trust Company Branch)
- 1.27 Authorization Certificate (Trust Company-Change of Location)
- 1.28 Authorization Certificate (Trust Company Charter)
- 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
- 1.30 Authorization to Establish a Life Insurance Agency
- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

**GENERAL SERVICES, OFFICE OF**

1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land, grants of easement and issuance of licenses for land underwater,

including for residential docks over 5,000 square feet and all commercial docks, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.

- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition.
- 4.00 Administration of Article 5, Section 233, sub. 5 of the Education Law on removal of archaeological and paleontological objects under the waters of the State.
- 5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.
- 6.00 Section 334 of the State Real Estate Law regarding subdivision of waterfront properties on navigable waters to include the location of riparian lines.

#### **HEALTH, DEPARTMENT OF**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Approval of Completed Works for Public Water Supply Improvements
  - 2.02 Approval of Plans for Public Water Supply Improvements.
  - 2.03 Certificate of Need (Health Related Facility - except Hospitals)
  - 2.04 Certificate of Need (Hospitals)
  - 2.05 Operating Certificate (Diagnostic and Treatment Center)
  - 2.06 Operating Certificate (Health Related Facility)
  - 2.07 Operating Certificate (Hospice)
  - 2.08 Operating Certificate (Hospital)
  - 2.09 Operating Certificate (Nursing Home)
  - 2.10 Permit to Operate a Children's Overnight or Day Camp
  - 2.11 Permit to Operate a Migrant Labor Camp
  - 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
  - 2.13 Permit to Operate a Service Food Establishment
  - 2.14 Permit to Operate a Temporary Residence/Mass Gathering
  - 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
  - 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
  - 2.17 Shared Health Facility Registration Certificate

#### **HOMES AND COMMUNITY RENEWAL, DIVISION OF (and its subsidiaries and affiliates)**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.
- 2.00 Financial assistance/grant programs:
  - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
  - 2.02 Housing Development Fund Programs
  - 2.03 Neighborhood Preservation Companies Program
  - 2.04 Public Housing Programs
  - 2.05 Rural Initiatives Grant Program
  - 2.06 Rural Preservation Companies Program
  - 2.07 Rural Rental Assistance Program
  - 2.08 Special Needs Demonstration Projects

- 2.09 Urban Initiatives Grant Program
- 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs.
- 4.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 5.00 Affordable Housing Corporation

**HUDSON RIVER VALLEY GREENWAY** (regional agency)

- 1.00 Greenway Planning and Review
- 2.00 Greenway Compact Activities
- 3.00 Financial Assistance/Grants Program
- 4.00 Greenway Trail Activities

**GREENWAY HERITAGE CONSERVANCY FOR THE HUDSON RIVER VALLEY**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Conservancy.
- 2.00 Financial assistance/grant programs
- 3.00 Model Greenway Program
- 4.00 Greenway Trail Activities

**HUDSON RIVER PARK TRUST** (promotes and expands public access to the Hudson River, to promote water-based recreation, and enhance the natural, cultural, and historic aspects of the river from Battery Place to West 59th Street in New York City)

**MENTAL HEALTH, OFFICE OF**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Operating Certificate (Community Residence)
  - 2.02 Operating Certificate (Family Care Homes)
  - 2.03 Operating Certificate (Inpatient Facility)
  - 2.04 Operating Certificate (Outpatient Facility)

**MILITARY AND NAVAL AFFAIRS, DIVISION OF**

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.

**NATURAL HERITAGE TRUST**

- 1.00 Funding program for natural heritage institutions.

**NEW YORK CITY TRANSIT AUTHORITY** (regional agency)

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Increases in special fares for transportation services to public water-related recreation resources.

**NEW YORK STATE BRIDGE AUTHORITY** (Hudson River regional agency)

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

**NEW YORK STATE POWER AUTHORITY**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.

2.00 Facilities construction, rehabilitation, expansion, or demolition.

**PARKS, RECREATION AND HISTORIC PRESERVATION, OFFICE OF** (including Regional State Park Commissions)

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Funding program for recreational boating, safety and enforcement.
- 4.00 Funding program for State and local historic preservation projects.
- 5.00 Land and Water Conservation Fund programs.
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places.
- 7.00 Permit and approval programs:
  - 7.01 Floating Objects Permit
  - 7.02 Marine Regatta Permit
  - 7.03 Navigation Aide Permit
  - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.
- 9.00 Recreation services program.
- 10.00 Urban Cultural Parks Program.
- 11.00 Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.

**PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition, or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Establishment and Construction Prior Approval
  - 2.02 Operating Certificate Community Residence
  - 2.03 Outpatient Facility Operating Certificate

**SCIENCE AND TECHNOLOGY FOUNDATION**

- 1.00 Corporation for Innovation Development Program.
- 2.00 Center for Advanced Technology Program.

**STATE, DEPARTMENT OF**

- 1.00 Appalachian Regional Development Program.
- 2.00 Coastal Management Program.
  - 2.10 Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.
- 3.00 Community Services Block Grant Program.
- 4.00 Permit and approval programs:
  - 4.01 Billiard Room License
  - 4.02 Cemetery Operator

4.03 Uniform Fire Prevention and Building Code

**STATE UNIVERSITY CONSTRUCTION FUND**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

**STATE UNIVERSITY OF NEW YORK**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

**TRANSPORTATION, DEPARTMENT OF**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including, but not limited to:
- (a) Highways and parkways
  - (b) Bridges on the State highways system
  - (c) Highway and parkway maintenance facilities
  - (d) Rail facilities
- 3.00 Financial assistance/grant programs:
- 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
  - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg, and New York
  - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
  - 3.04 Subsidies program for marginal branchlines abandoned by Conrail
  - 3.05 Subsidies program for passenger rail service
  - 3.06 Financial assistance to local governments for transportation enhancement activities.
- 4.00 Permits and approval programs:
- 4.01 Approval of applications for airport improvements (construction projects)
  - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
  - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
  - 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
  - 4.05 Certificate of Convenience and Necessity to Operate a Railroad
  - 4.06 Highway Work Permits
  - 4.07 License to Operate Major Petroleum Facilities
  - 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
  - 4.09 Real Property Division Permit for Use of State-Owned Property

- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

**YOUTH, DIVISION OF**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding or approval of such activities.

**2. FEDERAL ACTIVITIES AFFECTING LAND AND WATER USES AND NATURAL RESOURCES IN THE COASTAL ZONE OF NEW YORK STATE**

**I. ACTIVITIES UNDERTAKEN DIRECTLY BY OR ON BEHALF OF FEDERAL AGENCIES**

The following activities, undertaken directly by or on behalf of the identified federal agencies, are subject to the consistency provision of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart C, and the New York Coastal Management Program.

**DEPARTMENT OF COMMERCE**

National Marine Fisheries Services

- 1.00 Fisheries Management Plans

**DEPARTMENT OF DEFENSE**

Army Corps of Engineers

- 1.00 Proposed authorizations for dredging, channel improvements, breakwaters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters.

- 2.00 Land acquisition for spoil disposal or other purposes.

- 3.00 Selection of open water disposal sites.

Army, Navy and Air Force

- 4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities).

- 5.00 Plans, procedures and facilities for landing or storage use zones.

- 6.00 Establishment of impact, compatibility or restricted use zones.

**DEPARTMENT OF ENERGY**

- 1.00 Prohibition orders.

**GENERAL SERVICES ADMINISTRATION**

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government.

**DEPARTMENT OF INTERIOR**

Fish and Wildlife Service

- 1.00 Management of National Wildlife refuges and proposed acquisitions.

Bureau of Ocean Energy Management Regulation and Enforcement

- 2.00 OCS lease sale activities including tract selection, lease sale stipulations,

etc.

National Park Service

3.00 National Park and Seashore management and proposed acquisitions.

**DEPARTMENT OF TRANSPORTATION**

Amtrak, Conrail

1.00 Expansions, curtailments, new construction, upgrading or abandonments or railroad facilities or services, in or affecting the State's coastal area.

Federal Aviation Administration

2.00 Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

Federal Highway Administration

3.00 Highway construction.

St. Lawrence Seaway Development Corporation

4.00 Acquisition, location, design, improvement and construction of new and existing facilities for the operation of the Seaway, including traffic safety, traffic control and length of navigation season.

**DEPARTMENT OF HOMELAND SECURITY**

Coast Guard

1.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.

2.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).

3.00 Expansion, abandonment, designation or anchorages, lightening areas or shipping lanes and ice management practices and activities.

**II. FEDERAL LICENSES, PERMITS AND OTHER FORMS OF APPROVAL OR AUTHORIZATION**

The following activities, requiring permits, or other forms of authorization or approval from federal agencies, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart D, and the New York Coastal Management Program.

**DEPARTMENT OF DEFENSE**

Army Corps of Engineers

1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).

2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).

3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).

4.00 Approval of plans for improvements made at private expense under Corps supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).

5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344).

- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.).

#### **DEPARTMENT OF ENERGY**

##### Economic Regulatory Commission

- 1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.
- 2.00 Exemptions from prohibition orders.

##### Federal Energy Regulatory Commission

- 3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808).
- 4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b)).
- 5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

#### **ENVIRONMENTAL PROTECTION AGENCY**

- 1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976.
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c).
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

#### **DEPARTMENT OF INTERIOR**

##### Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a)).

##### Bureau of Ocean Energy Management Regulation and Enforcement

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.
- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

#### **SURFACE TRANSPORTATION BOARD** (former Interstate Commerce Commission)

- 1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines.

#### **NUCLEAR REGULATORY COMMISSION**

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power plans pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

#### **DEPARTMENT OF TRANSPORTATION**

- 1.0 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 USC 1455
- 2.0 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33USC 1501)

#### Federal Aviation Administration

- 3.00 Permits and licenses for construction, operation or alteration of airports.

### **III. FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS**

The following activities, involving financial assistance from federal agencies to state and local governments, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart F, and the New York State Coastal Management Program. When these activities involve financial assistance for entities other than State and local government, the activities are subject to the consistency provisions of 15 CFR Part 930, Subpart C.

#### **DEPARTMENT OF AGRICULTURE**

- 10.068 Rural Clean Water Program
- 10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans
- 10.410 Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.413 Recreation Facility Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Renting Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.422 Business and Industrial Loans
- 10.423 Community Facilities Loans
- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention

10.906 River Basin Surveys and Investigations

**DEPARTMENT OF COMMERCE**

11.300 Economic Development - Grants and Loans for Public Works and Development Facilities

11.301 Economic Development - Business Development Assistance

11.302 Economic Development - Support for Planning Organizations

11.304 Economic Development - State and Local Economic Development Planning

11.305 Economic Development - State and Local Economic Development Planning

11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration

11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities

11.405 Anadromous and Great Lakes Fisheries Conservation

11.407 Commercial Fisheries Research and Development

11.417 Sea Grant Support

11.427 Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program

11.501 Development and Promotion of Ports and Inter-modal Transportation

11.509 Development and Promotion of Domestic Waterborne Transport Systems

**COMMUNITY SERVICES ADMINISTRATION**

49.002 Community Action

49.011 Community Economic Development

49.013 State Economic Opportunity Offices

49.017 Rural Development Loan Fund

49.018 Housing and Community Development (Rural Housing)

**ENVIRONMENTAL PROTECTION AGENCY**

66.001 Air Pollution Control Program Grants

66.418 Construction Grants for Wastewater Treatment Works

66.426 Water Pollution Control - State and Areawide Water Quality Management Planning Agency

66.451 Solid and Hazardous Waste Management Program Support Grants

66.452 Solid Waste Management Demonstration Grants

66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

**GENERAL SERVICES ADMINISTRATION**

39.002 Disposal of Federal Surplus Real Property

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects

14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects

14.117 Mortgage Insurance - Homes

14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing

14.125 Mortgage Insurance - Land Development and New Communities

14.126 Mortgage Insurance - Management Type Cooperative Projects

14.127 Mortgage Insurance - Mobile Home Parks

14.218 Community Development Block Grants/Entitlement Grants

- 14.219 Community Development Block Grants/Small Cities Program
- 14.221 Urban Development Action Grants
- 14.223 Indian Community Development Block Grant Program

**DEPARTMENT OF INTERIOR**

- 15.400 Outdoor Recreation - Acquisition, Development and Planning
- 15.402 Outdoor Recreation - Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
- 15.411 Historic Preservation Grants-in-Aid
- 15.417 Urban Park and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.952 Water Research and Technology - Matching Funds to State Institutes

**SMALL BUSINESS ADMINISTRATION**

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 59.031 Small Business Pollution Control Financing Guarantee

**DEPARTMENT OF TRANSPORTATION**

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction
- 20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

Note: Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

**B. STATE AND FEDERAL ACTIONS AND PROGRAMS NECESSARY TO FURTHER THE LWRP**

*(This section changes for each LWRP. The following text provides examples of actions and programs necessary to further LWRPs, which are not necessarily accurate and may not necessarily apply to each LWRP)*

**1. State Actions and Programs Necessary to Further the LWRP**

**DEPARTMENT OF ECONOMIC DEVELOPMENT**

1. Any action or provision of funds for the development or promotion of tourism related activities or development.
2. Any action involving the Seaway Trail.

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

1. Planning, development, construction, major renovation, or expansion of facilities in waterfront, including recreational improvement projects.
2. Advance assistance under the Small Communities and Rural Wastewater Treatment Grant Program and a subsequent construction grant subsidy.
3. Review of actions within National Register Districts pursuant to SEQR.

DRAFT

**OFFICE OF GENERAL SERVICES**

- 1. Prior to any development occurring in the water or on the immediate waterfront, OGS should be contacted for a determination of the State’s interest in underwater, or formally underwater, lands and for authorization to use and occupy these lands.
- 2. In accordance with Section 334 of the NYS Real Property Law, any subdivision of waterfront properties on navigable waters must depict the location of riparian (including littoral) lines out into the navigable waters on the property survey that must be filed with the respective county clerk.

**DIVISION OF HOMES AND COMMUNITY RENEWAL**

- 1. Provision of funding under the Rural Preservation Company Program.
- 2. Approval of funding for Rural Area Revitalization Program projects.

**OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION**

- 1. Planning, development, construction, major renovation or expansion of recreational facilities or the provision of funding for such facilities.
- 2. Provision of funding for State and local activities from the Land and Water Conservation Fund.
- 3. Planning, development, implementation or the provision of funding for recreation services programs.
- 4. Certification of properties within districts listed on the National Register of Historic Places.
- 5. Provision of funding for State and local historic preservation activities.
- 6. Review of Type I actions affecting a property listed on the National Register of Historic Places.
- 7. Activities under the Urban Cultural Park program.

**DEPARTMENT OF STATE**

- 1. Provision of funding for the implementation of an approved LWRP.
- 2. Provision of funding under the Community Services Block Grant program.

**COUNCIL ON THE ARTS**

- 1. Assistance from the Architecture and Environmental Arts program for a harborfront plan.

**DEPARTMENT OF TRANSPORTATION**

- 1. Assistance for street repairs through the Consolidated Highway Improvements Program.

**2. Federal Actions and Programs Necessary to Further the LWRP**

**DEPARTMENT OF DEFENSE**

Corps of Engineers, Buffalo District

- 1. Review of any proposed action affecting a resource listed on the National Register of Historic Places, pursuant to the National Environmental Protection Act.

**ECONOMIC DEVELOPMENT ADMINISTRATION**

- 1. Assistance under the Public Works and Economic Development Act for street improvements.

**DEPARTMENT OF HOMELAND SECURITY**

Coast Guard

- 1. Maintenance/rehabilitation of facilities.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Office of the Assistant Secretary for Community Planning and Development

1. Funding under the Community Development Block Grant Program for improvements in the waterfront.

**DEPARTMENT OF THE INTERIOR**

National Park Service

1. Provision of funding under the Land and Water Conservation Fund Program.
2. Review of federal actions within the National Register Districts pursuant to NEPA.

**DEPARTMENT OF THE TREASURY**

1. Continuation of Incentives for Qualified Building Rehabilitation.
2. Provision of appropriate tax-exempt status for non-profit agencies active in the coastal area.

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## Section 7 Local Commitment and Consultation

This section describes the extensive volunteer effort and community outreach as well as consultation with government at all levels and with regional organizations that was conducted in developing this Local Waterfront Revitalization Program (LWRP).

This LWRP is the product of thousands of hours of volunteer work over seven years, starting in mid-2006. The focus from the very beginning has been overwhelmingly to reach out to the community and learn what the people living here want for its future. This included a resident survey sent to every household in 2007, to which over 20% of the residents over 18 responded, often at length on issues of personal interest (see Appendix). All comments were meticulously transcribed and reviewed, and posted on the Village website ([www.coldspringny.gov](http://www.coldspringny.gov)).

A Special Board of eleven appointed volunteers was established and funded by the Village Trustees in late 2006 to oversee and develop the LWRP (the membership was reduced to nine in July 2009). Working groups organized in June 2007 prepared inventories of the current state of Village character, infrastructure, businesses, the riverfront, community facilities and more, and held public meetings to discuss work in progress and reports completed. Volunteers also took on the hard work of defining problems and finding solutions.

A public workshop held in June 2009 took resident comments to frame a statement of vision and goals for the Village. The Village Board held two single-topic forums in September 2009 to discuss the Special Board's reports on the site of the old Marathon Battery plant and on Dockside. A series of six intensive outreach meetings in the spring of 2010 culminated in a community planning event that generated much excitement. Additional community participation in information sessions and public hearings on the draft Comprehensive Plan in the fall of that year shaped the draft to better reflect the interests of residents. In early December 2010, the Special Board voted to recommend the Comprehensive Plan to the Village Board. The Village Board discussed and modified the Plan and held a public hearing on the revised Plan in March 2011. (For a summary of the Special Board's community outreach, see Figure XXX, below). The Comprehensive Plan was adopted by the Village Board on January 10, 2012. In addition, the Special Board held twice-monthly meetings open to the public (agendas and minutes are posted on the Village Website), and many meetings with community leaders and organizations throughout the process.



**Figure XXX, Outreach Summary**

<b>Outreach Event:</b>	<b>Date:</b>
Community Forum	September 25, 2006
Public Forum regarding Planning Issues	October 23, 2006
Forum on Ad Hoc Working Groups	March 8, 2007
Resident Survey	May 2007
Presentation on Working Group topics, call for volunteers	May 2007
Public Forum, VFW Hall	October 20, 2007
Resident Survey Report Presentation	January 10, 2008
Community Resources Stakeholder Forum	September 4, 2008
Waterfront and Open Space Stakeholder Forum	September 11, 2008
Parking Stakeholder Forum	October 16, 2008
Economic Development Stakeholder Forum	November 13, 2008
Village Character Stakeholder Forum	February 12, 2009
Vision and Goals Workshop	June 18, 2009
Presentation on Marathon Battery Plant Site	September 15, 2009
Presentation on Dockside	September 29, 2009
Riverfront Public Forum	April 24, 2010
Two Main Streets—Community Choices	May 1, 2010
Marathon/Foundry/Campbell Area Public Forum	May 8, 2010
Two Main Streets—Business Choices	May 10, 2010
Village Character Public Forum	May 15, 2010
All-Community Planning Forum	May 22, 2010
Public Information Meeting, Comprehensive Plan	September 29, 2010
Public Information Meeting, Comprehensive Plan	October 7, 2011
Public Hearing, Comprehensive Plan	October 14/21, 2010
Presentation to Joint Meeting of All Village Boards	November 16, 2010
Community Workshop on LWRS Projects	May 14, 2011
Community Workshop on LWRS Projects	September 17, 2011
Presentations of LWRS to community	October 13/27, 2011
Community Workshop on LWRP and “Hurricanes and High Water”	January 19, 2013

In 2011, the Special Board turned to complete the LWRS (Local Waterfront Revitalization Strategy as a step toward the LWRP). In May, the Special Board organized a community workshop that focused on three priority projects—Dockside, the Village Garage site, and the Marathon battery plant site. The resulting recommendations were presented for public comment on September 17. Other aspects of the LWRS were highlighted for public comment through publication, at the Village Hall and the Butterfield Library, on the website, in press releases and ads, and in public meetings of the Special Board (especially the meetings on October 13 and 27). Major reports, available to the public throughout the process, were posted on the Village’s website almost from its launching.

The public discussion changed minds and shifted the consensus on many subjects: new ideas took hold and opinions evolved on issues from parking to ferry service, to Dockside and the Village Garage site. The open debate and enthusiastic sharing of views brought out wonderfully inventive ideas (a railroad underpass linking Dockside to a park on the Village Garage site, parking waivers for businesses, to name just a few).

In addition to the extensive outreach to the community, there has been much consultation with government agencies and nonprofit organizations in developing this LWRP. Locally, the Village Board has designated a liaison, and sometimes two, throughout the process, and the Special Board Chair has reported progress to the Trustees on a monthly basis. A member of the Planning Board has served on the Special Board from the beginning, and the Special Board has reached out to the other standing boards (the ZBA, the Historic District Review Board, and the Recreation Commission) on specific issues and with preliminary courtesy drafts for their comment. The Village Water Superintendent and Highway Department Head have been consulted repeatedly.

The New York State Department of State (DOS) has not only been an invaluable source of funds, but its liaison has again and again obtained information and provided guidance. The NYS Department of Environmental Conservation (DEC) has assisted in numerous ways -- on the issues of sea level rise and climate change, on shoreline stabilization, the character of the river in this area, habitat, stormwater management, dealing with coal tar from a former manufactured gas plant, and more. The NYS Office of Parks, Recreation and Historic Preservation (OPRHP) has advised us, particularly with regard to Dockside. The Hudson Valley Greenway has not only provided grants, but has assisted with advice on trails and municipal cooperation.

Of federal agencies that have assisted, the Environmental Protection Agency (EPA) provided information on its Super Fund clean up in connection with the former Marathon Battery plant. The U.S. Military Academy at West Point helped to clarify the boundary between its property on Constitution Island and the Village of Cold Spring.

Several regional organizations have aided the process. Metro-North railroad has been helpful, among other ways, with the possibility of parking on the east side of the tracks and considering the feasibility (unlikely) of passage over or under the tracks between Dockside and a possible park on part of the Village Garage site. Among nonprofit organizations, Scenic Hudson has helped with regard to their properties in the Village—the West Point Foundry Preserve, Foundry Dock Park, and the Campbell Estate. They shared the knowledge and insights of their invaluable publication, *Revitalizing Hudson Riverfronts*. They also shared their brand new LIDAR map showing Hudson River Sea Level Rise specific to Cold Spring. The Open Space Institute shared possibilities for the development of Dockside prepared when they owned the property. The Hudson Highlands Land Trust assisted on many questions and made available their expertise in GIS mapping.

Generosity has been the hallmark of this planning process. Countless individuals and organizations have been extremely generous in giving their time and expertise to development of

this LWRP.

## Maps

- 1) **LWRP Boundary**
- 2) **Regional Setting**
- 3) **Topography and Water Resources**
- 4) **Cold Spring Historic Districts**
- 5) **Existing Land and Water Uses**
- 6) **Zoning Districts**
- 7) **Vacant, Deteriorated and Under-utilized Properties (TK)**
- 8) **Water Dependent and Water Enhanced Uses (TK)**
- 9) **Soils**
- 10) **Natural Resources**
- 11) **Flood Plains**
- 12) **Water Resources**
- 13) **Missing Sidewalks and Bicycle Racks**
- 14) **Hudson Highlands SASS**
- 15) **Hazardous Waste Sites (TK)**
- 16) **Proposed Land and Water Uses**

# Appendices

## 1 - Dockside

### Description of the Dockside Property

The Dockside property is 27 acres – 18 of which are underwater. Approximately 60% of the land above water is relatively level lawn with a few mature trees, wrapping north from the entrance near the corner of North and West Streets, around a massive rock mound over to the train tracks below the Village Garage site. The rock mound occupies about 40% of the property and rises steeply to over 65 feet above the river. Heavily wooded, and left unmaintained, the rock mound is a thick wild bramble of trees and brush topped by a relatively level rock area. The river shore is lined largely with riprap, and includes deteriorated bulkhead and piles. Unless and until the shoreline is secured, ice sheets and water borne debris will continue to ride up on land, inflicting annual/seasonal damage. From year to year, certain areas of the shoreline change profile after the severe storms of the winter months erode volumes of soil and rocks from the river's edge.



Since the 19<sup>th</sup> century the Dockside property has been the site of a blast furnace and iron foundry, a brick works, and a private swim club and marina. In 1987, the Hudson River Foundation purchased the land to protect the Dockside property from residential condominium development. In 1999, the Open Space Institute (OSI) acquired the land, also with the intention of preserving it from overdevelopment.



From 1992 to 2002 the restaurant, Northgate at Dockside Harbor, known as “Dockside”, operated year-round on the Dockside property. In 1999, OSI continued leasing to Dockside restaurant until the fall of 2002 when the restaurant’s lease expired. The restaurant building was demolished in October 2003. In 2007, the property was conveyed from OSI to New York State Office of Parks, Recreation & Historic Preservation (OPRHP) with offices at Fahnestock State Park. The property is now a part of the Hudson Highlands State Park Preserve, managed by the State.

OPRHP is now working on an agreement with the Village of Cold Spring in order that the Dockside property be developed and maintained. OPRHP’s first priority is to ensure that the shoreline is stabilized. They prefer that it be treated as a preserve, and they discourage establishing a full-service restaurant. Under the agreement the Village will keep funds generated by park use, but only up to the costs of capital projects and maintenance; any funds raised in excess of those mounts must go to OPRHP. Village responsibilities will include maintenance, clean up, enforcement, improvements, development, etc.

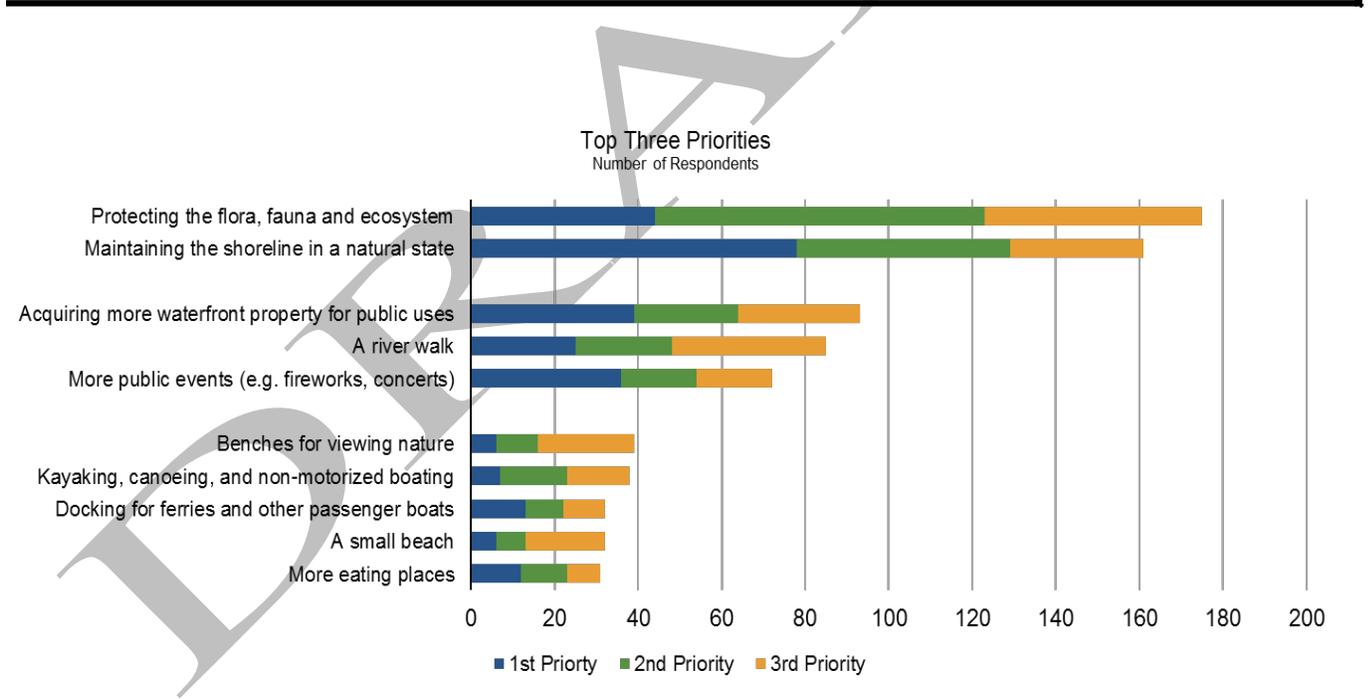
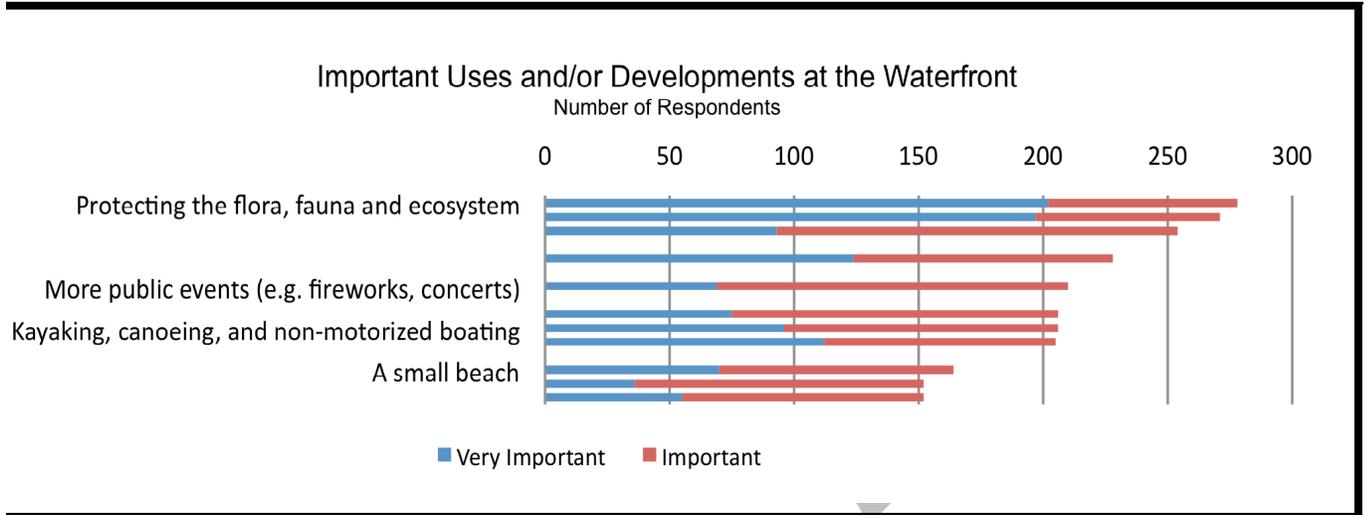
## **Community Input and Other Resources**

Over the past 5 years, research and planning by many resident volunteers has included gathering extensive community input and expert information regarding the development of the Dockside property.

The **Village of Cold Spring’s 2007 Resident Survey** presented a number of questions addressing the waterfront and waterfront activities, the answers to which directly inform the rec-

ommendations set forth below. There were 326 valid responses to the survey, a strong 20% of voting age residents. The following charts display survey participants' ideas about important uses and/or developments at the waterfront and which uses and/or developments are their top three priorities:

**Figure 20**



**Three Open-Ended Survey Questions**

Working Draft - Subject to Revision and Approval by Village and State and Federal Agencies - NOT FINAL

**Q.** What are 3 things you like best about living in Cold Spring?

**A.** Natural Environment –Appreciation for the Hudson River and the landscape were cited in 236 or 72% of the responses. Comments described “river” and “waterfront” along with beauty, scenery, parks, nature and views.

**Q.** What 3 things would you change about Cold Spring?

**A.** Recreation and Natural Environment- 130 or 40% of the comments involved recreation in nature, including docks at the waterfront, bike paths and a swimming pool.

**Q.** What 3 things in Cold Spring would you like preserved for future generations?

**A.** 292 or 90% of the responses referred to the natural beauty of the area -- the waterfront, the views, and the open space. A large number commented on the need to preserve access to the river and to protect the waterfront.

On the survey, a number of other possibilities were mentioned, but less often. These include: fishing, swimming, a dog run, a seasonal marina for pleasure boats, and more.

**Public input from community meetings** on October 20, 2007, April 24, 2010 and May 14, 2011 echoed the survey results, as have less formal comments in meetings, in writing, and in conversations. In these inputs, the Docksider property was specifically addressed. The following are dominant ideas:

**Nature, scenic views, quiet, peacefulness, serenity, open space, park,** mentioned repeatedly.

**Types of recreation** often mentioned:

**Kayaks, canoes, car-top and other** non-motorized boats. Some expressed a desire for kayak storage and possibly kayak rental.

**Informal play:** Frisbee, badminton, boccie . . .

**Swimming,** either an in-river pool (but proximity to the wastewater treatment plant outflow was seen as negative) or a community pool. There was little discussion of open swimming in the river.

**Picnics, picnic tables, benches** for viewing and contemplating.

**Building Bridges Building Boats.** Enthusiasm was expressed repeatedly for supporting this organization and its programs for youth and families, with related education. The organization requested a “permanent home” with launch ramp, small dock, a few moorings and a facility for workshop, classes and storage; they subsequently expressed willingness to be flexible. There was some suggestion from the community that perhaps other organizations might share or operate such a facility.

**Powerboats.** Several possibilities were raised for the Dockside property: Launch ramp, mooring buoys and various docking arrangements, especially to allow visitors to come to Cold Spring by river to reduce vehicular traffic congestion on local roads. Dock locations included the former ramp and dock at the north end, or a floating dock or permanent dock on the west side. Many recalled enjoying powerboats in the cove at the north end, but that was before submerged aquatic vegetation (SAVs) in the area became a concern. One need cited was provision for boats of 30' and larger which cannot be accommodated at the Boat Club.

**Events, public and private:**

**Community gatherings.** The Dockside property was seen as a place to bring the community together for such occasions as Community Day, performances, movies and more.

**Receptions, weddings, family reunions, etc.** A significant number of people recall such happy occasions at Dockside restaurant and would like provision for them in the future plans, although others saw these as intrusive, especially for neighboring homes.

**A dedicated structure for public gatherings.** The park building at Plum Point was referred to as a working example of a structure in a public park that has a kitchen available for public use, and can accommodate water-enhanced activities along the Hudson River.

**Food.** Community input varied widely from those wanting a full-service restaurant, to those who would prefer a small, seasonal facility, and some who were not interested at all. There were warm recollections of socializing at Dockside restaurant and sharing a beer.

**Education, information, interpretation** supported repeatedly.

**Paths, trails** were often discussed.

**ADA accessible** through the level area and possibly up the north side of the rock mound.

**Trails to top of the rock mound** from both the north and south sides.

**Overlook, viewing area** at the top of the rock mound (a poet's seat) with information about the site and the view.

**Gravel or other porous surface** for drive and parking.

**Continuous open, green space.** Among comments to preserve open space in the Village, the request most closely related to the Dockside property is to preserve the two private properties located at the entrance to the park.

**Access, connections.** Repeatedly residents commented on the lack of access to the Dockside property from the municipal parking lot off of Fair Street and the Village Garage site, as well the desirability of a direct connection from the Dockside property to Little Stony Point and trails further north.

*KEY RESOURCES*

**The following is a list of resources used to identify needs and possibilities which led directly to the Recommendations: Guiding Principles and Recommended Actions set forth below. This list includes key sources of the community input summarized above.**

*Open Space Institute Draft Drawing, 2005*

*Waterfront and Open Space pages, from Report of Community Visioning Workshop, October 20, 2007*

*Resident Survey Report, January 18, 2008*

*Waterfront and Open Space Stakeholder Discussion, September 11, 2008*

*Waterfront & Open Space Working Group Draft Summary report, August 2009*

*Marathon and Dockside Report to Village Board, September 8, 2009*

*Community Outreach Meeting, Discussions of Riverfront/Riverwalk, Dockside, and Boating, April 24, 2010*

*Final Master Plan/Final Environmental Impact Statement for Clarence Fahnestock Memorial State Park and Hudson Highlands State Park Preserve, December 15, 2010*

*DEC Map and Power Point Presentation; Dan Miller, February 24, 2011*

*Community Workshop, Mostly Dockside Group, May 14, 2011*

*Special Board Meeting for Dockside Follow-Up, Stakeholder and Resident Comments, June 9, 2011,*

*Special Board Community Workshop on the LWRS, including participant comments, September 17, 2011.*

## Alternatives Considered

Many of the possible uses for Dockside discussed above have been included in the Recommendations that are presented in this report. A number of other possibilities were considered, but are not included in the Recommendations for the reasons given, most of which were reasons explicitly expressed by the community.

**High impact uses**, requiring construction of facilities and buildings. For example:

- a. **A permanent performance space** such as a band-shell is not needed in view of Cold Spring's successful experience with the current, existing bandstand at the Main Dock and temporary facilities such as a flat bed truck provided by the Highway Department.
- b. **A full-service, year-round restaurant** has proven challenging financially, would compete with other Village restaurants, would increase traffic through Village streets and would require more on-site parking that would detract from the desired quiet enjoyment of the Dockside property.
- c. **Plum Point example.** The Dockside property is smaller than the park at Plum Point, cannot provide the kind of separate special events area that Plum Point provides, and lacks the generous parking and access that would be required for this kind of public facility.
- d. **Expanded motorized boating**, such as a disembarkation hub for commercial passenger boats, a launch ramp for motorized watercraft, and a dock for visiting boats. These are not recommended for several reasons, including increased traffic with trailers, parking and turning requirements through the adjacent neighborhood, other boating opportunities available elsewhere along the riverfront at the Cold Spring Boat Club, the Main Dock and Foundry Dock Park, and the likelihood of damage to SAVs on the north side of the property. Furthermore, and perhaps most importantly, OPRHP does not encourage increased vehicular use of the Dockside property and envisions development of the property consistent with its designation as a preserve.

In the future, if silting or other circumstance severely restricts boating at the Cold Spring Boat Club, the Village could reconsider possibilities for expanded motorized boating at the Dockside property.

- e. **Public pool, whether in-ground or in the river.** Although residents have an understandable desire for swimming in the Village, the Dockside property is not the appropriate place because of safety concerns, requirement for substantial supervision and management, intrusion on others' quiet enjoyment, and in the case of an in-river pool the proximity of the water treatment plant outflow.
- f. **A dog run** is an excellent idea for dog owners; however, the Dockside property has limited space; there are other, more suitable locations, perhaps Mayor's Park, and a dog run does not require placement on the riverfront to be effective or enjoyed by dogs or owners.

g. **Open fires and fire pits or barbeques** present unnecessary fire safety concerns and maintenance issues.

h. **Pedestrian overpass to connect with east side of railroad.** The committees and the public expressed eagerness for better access from Dockside to the east side of the tracks. Both overpass and underpass solutions were considered. The overpass solution was not the preferred choice for several reasons. First, the cost of building an overpass with its necessary connectors was considered too expensive. Second, the required height of a bridge over the railroad would make it an eyesore for local residents, hikers and others.

i. **Other construction.** Suggested construction of a boardwalk, a pavilion shelter, a fishing pier, stairway up the rock mound near the concession area, designated tent space for private parties, and other construction was not recommended in light of cost, maintenance demands, and community satisfaction with simpler facilities, plus the fact that a roofed shelter area could be provided as part of a food concession and rest room structure.



Figure 21

## Recommendations: Guiding Principles and Actions

**A. GUIDING PRINCIPLES.** Based on extensive community input and expert advice, certain themes regarding Dockside have emerged. These are the Guiding Principles that inform the Recommended Actions:

- 1. Focus primarily on the natural features of the Dockside property,** such as shoreline stabilization, native plants, and the rock mound. The majority of public comments favored less intrusive development, more preservation and protection and enhancement of shoreline and natural features.
- 2. Develop primarily passive recreation.** Consistent with requests throughout discussions with the community, development that promotes low-impact uses is recommended. Low impact uses require little construction, encourage more passive enjoyment, and will require comparatively few permanent structures and fewer parking spaces, allowing maximum flexibility in use of the space.
- 3. Encourage use of the Dockside property as a community gathering place.** Resident comments were enthusiastic about the property's value as a destination for all residents. This use should be encouraged by features that promote the coming-together of Village neighbors.
- 4. Develop only water-dependent or water-enhanced uses.** Uses that are substantially enhanced by proximity to the river (e.g., large or small scale events, strolling along the riverside), or require the river itself (e.g. fishing, small boats) are favored.
- 5. Develop revenue-generating opportunities where appropriate to offset costs of development and maintenance of the Dockside property.** Generally, revenue-generating opportunities should be sought; however, development should be within a scope of activities and uses that adheres to these Guiding Principles.
- 6. Pursue phased development.** Development in phases is strongly encouraged, starting with the most critical need for shoreline stabilization. Phasing will allow time to plan and raise funds for some of the improvements, as well as allow continued enjoyment of the Dockside property while specific, manageable projects are completed without over extending the Village financially.
- 7. Sensitive, attractive design.** In all development, the visual aesthetic should be attractive and carefully considered; form should not be sacrificed to function.
- 8. Sensitivity to residents in adjacent neighborhoods.** In all development of the Dockside property, a balance should be sought between quality of life for residents in neighborhoods impacted by development and enjoyment of the property as a park.

**B. RECOMMENDED ACTIONS.** The Recommended Actions that follow are based on the community input, expert information, and the Guiding Principles. An accompanying drawing will be prepared to reflect these Recommendations. Recommended Actions are presented in

phases based on urgency, ease of development, and probable cost, although the phasing might change in light of new developments. (See Figure 22)

## PHASE I.

**Implementation Task Group.** To assure implementation of plans for development of the Dockside property, the Village Board should appoint an ad hoc Dockside Implementation Task Group to assist them in whatever ways they wish. This group could oversee implementation of plans as agreed, possibly assist with identification and evaluation of contractors, and report to the Village Board regularly. In view of similarities shared with other area parks, it may be helpful to consult other municipalities about planning and administration of parks, such as the Village of Cornwall about Donohue Memorial Park at Cornwall Landing.

**Shoreline stabilization.** Foremost for immediate action is **shoreline stabilization**. To preserve existing land mass and prevent loss from water and weather erosion, varied technologies of shoreline stabilization must be considered including bio-engineered solutions as well as rip rap. The project clearly requires design, engineering and cost estimates. According to OPRHP sources of funding are available to municipalities for this kind of public works/improvement project that are not available to OPRHP. One possible source of assistance may be West Point engineering students; it could be worth inquiring whether they could do a preliminary engineering study.

**A public access ramp for kayaks, canoes and other non-motorized car-top boats** should be provided in connection with the shoreline stabilization at a location sheltered from the strongest currents of the river, subject to safety standards and other requirements to be established and enforced. A promising location is at the northeast corner of the Dockside property where there are remnants of a former launch ramp, east of the former powerboat launch. It should be understood that any early construction that occurs in the park should not preclude later construction of a connection (underpass) between the northeast corner of the property and the Village garage site east of the train tracks.

**Toe-in-the-water access** might simply occur at or near the public access ramp. For safety reasons, this should be at the north end where there is shallow water, but it should be for dabbling only, not for swimming. Wherever this access is provided, it should be included in the shoreline stabilization plan.

**Public Restrooms I.** Public restrooms can be supported by Village water and sewer. Two locations are proposed: phase one is a convenient location, independent of any other structures, and easy to connect with existing sewer (or Clivus Multrum or temporary as the Village Board may decide); the second is at a central location (see Phase II). This first set of restrooms are recommended to be temporary and dismantled when the permanent second set of restrooms are built as part of Phase II.

**A home for Building Bridges Building Boats (BBBB).** A very broad consensus supported the continued residence of BBBB, their temporary storage, and their eventual construction of a permanent structure for their use near the northeast corner of the Dockside property. BBBB would use the public access ramp. They have requested a small dock, a few moorings and a facility for a workshop, classes and storage and have said they can be flexible about these needs. BBBB's residence represents not only water-use, but community and youth involvement and ed-

educational outreach. Any permanent facilities are to be financed and built by BBBB, meeting safety standards and requirements to be established and enforced, although further evaluation might lead to the Village building and owning the structure, as a joint undertaking with BBBB and funded by them.

**Moorings buoys** particularly to accommodate boats of 30' and larger, which cannot be accommodated at the Boat Club. Moorings should be within the Dockside underwater property, and should not threaten SAVs. Permits and approvals will be needed starting with the Army Corps of Engineers and the NYS Department of Environmental Conservation. Use of moorings must include access to shore; the Boat Club might provide facilities needed. Use of moorings and shore access would be subject to a permit application and fee, related limitations, established terms, conditions, standards and requirements to be determined and enforced by the Village.

**Schedules of Uses, Activities, Activity Permits and related Fees** should be established, to the extent possible for the activities in this phase. User fees should be comparable to those assessed at similar location (e.g., Fahnestock State Park, Bear Mountain State Park). A process of application, fee assessment and Activity Permits should be established, applying terms, conditions, safety standards and requirements to be established and enforced by the Village.

**Events.** Allowing small to large scale, public or private events (some possibly ticketed) is encouraged. However, public enjoyment of the park should not be unduly affected by events with Activity Permits.

i. **Public gatherings.** Continued use of the Dockside property for public gathering is strongly encouraged, including large community events such as Community Day, Fireworks and other celebrations, concerts, films, and other performances. In addition to the temporary stage provided by the Village Highway Department, inflatable band-shells and temporary movie screens can provide necessary equipment for various events without sacrificing flexible use of the park's green space; these may be sourced by the event sponsors on a case-by-case basis as provided in the permits.

ii. **Private events** such as parties, family reunions or weddings are encouraged to be allowed subject to Activity Permit. Tents, facilities and catering to be the responsibility of Permit applicant within parameters set by the Village.

iii. **Permitting process.** Except for family and small informal gatherings, informal games, etc., all activities in the park should be subject to Activity Permitting process, terms and conditions, standards and requirements to preserve enjoyment of the park in addition to quality of life in adjacent neighborhoods. All to be established and enforced by the Village.

**Parking.** Limited parking, specifically for park use, including handicapped spaces, should be provided within the Dockside property. OPRHP strongly discourages more than 25 parking spaces on site. While most residents can walk to the park, some on-site parking will be necessary. Parking in the vicinity of Dockside is limited to Village streets that are already crowded on weekends and holidays. The proposed Dockside parking would consist of 25 spaces allocated as follows: 6 diagonal spaces on North Street, 8 spaces, including handicap spaces, inside the park near the entrance, and 11 spaces, including additional handicap spaces, in the middle of the park between the eventual food concession and BBBB. A parking meter at the entrance to the park could issue parking permits for the amount of time desired and would be one

way to generate revenue. On weekends and holidays the MTA parking lot offers ample parking for visitors to park. Possible trolley or shuttle bus could provide convenient access to and from the MTA lot and elsewhere. Potential changes or additions to the existing trolley route will need to be explored with the County. Eventually, the municipal parking lot on Fair Street will provide visitors to the Dockside property with easy pedestrian access via a future railroad underpass. While parking and access drives on the Dockside property should be made of pervious materials to reduce stormwater runoff and provide a more natural appearance, materials conducive to wheelchair use should be included.

**Pathways, Trail on north slope and Overlooks.** While extensive sidewalks throughout the park are not encouraged, carefully placed pathways to accommodate wheelchair access and enjoyment of the park and the riverside should be carefully considered; pervious materials conducive to such use should be explored. A trail following an old access road up the north slope of the rock mound should be developed initially to an intermediate overlook position, and then eventually extended up to the top. It appears that the slope of this old access road, perhaps to the mid-point, could meet ADA standards. Overlooks could be cleared by volunteers at the intermediate location and at the top. Interpretive signs could describe what visitors can see from both overlooks and give information about the geology, history and industry on the site. Star-gazing as a hobby and educational activity or inspired writing at a poet's seat could take place at the summit.

**Fishing.** Continued fishing along the shoreline of the park should be encouraged in places on both the west and northern sides.

**Camping.** Subject to Activity Permit and related limitations, established terms, conditions, standards and requirements to be determined and enforced.

**Continuous green space.** The community preference would be for continuous green space from the Main Dock and Waterfront Park to the Dockside property. There are now two private properties in that area at the entrance to the park. If these properties become available, the Village should seek funding to purchase them. In the interim, the Village might seek donation of conservation easements, including access if possible, which could benefit the property owners from a tax standpoint.

## **PHASE II.**

**Food Concession and Shelter.** A small, seasonal food concession is recommended to make available light food and beverages, including beer and wine. An overhang sufficient for shelter should be connected to it. Further evaluation is needed to determine whether it would be more beneficial for the Village to build and lease the concession structure or whether a vendor should develop it subject to a suitable proposal for its construction and management, meeting safety standards, design and other requirements to be established and enforced.

**Public Restrooms II.** Ultimately, public restrooms are proposed to be located at a central location, possibly in the same building as the Seasonal Concession. Once public restrooms are completed as part of the concession building, the temporary restrooms recommended in Phase I should be dismantled.

**A kayak storage and rental facility** has been considered, and could be developed by a vendor, subject to a viable proposal for its construction and management, meeting safety and design standards and requirements to be established and enforced. Fee arrangements for revenue to

the Village would need to be established. If a rental facility did not prove to be feasible, the Village could install a kayak rack and rent spaces.

**Lighting and electricity.** To maintain quality of life for residents in adjacent neighborhoods, general open hours for the park should be Dawn-to-Dusk, with exceptions by permit for particular occasions. Lighting within the park should be only for special occasions and should be fully shielded to minimize glare, and should be occasional such as the overhead light used to illuminate the park when large crowds exist at events such as July 4<sup>th</sup> fireworks. Any additional lighting needed by permit applicants for their uses should be brought in and set up by the applicant, again subject to safety standards and requirements to be established and enforced. Similarly, electrical supply should be available to park-goers at several locations on the property, subject to permitting, etc.

**Education/ Interpretation.** Promote education about the Dockside property, the river, the surrounding topography and geology, what can be seen in views from the park, and the Village's industrial and cultural history. Include a small kiosk with information and interpretive elements, maps and signage. Educational visits by school classes and other groups could be organized, probably by schools or an environmental organization.

**Art and Sculpture.** Consider hosting temporary installations of art and sculpture; Establish relationships with local artists and centers for art such as the Garrison Art Center.

### PHASE III.

**Pedestrian underpass** may be possible at the northeastern end of the Dockside property with access to municipal parking, the Village Garage site, and beyond to Little Stony Point, Greenway and other trails. The potential underpass might incur lower costs than an overpass and be less visually intrusive. Complying with ADA standards, it could also accommodate wheelchair access more easily, as well as bicycles. Development and engineering should carefully consider challenges and costs associated with rising sea/river level.

**Trail on south slope.** At the May 14, 2011 community workshop where a conceptual drawing showed this possibility, there was general consensus supporting access to the Dockside property up from North Street. Visitors to the park could potentially reach the top of the rock mound by way of a zigzag trail and/or steps.

The **following chart** illustrates, in broad strokes, this phased approach to development of the Dockside property. Funding and fundraising will, of course, be a significant factor in much of the development and may change when some Recommended Actions can be implemented.

### Figure 22

Phased Development at the Dockside Property			
Recommended Action	Phase I	Phase II	Phase III
Shoreline Stabilization	Engineering Study, Plan & Construct	Improve & Maintain	Maintain
Public access ramp	Part of Shoreline Stabilization	Maintain	Maintain
Toe-in-the-water access	Part of Shoreline Stabilization	Maintain	Maintain
Water Access for BBBB	Part of Shoreline Stabilization	Maintenance	Maintain
Public Restrooms I	Plan & Construct	Dismantle, if replaced	
Moorings for larger boats	Seek permits	Install	Maintain
A home for BBBB	BBBB Plans & Constructs	BBBB Maintains	BBBB Maintains
Establish Uses, Permits & Fees	Plan & Implement	Improve & Enforce	Enforce
Events	Part of Permits & Fees	Improve & Enforce	Enforce
Parking	Plan & Construct	Improve & Maintain	Maintain
Trail on north slope and Overlooks	Plan & Construct	Improve & Maintain	Maintain
Fishing	Part of Permits & Fees	Improve & Enforce	Enforce
Camping	Part of Permits & Fees	Improve & Enforce	Enforce
Continuous Green Space: Easements	Plan	If appropriate, improve	If appropriate, maintain
Lighting	Part of Permits & Fees	Plan & Construct for Specific Uses	Maintain
A kayak storage and rental facility		Vendor Plans & Constructs	Vendor Maintains
Food Concession and Shelter		Plan & Construct	Maintain
Public Restrooms II		Plan & Construct	Maintain
Education/ Interpretation		Plan & Implement	Maintain
Art and Sculpture		Plan & Implement	Maintain
Pedestrian Underpass			Plan & Construct
Trail on south slope			Plan & Construct

## 2 - Village Garage Site

### Description

The Village Garage site on Fair Street, long owned by the Village, was converted in the mid-1990s to house municipal buildings to store salt, street maintenance equipment, garbage trucks and Village vehicles. The approximately 2-acre site, occupied by a 4,450 square foot maintenance building and a large, open, two and a half-story salt shed of pole barn construction, is currently zoned Office-light industrial. Much of the gravel-paved site appears to be unused, but the vacant areas do provide dumping for snow.



The design and construction cost of the building in 1994 was approximately \$175,000; a critical element of the structure is 4 overhead doors which permits vehicle maintenance and repairs, space to handle “projects” (such as constructing benches for Main Street), and indoor parking for Police Vehicles during cold weather months in order to protect their electrical equipment. The garbage trucks are not stored in the maintenance building. The salt shed was paid for by the Putnam County Highway Department at a cost of \$60,000.



The site is bounded to the west by Metro-North land and railroad tracks, to the south by private residences, to the east by a private residence, a restaurant, and a municipal parking lot (with a capacity of 47 cars), and to the north by an access road – an overall combination of uses described in the 1987 Master Plan as “incompatible.” The Village Sewage treatment plant is on the other side of the access road, which is convenient because Cold Spring Highway Department and Water/Sewer Department staff assist each other from time to time. The 64 unit, multi-family Spring Brook project is nearby, immediately to the east of Fair Street, a road that features one-way traffic on Sundays.

The access road from Fair Street (and west to the railroad tracks) is used by Metro-North to access the train switching unit located to the north. This road must remain available to Metro-North for that function.

The leveled grounds of the site are made up of fill taken mostly from local road projects, with reports that it may also have once been used as a dump. Since it was acquired, its use has expanded within to include the climate-controlled storage of approximately 100,000 artifacts from the West Point Foundry (approximately 112 square feet in the maintenance building), an office, storage of Village Police Department vehicles, and storage of Putnam County’s equipment within the storage building.

For many years the site housed two large dumpsters that held recycled waste. The dumpsters were removed in 2010 when the village implemented a new arrangement to deliver recycled material directly to the recycling plant.

There is an agreement between the Village and the County whereby the County provides unlimited free salt to the Village in exchange for storage of the salt in the western part of the county. The Village of Nelsonville and Haldane School also have use of this free salt. The estimated annual savings to the Village is \$7,000 - \$11,000. The County stores a loader on the site, for transferring salt to trucks for spreading.

Also located on the site are a 1,000 gallon above-ground gas tank and gas pumps, which provide gasoline for Village vehicles, including the police cars; and a 250+ gallon diesel storage tank and pump which provide fuel for the fire trucks of the Cold Spring Fire Co., No. 1. The site (or any replacement site) must provide space for the fire trucks to enter, fill up and exit. The turning radius for the trucks may be a challenge for some alternative sites. The Cold Spring Fire Company’s utility trailer (for the ATV) and their pontoon boat are also stored on the site year round, outdoors. There have been situations in the past when the fire truck has been temporarily stored in the Village Garage (the fire truck must be stored in a heated space with a source of electricity; this requirement must be accommodated in the future). The Fire Company is also in-

investigating the possibility of constructing a bailout platform at the site for convenient mandatory yearly training. Lastly, the current site is used for dumping snow removed from Village streets.

The site offers stunning views of the Hudson River (photo right), and in fact is within the SASS viewshed, but is unfamiliar to many Village residents, since it is not visible from Fair Street. Several members of the community have described it as an “eyesore” when seen from the river.



The southwest corner of the site aligns with the north east corner of Dockside, prompting some discussion of possible ways of linking the two sites as part of a River-Walk running along the Hudson, north to south. This is made challenging by the relatively steep drop from the Village Garage land to Dockside, and the fact that the railroad tracks are only a few feet above the river at that point. The pair of tracks run on a bed originally built to carry four tracks, running all the way to the bridge at Little Stony Point.

This project seeks to determine whether it would be desirable to give residents and others greater access and enjoyment of the site, with the practical constraints of needing to find alternative locations for the current equipment and functions, possible ground contamination, and traffic.

## Alternatives Considered

### 1) Do Nothing

This alternative is to keep the site as is, avoiding the expense of moving or rebuilding the facilities in a different location, and retaining the benefits of the salt storage agreement with the County.

### 2) Three Phases

The site could be developed in three phases, as shown in conceptual drawings prepared by Ray Curran of GreenPlan. In the first, pedestrian, cyclist and car access could be established by modifying the current road into the Village Garage site, leading to an esplanade and Overlook Park running approximately 300 feet of the length of the site. The overall esplanade and public access road would be approximately 125 feet wide (measured from the railroad boundary) and would accommodate about eight parallel parking spaces, a walkway, benches, and some landscaping to provide shade (but taking care to avoid blocking views). The existing functions would remain on the site, but may perhaps require some adjustment (such as relocating where the street snow is dumped). Also in this phase, additional landscaping would be added to the Municipal Parking Lot.

In the second, more-developed, phase the salt shed would be replaced by a small community center on the north end of the property and the esplanade, Overlook Park and access road

would be extended. Parking would be provided for the Community Center. The salt would be relocated to the Town shed, or some other accommodation would be made (which may mean the Village would have to purchase its own salt).

In the most fully developed scenario, Phase Three, the functions of the Village Garage would be moved and the main building would be replaced by a small inn (30 rooms), with parking behind the inn, while retaining the Overlook Park and Esplanade.

Finally, to frame an estimate of the value of the land, it was determined that up to four single-family homes could be built on the site, with a rough value of \$250,000/lot, or \$1 million total. There has been no support for selling the land for residential use.

### 3) JazzReach

The Special Board received a concept for the Village Garage site from JazzReach, a not-for-profit organization that promotes jazz, that would include locating on its 2 acres a 150-seat performance hall, a 20-25 room “boutique” hotel, a fine foods market, Chef’s table and café, a small fitness center, and 10 to 15 studio, one-, and two-bedroom residences, in a structure that rose four stories. A portion of the site would be set aside for a park open to the public. No estimate is made for the number of parking spaces that would be required, but it would almost certainly be more than a hundred.

JazzReach also expressed interest in the Marathon property, or Dockside, as possible sites for a similar facility. Having a good view of the Hudson was a high priority for them.

### 4) Resident’s Proposal: Social Center

At a Special Board meeting on June 23, 2011, a Village resident said the site should continue to be owned by the Village, but “sectioned” for “multiple uses” to be “user friendly” and benefit the people of the community. Costs should be covered by user contributions, and the building designed as a “Village Social Center” to provide the following --

- 1) A permanent home for the Boy Scouts and Girl Scouts
- 2) An area for meetings and lectures, with seating for 50 – 75 people
- 3) With a well-equipped kitchen
- 4) Restrooms with multiple stalls
- 5) The building should be “green” – environmentally-friendly
- 6) Take advantage of the views
- 7) Hospitality Center for hikers, with restrooms and secure storage for equipment, washers and dryers. and hot showers.
- 8) An office for a manager or clerk
- 9) Plant the embankment behind the garage as rock garden

The proposal includes the suggestion that a general manager, or clerk of the works, be hired, possibly with one or two part time people, to handle the facility functions.

## 5) Underpass between the Village Garage and Dockside

At the June 23, 2011 Special Board meeting, Jimmy Zuehl, a resident at 23 Fair Street said to provide better connection/ integration with the rest of the Village, an underpass beneath the railroad tracks could be constructed from Dockside to the Village Garage site (Jimmy works for an architectural firm that specializes in accommodating the handicapped). Since such an underpass would be below the water table, pumps would be needed (as they are needed at the current underpass on Main Street). The underpass would be constructed with ramps at a 5% grade, instead of stairs, to permit wheelchair access.

Subsequent to the June 23 meeting, it came to light that in 2006 Metro-North sold the air rights above the tracks and the underground rights below the tracks. So construction of an underpass may be subject to working out an acceptable arrangement not just with Metro North but with the owner of the underground rights.

## 6) James Hartford (proposal for an alternate site)

“An alternate site for the maintenance structure at the Village Garage site could be on the land owned by the Village going from Benedict Road to Kemble Avenue. This lot has a dramatic grade change from the street level of Benedict Road down to grade at Kemble Avenue. I propose to dig into the bluff and build the garage into the hillside, with the top being landscaped to serve as a neighborhood park at level with Benedict Road from above, with a cascade of stairs to the southeast side to create pedestrian access, where there is none currently.

This solves several problems at once:

- locating the village garage in an otherwise underused property with limited value;
- cleans up an eyesore from both above and below;
- creates an amenity to a neighborhood that is book-ended with the back of the 9D commercial district and the de facto village dump;
- creates pedestrian access to the West Point Foundry Preserve
- provides an alternative pedestrian route to the Metro-North station - possibly encouraging less use of cars.”

The site may also accommodate a municipal composting facility, to convert leaves and other organic waste (collected by the Highway Department or delivered by residents) into soil that could be used by residents.

## 7) Farmers' Market

Village resident Lynn Miller, speaking as a vendor, proposed that the Farmers Market use the Village Garage site as their permanent home. She said that she thought it would require approximately 90 parking spaces for customers. She didn't know the size of the structure required.

Subsequent to the June 23 meeting, a conversation was held with two trustees of the Farmers Market. The trustees said that the market requires level, stable ground with space for 40

10 foot by 10 foot tents, with walking space between the tents, and space for parking. The space should have an impervious or gravel surface to facilitate walking and truck parking in inclement weather. A rough estimate of the required minimum space for 40 vendor tents plus parking is about a third to half an acre, minimum. The trustees also said that proximity to Route 9D was not required. The amount of indoor space for the winter Farmers Market was not discussed.

## Community Input

Community input regarding the uses of the Village Garage Site and neighboring properties includes the following:<sup>2</sup> (i) the 2007 Resident Survey; (ii) the 2007 Community Update and Public Forum (October 20, 2007); (iii) the 2008 Stakeholder Meeting organized by the Waterfront and Open Space Working Group of the Special Board (September 11, 2008); (iv) the 2009 Waterfront and Open Space Committee Working Group Report (August 2009); (v) the 2009 Special Board presentation to Village Board regarding Dockside (September 23, 2009); (vi) Community Forum on the Riverfront, April 24, 2010 (vii) the 2010 Community Forum (May 22, 2010); (viii) the 2011 Community Forum on Marathon, Dockside and Village Garage (May 14, 2011); and (ix) the 2011 Special Board Meeting focused on the Village Garage site (June 23, 2011).

In general, there is wide support for having a small park where the Village Garage is now located, but, for concepts that required relocation of some functions, many see the hurdle of finding an alternative location as being insurmountable. A number of ideas have been floated for moving the Village Garage, including locating some of the functions in a new development on the Marathon site (perhaps where there are EPA deed restrictions), moving the functions to the Town site on Fishkill Road or elsewhere in Nelsonville (perhaps sharing the site and costs with the Town), and relocating to a site at the end of Kemble Avenue (perhaps linked to an overlook park above it at the end of Benedict). Several residents emphasized the need for easy access to any Overlook Park at the Village Garage site, noting the importance of either an underpass or a bridge linking that site with Dockside. The concept of a bridge was strongly opposed by residents living to the south of the Village Garage site, as blocking their views.

The concept of changing the use to an inn drew some skepticism about whether it would be possible to have one large enough to be economically viable, but small enough to not be intrusive (both in terms of traffic and appearance). Uses such as a Farmer's Market, Community Center, and performance space raised issues of traffic, cost feasibility, and scale.

A complete set of comments can be found on the Village Web site.

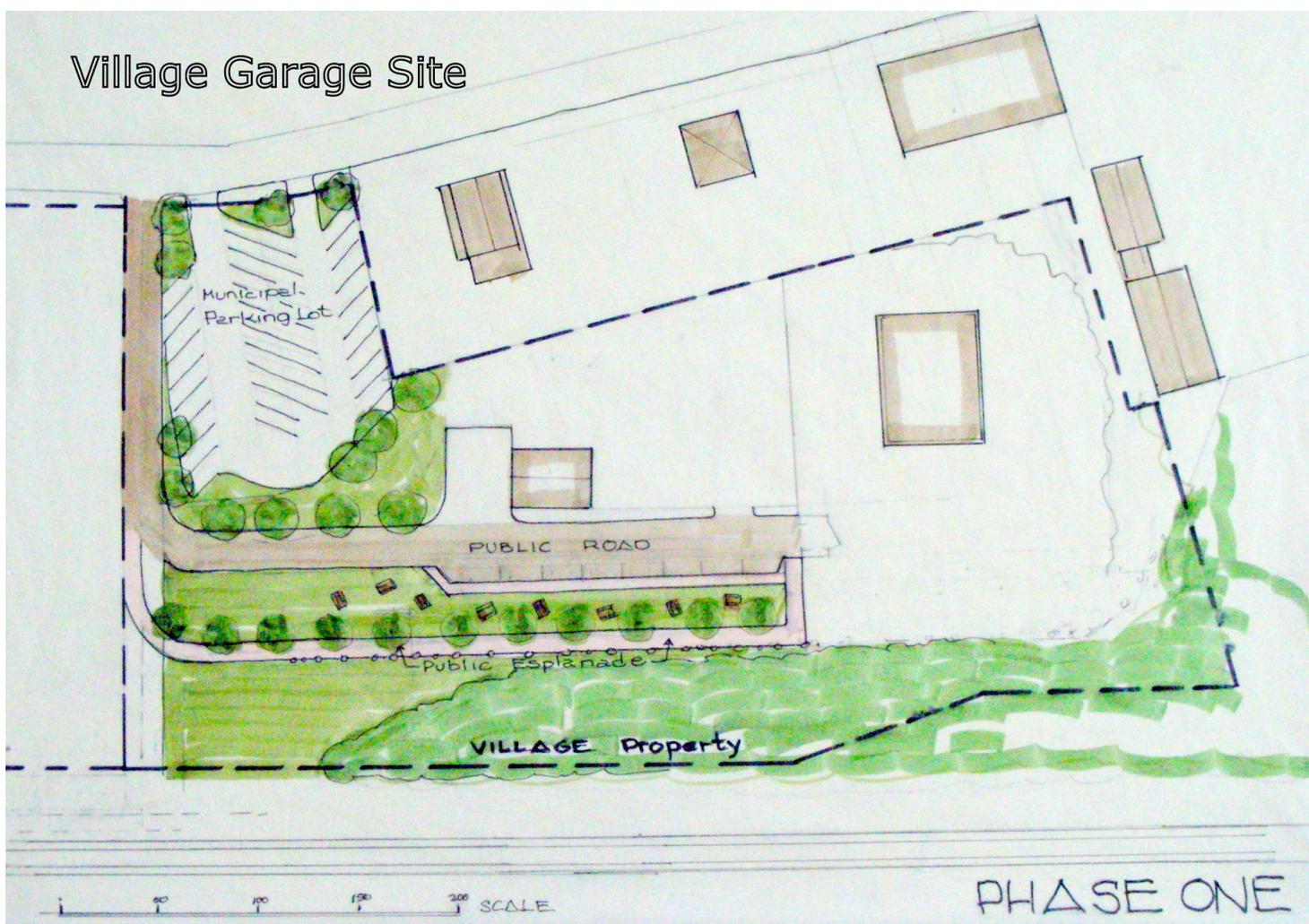
## Recommendations

### Guiding Principles:

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<sup>2</sup> Summaries of each of these sources of input are available on the Village website at [http://www.coldspringny.gov/Pages/ColdSpringNY\\_BComm/lwrp](http://www.coldspringny.gov/Pages/ColdSpringNY_BComm/lwrp).

## Village Garage Site



- 1) Converting a portion of the site to a park should be paid for to the extent possible by grants, private contributions, and fundraising; All other uses of the remainder of the site should be tax positive.
- 2) Any new use should capitalize on the natural beauty of the site
- 3) Development on the site must not block views from neighboring properties, including resident views between the current buildings
- 4) Development is contingent on testing for and remediating any environmental contamination on the site.
- 5) No structure should be taller than the current 2 1/2 story salt shed structure or maintenance building, so as not to block views FROM the river or adjacent buildings.
- 6) Landscaping viewable from the river should be a mandatory element in any development.
- 7) In development of the site as a park, amenities such as benches should be provided, and a toilet (such as a composting toilet) should be considered.
- 8) Adequate traffic flow into and out of the site should be provided.
- 9) Any insurance issues should be addressed before proceeding with the project.

Figure 23

*This drawing of the "Overlook Park" at the Village Garage site is an approximation of the recommended Overlook Park*

### **Recommended Actions:**

Build an “Overlook Park” on the western edge of the site, as shown in the drawing above, following confirmation that the site has no contamination that would make it unsafe for its proposed use. The park would be about 60 feet wide (east to west) and 300 feet long (north to south), or a little less than half an acre, set back approximately 60 feet from the western boundary of the site so as to not interfere with other uses near the railroad tracks. A fence on the mostly unusable west embankment would provide safe separation from the railroad tracks. Amenities would include benches (made by the Village, similar to the benches along Main Street), landscaping, restrooms (possibly a composting toilet), a pervious surface walkway suitable for bicycles and pedestrians, parking for about 8 cars, and lighting consistent with standards set in the Dark Sky initiative. (Current lighting of the site may need to be modified to avoid an unpleasant glare, while ensuring the safety and security of operations at the Village Garage.)

To provide easy access to the site, build a path through the southern portion of the Village Municipal Parking lot, going from Fair Street to the southwest corner of the parking lot. From there, an ADA compliant walkway could continue down the slope to the Village Garage site. Additional site access could be considered north along the railroad right of way, perhaps completing a link in a route to Little Stony Point, if this is feasible and approved by Metro North. The perimeter of the Municipal Parking lot on Fair Street would be landscaped, and the Sewage Treatment plant would be screened with plantings.

The Village Board and the Planning Board should continue to consider opportunities for further, higher value uses of the larger site, and seek ways of moving the current functions of the Village Garage to a suitable alternate location. Such a change should only be made if the cost is significantly below anticipated net revenues from a proposed new use of the site. The Trustees should also determine the feasibility of a pedestrian underpass linking the Overlook Park to Dockside, and a bicycle and pedestrian trail north to Little Stony Point.

The entire area from the intersection of Fair Street and Northern Avenue north along the western side of Fair Street (consisting of the Impellittiere Garage, a private residence, Riverview Restaurant, the Municipal Parking Lot, the Village Garage site, and the access road to the Village Garage site) can have significant potential at some point in the future when viewed together. The appropriate zoning of this area can be crucial to its potential. Therefore, it is proposed that this area, excluding the “Overlook Park,” which would be subdivided from the remaining Village Garage property and zoned for Parks and Recreation, be zoned Mixed Use. The new Mixed Use category would be defined as presented in the Future Land and Water Uses section of this LWRS.

Because the property is owned by the Village, development of the park could begin immediately. Funding could be obtained through grants and fundraising; volunteer labor could be used to perform some of the work; local groups (such as the Garden Club) could be involved in its development. A “Friends of Overlook Park” committee could be created to develop a plan, seek volunteers, apply for grants, and conduct fund raising to obtain the resources to develop the park. Grant funds could be sought from the New York Greenway, since this could become a segment of a pedestrian and bicycle route along the Hudson River.

## Comments on the Alternatives that were not Recommended:

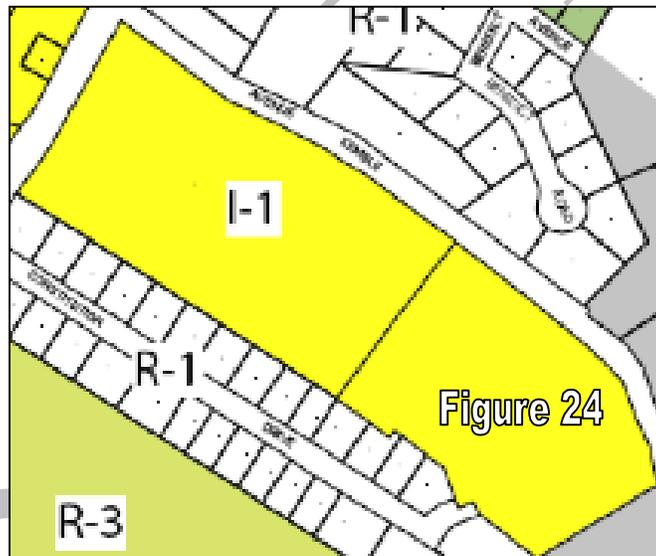
- 1) **Do Nothing.** This was rejected because the site is likely to have a higher value to the community than its current use, and that higher value should be pursued.
- 2) **Modify the site in phases** Phase One is recommended at this time, but there is merit in having a sustained effort to find better uses for the remainder of the site, along the lines presented in the Phase two and Phase three concept drawings.
- 3) **Build a performance space, JazzReach** – this concept required a 4-story structure, additional property (a portion of the Impellittiere property), and provided inadequate parking or provision for traffic flow, and was deemed unsuitable for the site. Perhaps an alternative location could be found in the Village for a performance space, which some residents have said they would like to see.
- 4) **Build a Social Center.** A “village social center” may be located at the Butterfield site, and any determination of locating such a center at the Village Garage site should be done in conjunction with an evaluation of the suitability of the Butterfield site, or other sites in the village.
- 5) **Construct an underpass from the Village Garage to Dockside.** An underpass is an idea that could be pursued independent of any recommendation on the Village Garage site, and seems to have much merit. A key issue is whether such an underpass would be acceptable to Metro-North, and the expense and funding of any construction.
- 6) **Move to Kemble Avenue.** This alternate site may be viable, but will require further study. In particular, there needs to be a determination of exactly which functions would be relocated (salt storage, refueling, maintenance, and so on) and which would be located elsewhere, and whether any functions might be added (such as municipal composting), all subject to an assessment of environmental impacts on the neighborhood.
- 7) **Farmers Market.** Locating the Farmer’s Market on the Village Garage Site may be most feasible in the summertime. Parking at the Municipal lot, and additional parking on site, should be adequate, depending on the final plans for the Overlook Park and the needs of the Market. Having a winter market on the site would depend on the feasibility of sharing in a future Social Center or similar facility. In addition, there is some question of whether the site would meet the Farmers Market other needs, such as proximity to Route 9D.

Photos: Page 109, top right, Aerial photo of Village Garage Site, courtesy of Scenic Hudson; middle left, salt shed; Page 110, view north from Village Garage Site

### 3 - Marathon

#### DESCRIPTION

The Marathon site, which is privately owned and now vacant, is zoned as Office-Light Industry (OLI). The northern portion of the site (as shown in yellow on the left side of the excerpt of the Village Zoning District Map below) is a 6.9-acre rectangular parcel and is bounded by The Boulevard, Kemble Avenue, and houses on Constitution Drive. The southern portion of the (as shown on the right side of the accompanying map) is a 4.7-acre parcel bounded by Kemble, Constitution Drive homes, and land owned by Scenic Hudson. The southern portion of the site overlooks Foundry Cove and the Hudson River contains the archaeological remains the home of Gouverneur Kemble, of the founders of the West Point Foundry.



The Marathon site has seen turbulence and has changed dramatically over the last six decades. In 1952, the U.S. Department of Defense built a battery manufacturing factory on the northern portion of the site. Around the same time, a residential subdivision called Crestview was planned for the southern portion of the site as well as what is today Constitution Drive. In 1962, the Sonotone Corporation bought the factory from the government and in 1966, Sonotone bought the southern portion of the site and constructed a parking lot and water tower. Although residences were built on Constitution Drive in the 1950s and 1960s, no residences were ever built on the southern portion of the Marathon site (indeed, that portion of the site was used for factory parking and drying and burying contaminated sediment in the 1970s). In 2003, Kearney Property, Inc. purchased the Marathon site from Gould Electronics Inc., and in 2004, the Putnam County Clerk recorded 23 deeds for lots on the southern portion of the site. In April 2011, a New York appellate court held that the owner of one of those lots, who sought to construct a single-family residence, was not entitled to a variance from the minimum lot area requirement applicable to parcels in the OLI district.

From 1952 until 1979, the battery factory discharged toxic chemicals – most notably cadmium – into the Village sewer system and extensively contaminated the Marathon site, Foundry Cove, Constitution Marsh, and the Hudson River. After the United States sued the factory owners in 1970 to halt the discharge of toxic chemicals, a partial cleanup of the site was attempted, during which the southern portion of the site was used for dewatering and ultimately entombing contaminated material dredged from Foundry Cove.

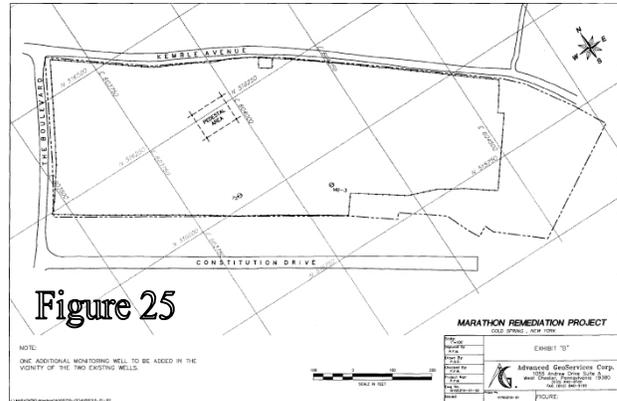
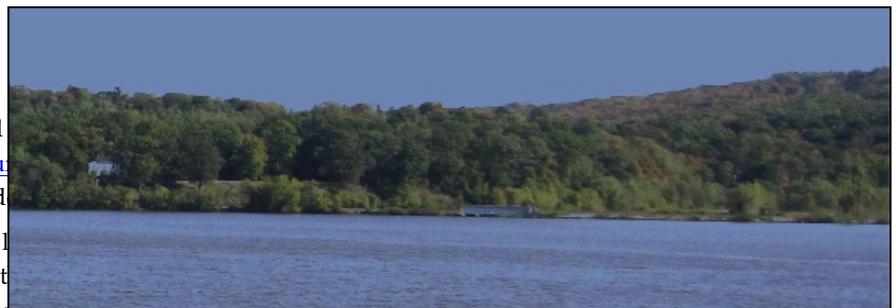


Figure 25

After this remediation effort proved inadequate, in 1981, the United States Environmental Protection Agency (EPA) declared the Marathon site a Superfund site. Additional remediation efforts occurred over the next decade and a half. In 1996, after demolishing all structures on the Marathon site and excavating and refilling the site (and excavating and removing sediment from most of Foundry Cove and the area near the Cold Spring pier), the EPA completed its Superfund remediation. Deed restrictions imposed by the EPA on the site prohibit groundwater wells anywhere on the site and excavation deeper than 15 feet within the pedestal area (where a cadmium nitrate tank had leaked into the soil), which, as shown on the map at right, is on the eastern edge of the site adjacent to Kemble Avenue. The EPA continues to test soils and monitors the area to track contamination levels. In particular, a groundwater plume of volatile organic compounds (which are probable carcinogens, according to the EPA) currently exists under the Marathon site, radiating from the location of an old solvent shed. Several attempts at remediation of the plume have failed.<sup>3</sup>

In June 2008, the EPA’s Third Five-Year Review Report on the Marathon Battery Site raised concerns about vapor intrusion at adjacent residential properties and the delineation of the groundwater plume. In July 2011, the EPA issued an Addendum to the 2008 Report that contained a map of the plume showing that it underlies much of the northern portion of the Marathon site as well as residences along Constitution Avenue. Testing wells and an indoor air mitigation system have been installed in and around one of those homes. In the Addendum, the EPA concluded that “[c]urrently, there are no exposure pathways that could result in unacceptable risks.” Nevertheless, the EPA announced that it would launch a pilot program to remediate the groundwater plume by using an air sparging technique, designed to force the volatile organic compounds from the soil through filters and reduce their concentration to an acceptable level.<sup>4</sup>

The southern portion of the Marathon site is



<sup>3</sup> The EPA’s Superfund <http://cfpub.epa.gov/supercpad/cu> site and contains links to numerous d

<sup>4</sup> According to the EPA, the TCE concentration at the periphery to 140 ppb at the site is not (and cannot be) used for drinking water, in order to address vapor intrusion issues, the EPA will seek to reduce concentrations of TCE to the federal drinking water standard, which is 5 ppb.

bounded by Kemble Ridge (depicted at right), which overlooks a popular walking trail that connects the West Point Foundry Preserve to the Cold Spring Metro-North station and Foundry Cove and includes archeological remains of the home of Gouverneur Kemble, founder of the West Point Foundry. Additionally, Kemble Ridge is visible from the Hudson River, Foundry Cove, Constitution Marsh, Constitution Island, and the Foundry Trail. Many residents and visitors enjoy the natural features of Kemble Ridge and consider its protection to be of vital importance. Indeed, Cold Spring lies within a designated New York Scenic Area of Statewide Significance (SASS),<sup>5</sup> and one of the key features of the Cold Spring SASS is Kemble Ridge. The SASS regulations state that “whether within or outside a designated SASS all proposed actions subject to review under federal and State coastal acts or a Local Waterfront Revitalization Program must be assessed to determine whether the action could affect a scenic resource and whether the action would be likely to impair the scenic beauty of the scenic resource.”<sup>6</sup> The SASS policy guidelines also provide that structures and other development should be sited back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline. The comments to the SASS guidelines note that:

For much of the length of the Hudson Highlands SASS, the Hudson River is bounded by steep, undeveloped wooded bluffs that figure prominently in views within the SASS, notably from and across the Hudson River. Siting of structures on the slopes or crests of these bluffs, on the immediate shoreline of the Hudson River or over the water surface of the Hudson River would introduce discordant elements into the landscape and impair the scenic quality of the SASS. The siting of new residential development has the potential to threaten the future visual quality of the SASS. Areas which afford views, such as ridgelines, hilltops, and hillsides overlooking the Hudson River, are most attractive to new development, but also the most vulnerable to impairment from inappropriate development. The siting of residential development, structures and other discordant features such as large buildings, highways, power lines and signs on ridgelines, hilltops and exposed hillsides and in the direct viewshed of the Hudson River would introduce discordant elements into the landscape and impair the scenic quality of the SASS.<sup>7</sup>

To the south of the Marathon site lies the 87-acre West Point Foundry Preserve, which is owned by Scenic Hudson and was recently recognized as a site of national significance through its second listing on the National Register of Historic Places. The Cold Spring Planning Board recently held a public hearing on Scenic Hudson’s plan for public access and interpretation of the Foundry Preserve, which will likely increase the amount of vehicular traffic in the area around the Marathon site. To the west of the Marathon site (on the other side of Constitution Drive) lies

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<sup>5</sup> The Cold Spring subunit of the Hudson Highlands SASS consists of “the Villages of Cold Spring and Nelsonville, located on the east bank of the Hudson River. The southern and eastern boundary of the subunit runs along the 20 foot contour from the northern extent of Foundry Cove to its intersection with Foundry Brook, a common boundary with the Constitution Marsh subunit.” *See* [http://nyswaterfronts.com/SASS/SASS1/Hudson\\_Highlands.htm#HH-25%20%20Cold%20Spring%20Subunit](http://nyswaterfronts.com/SASS/SASS1/Hudson_Highlands.htm#HH-25%20%20Cold%20Spring%20Subunit).

<sup>6</sup> *See* [http://nyswaterfronts.com/SASS/SASS1/Hudson\\_Highlands.htm#Hudson%20Highlands%20Subunits](http://nyswaterfronts.com/SASS/SASS1/Hudson_Highlands.htm#Hudson%20Highlands%20Subunits).

<sup>7</sup> *See id.*

the 14-acre Campbell Area, which joins the foundry site on the National Register as part of the West Point Foundry Archaeological Site and is also owned by Scenic Hudson. The Campbell Area is currently zoned as Multifamily Residence and consists mostly of open space, but contains the 19th-Century home of William Kemble, brother of Gouverneur Kemble and a co-founder of the West Point Foundry. Across the street from the Marathon site on the eastern side of Kemble Avenue are, from north to south, the Veterans of Foreign Wars (VFW) building (which is used regularly by the Town of Philipstown and occasionally by the Village of Cold Spring), a residence, several steep, vacant lots, a residence, and the lower portion of a parcel owned by the Village and currently used for collecting brush.

It is important that the Village plan for the Marathon site, the Foundry Preserve and the Campbell Area together so as to address potential crowding and traffic issues, because development in one area affects the others, and due to the fact that these areas are the last large tracts of open space in the Village.

As shown on the map below, access to the Marathon site is limited and difficult because the roads to Marathon are narrow with mostly single-family residences on either side. One of them, Wall Street, features a sharp turn on a steep hill, which trucks cannot navigate. Another, Kemble Avenue, was a narrow two-way street until it was converted to one-way from Rock Street to Main Street in approximately 2002. As a one-way street, Kemble Avenue now provides convenient and highly valued parking for residents living on that street, and may enhance safety, but it does restrict access. Rock Street is narrow and one-way, with residences close to the street. A private road winds through the Forge Gate complex with two-way traffic limited to residents of the development.



The first draft of the Comprehensive Plan, presented to the public in September 2010, drew fire from residents of Forge Gate and Constitution Drive and others for a proposal to link the two-way Lunn Terrace with the western end of The Boulevard. This would have run close to, and possibly be part of, a potential parking facility east of the Metro-North station. Village residents petitioned against the idea, and it was removed from the draft Comprehensive Plan recommended by the Special Board to the Village Trustees in December 2010. Another alternative access route that has been explored and rejected is what is known as the Haul Road. This route is a steep, narrow, winding road within the Foundry Preserve linking Chestnut Street with Kemble that was used for a time by the Superfund contractors for moving heavy equipment (although with limited success). As part of its planned development of the Foundry Preserve, Scenic Hudson proposed that the Haul Road be used for weekend access, as a one-way road leading to parking to be located at the south end of Kemble. Scenic Hudson withdrew the proposal because of local opposition and concerns

about the steep grade and the high cost of making the route safe for vehicles. A few other possible access routes, including a link from Benedict to Kemble, and a link from Chestnut to Kemble, have been suggested.

## PUBLIC INPUT

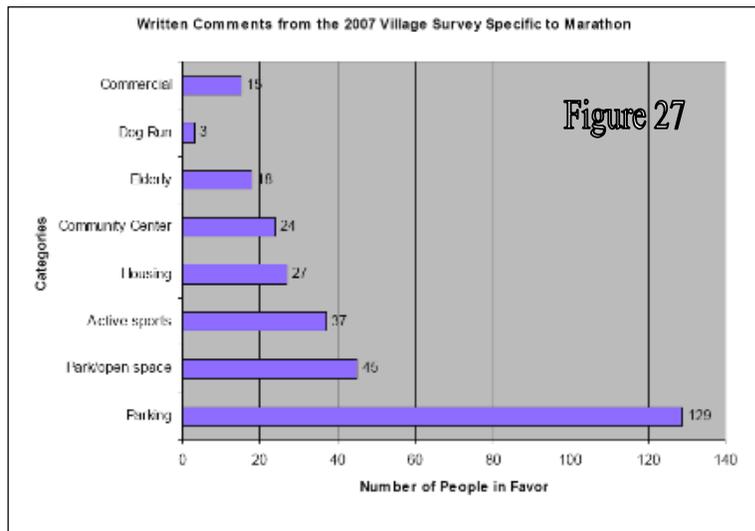
Community input regarding the Marathon site – which led directly to the recommended principles for future development set forth below – is reflected in the following:

- ✓ 2007 Resident Survey
- ✓ 2007 Community Update and Public Forum (October 20, 2007)
- ✓ 2008 Stakeholder Meeting organized by the Waterfront and Open Space Working Group of the Special Board (September 11, 2008)
- ✓ 2009 Waterfront and Open Space Committee Working Group Report (August 2009)
- ✓ 2009 Special Board presentation to Village Board regarding Marathon and Foundry Ridge (September 8, 2009)
- ✓ 2010 Forum on the Marathon Battery Site, West Point Foundry Preserve, and Campbell Property (May 8, 2010)
- ✓ 2010 Community Forum (May 22, 2010)
- ✓ Public comments regarding the September 2010 Draft of the Comprehensive Plan
- ✓ 2011 Community Forum on Marathon, Dockside and Village Garage (May 14, 2011)
- ✓ 2011 Special Board Meeting focused on the Marathon site (May 26, 2011)

Summaries of each of these sources of input are available on the Village website at [http://www.coldspringny.gov/Pages/ColdSpringNY\\_BComm/lwrp](http://www.coldspringny.gov/Pages/ColdSpringNY_BComm/lwrp).

## Alternatives

In the Office-Light Industry (OLI) District in which the Marathon site is located, the following uses are currently permitted: office buildings, light industrial uses,<sup>8</sup> storage uses, municipal buildings, buildings for the sale of agricultural and nursery products, storage, and one-family residences. The minimum lot size in the OLI District (including residences) is 40,000 square feet per lot, which is about .91 acre.<sup>9</sup>



In the survey of Village residents conducted in 2007 (see summary chart at left), in response to the question of what uses should be considered for the Marathon site, 45% of respondents said parking, 17% said active recreation (such as a swimming pool, skate park, skating rink, track and ball fields), 14% said open space (either keep the site as is or have passive uses such as a wildflower meadow or gardens), 8% said housing, 3% said community center (facilities for seniors, teens, pool, or a gym), and 13%

specified another use (such as a dog run, conference center, green center, shopping). Although in the survey and in the October 2007 public forum many residents identified public parking as a desired use for the Marathon site, in forums held in May 2010 and May 2011, there was much less support for creating parking areas at Marathon that are not secondary to uses at the site. At these latter forums, while there was support for a mix of limited residential development and some commercial development, many residents expressed strong concerns that development would cause increased traffic and disruption to the area. Also at these latter forums, residents strongly expressed their desire that development at Marathon be consistent with the Village character and reflect the historical nature of the site and the Village.

Generally, residents living close to the Marathon site prefer that no development be permitted, or that the current industrial zoning remain, to limit residences to no more than one house per acre. Some Village residents have expressed support for light industrial and commercial development, along with live/work uses, perhaps reflecting the manufacturing past. Local residents have also expressed serious concerns about contamination related to the battery factory.

<sup>8</sup> These uses may include "manufacturing, assembling, which operation, in the opinion of the Planning Board, will not create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of air pollution, electromagnetic or other disturbance, glare, harmful discharge, storage or dispersal of liquid or solid wastes in a manner or amount as to adversely affect the surrounding area." Cold Spring Zoning Law § 134-12(B)(7). All buildings and uses proposed for the OLI District require site plan review by the Planning Board. Cold Spring Zoning Law § 134-12(A).

<sup>9</sup> See Cold Spring Zoning Law § 134-12(D)(1).

There is strong opposition to relocating the village garage to the Marathon property, even on land where contamination is still an issue, due the proximity of existing residences. Community residents have expressed strong support for protecting Kemble Ridge and opposition to building houses on the ridge.

Over the last several years, the current owner of the Marathon site has presented a series of conceptual drawings to the Village Board and the Special Board.<sup>10</sup> It is important to emphasize that, while these drawings may resemble blueprints, they are not actual plans and were presented only for discussion purposes. Also, implementation of the concepts embodied in these drawings would likely require rezoning of the Marathon site, extensive further study, and Planning Board approval. The drawings depict either only residential development, only commercial development, or a mix of residential and commercial development:

- In terms of residential development, some of the drawings presented by the current owner of the Marathon site to the Village Board in 2009 show residential lots on the southern portion of the site extending to and covering Kemble Ridge, with between 14 and 23 residential lots ranging in size from .14 - .44 acre. Other drawings show, for the northern portion of the site, between 22 and 38 townhouses, two single family lots of .5 acre each, a 2.1 acre lot for future development, an 89-space parking lot and 3.1 acres to be dedicated to the Village (including a stormwater and infrastructure reservation area).
- In terms of commercial development, a drawing for the northern portion of the site presented by the current owner of the Marathon site to the Village Board in 2009 shows an industrial park that includes two two-story buildings with basements providing office, manufacturing and warehouse facilities comprising a total of 28,500 square feet of space, four one-story storage buildings comprising a total of 18,750 square feet with additional exterior storage space, a vacant lot of 2.05 acres for “future development,” and a building materials, sales and storage structure containing 16,050 square feet. Each building has its own parking area.
- In terms of mixed-used development, the current owner of the Marathon site presented drawings to the Special Board in May 2011 showing an acre-sized park in the northeast corner, between 18 and 21 single-family residences along the western and southern edges of the entire site, between 16 and 24 live-work spaces arranged in three rows of eight each running east to west between the southern single-family residences and a large parking lot, and large commercial/industrial buildings to the north of the parking lot and to the south of the park. The commercial/industrial buildings could be occupied by craftsmen and artisans. The drawings also show a roadway going from the Boulevard at the northwest corner of the site to Kemble Avenue at the southeast corner of the site. Community residents expressed some support for these concepts, but also voiced serious concerns about crowding and traffic impacts. The current owner of the Marathon site stated at the May 26, 2011 Special Board meeting that current zoning would allow a 95,000 square foot footprint on the southern portion of the site, which could comprise approximately

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<sup>10</sup> These drawings are available on the Village website at [http://www.coldspringny.gov/pages/ColdSpringNY\\_BComm/2011\\_community\\_workshops/2011\\_community\\_workshops](http://www.coldspringny.gov/pages/ColdSpringNY_BComm/2011_community_workshops/2011_community_workshops).

250,000 square feet of self-storage space. He added that the Marathon site as a whole could contain approximately 300,000 square feet of storage, but it is unclear whether the market could support such an amount of storage. He also said that he does not wish to build single-family houses on one-acre lots, which would be permitted under current zoning.

At the May 2011 public forum on Marathon (which preceded the presentation by the current owner of the Marathon site to the Special Board later that month), the Special Board presented for discussion purposes a conceptual rendering it had commissioned that showed an acre-sized park in the northeast corner of the site, a large parking lot, five large commercial structures abutting the park, 12 single-family homes (including several near the ridge with a narrow conservation easement), a potential site for the Village garage, and five lots left open in the plume area. Although some forum attendees supported the concept of limited commercial and residential development, others were opposed to any development, and most attendees were strongly opposed to development on Kemble Ridge and to relocation of the Village Garage to Marathon.

In June 2011, Village resident Peter Henderson submitted a conceptual drawing to the Special Board that included two single-acre light industrial/commercial lots at the northern end of the property and ten single-family lots, each 7500 square feet, either all on Kemble in a row or on a loop road towards the southern end of property. In Mr. Henderson's drawing, Kemble Ridge was left as open space.

Also in June 2011, Village resident James Hartford submitted a conceptual drawing to the Special Board showing the Village Garage maintenance building on the parcel of Village property on the eastern side of the southern end of Kemble Avenue adjacent to the Foundry, with a small park on top of the ridge at the end of Benedict Road and stairs leading to/from Benedict Road and Kemble Avenue. In addition to the opposition from local residents to relocating Village Garage functions to a residential neighborhood, it is unclear whether the Village-owned parcel could accommodate the functions and the vehicles that would need to access the site.

## RECOMMENDED PRINCIPLES FOR FUTURE DEVELOPMENT

The following principles – based on public comments received over the last four years and sound planning practice – should guide land use decisions at Marathon, and should provide a framework for a comprehensive, rather than a piecemeal, approach:

- *Development should not cause congestion or overcrowding.* One of the most commonly expressed concerns about future development at Marathon is that it will create traffic problems that would diminish the quality of life of current residents of the area (which includes Forge Gate, Constitution Drive, Rock Street, Kemble Avenue, and The Boulevard), many of whom have small children. Additionally, residents have expressed concerns that during any construction, trucks may create a nuisance. Accordingly, prior to any development, an independent traffic study with quantitative and qualitative elements should be performed to assess the impact of the planned development. An independent traffic study should also be performed to investigate alternative access routes to the area, and should address issues related to car, truck, pedestrian and bicycle access, as well as parking. The Village should also review performance standards to minimize traffic and noise disturbance, noxious fumes, and other nuisances, including limiting truck access by route, size and time. Measures that would promote walkability – such as adding sidewalks and creating attractive streetscapes with buildings close to the street – should be encouraged and explored. Mitigation measures to reduce the number of cars entering and exiting the Marathon site could also include limiting the number of residential units, or constructing residential units that would have occupants who would be less likely to rely heavily on cars, such as live-work or work-live units.<sup>11</sup>
- *Development should be tax-positive.* Many Village residents have expressed concerns that large-scale residential development at Marathon would increase the financial burden on the Haldane School District and the Village, resulting in increased property taxes. To address these concerns, the Village can employ a widely used planning tool known as fiscal impact analysis to evaluate the tax impact of new development by comparing costs and revenues from new development. Fiscal impact analysis recognizes that businesses and residences generate additional revenue but also create new costs via new roads, sewers, police and fire protection, and more children in schools (requiring teachers and even new school buildings). If new revenues exceed new costs, the fiscal impact is said to be positive. On the other hand, if new costs exceed new revenues, the local government must raise taxes to meet new service demands or reduce the quantity or quality of existing services. Studies have shown that commercial development is generally tax positive, while residential development is generally tax negative.<sup>12</sup> To ensure that develop-

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<sup>11</sup> In general, work activities in live/work units are those that are compatible with residential occupancies, such as offices, but not manufacturing, whereas work activities in work/live units are the dominant pursuit of the occupants, and may include moderate and low-hazard assembly, fabricating, manufacturing, repair or processing.

<sup>12</sup> According to available data, residences in Philipstown cost the municipality approximately \$1.20 for every tax dollar generated, while commercial development costs the municipality 30 cents for every tax dollar it generates, and open space generates about 20 cents on the dollar. See “Pointers for Economic Development,” created in 2002 for the Philipstown Comprehensive Plan Special Board by consultant Phillips Preiss Shapiro, at page 33, available at <http://philipstown.com/shapiroReport.pdf>.

ment at Marathon is tax positive, any application for development at this site should be accompanied by a fiscal impact analysis (perhaps as part of the State Environmental Quality Review (SEQR) process) to ascertain the potential fiscal impacts associated with all increased service demands generated by development. Using generally accepted methodology, the fiscal impact analysis would measure the cost and revenue implications of the project for the Cold Spring, Philipstown, and Haldane taxing districts. The analysis should include a no-action alternative to the proposal and should explore mitigation measures that minimize any adverse fiscal impact, both immediate and long-term, of the development. The analysis should also consider the form of ownership for proposed residential units at Marathon (fee simple or condominium ownership) and evaluate the impacts resulting from the potential unequal tax burden on fee simple owners created by condominium ownership, and fee simple ownership for all proposed residential units should be considered as a mitigation measure. The current owner of the Marathon site has stated that the conceptual plans he presented in May 2011, embodying a “village with the village,” would balance residential and commercial uses to generate positive rateables, and would also improve property values in the surrounding areas. Another important aspect of the fiscal impact analysis would be to evaluate the impact of development on infrastructure, including water and sewerage, to ensure that development will not exceed the Village’s carrying capacity. The current owner of the Marathon site has stated that the Village sewer system in the Marathon area (built in the 1970s) has the capacity to handle the conceptual plans he presented in May 2011, but this would need to be confirmed.

- *Development should provide for a mix of uses.* Although some residents have stated that they do not want to see anything built on Marathon, others have said that they want controlled and reasonable development that would promote the economic health of the Village while retaining Village character and minimizing the tax burden. The latter group, as well as the current owner of the Marathon site, support a mix of uses that could include commercial, residential and public open space. As shown in the photograph at right, many buildings on Main Street currently have a mixed-use character, with commercial space on the ground floor and residences on upper floors. Each of the potential uses for Marathon will be discussed in turn:



- *Residential units.* Although many residents have expressed concerns about residential development, there has been support for live-work units, which have been defined as “a single unit (e.g., studio, loft, or one bedroom) consisting of both a commercial/office and a residential component that is occupied by the same resident.”<sup>13</sup> Live-work units encourage less reliance on cars,

<sup>13</sup> See Sunnyvale Municipal Code, Section 19.26.230 (“Live/work units”), available at <http://qcode.us/codes/sunnyvale/>.

and may be more suitable for adults without children, resulting in a tax-positive outcome. Live/work unit regulations can carry numerous restrictions, for example that “the live/work unit shall be the primary dwelling of the occupant,” that “the residential and the commercial space must be occupied by the same tenant, and no portion of the live/work unit may be rented or sold separately,” and that “the commercial use shall not generate vehicular traffic, in excess of normal residential traffic, which will interfere with residential traffic circulation or shall not cause more than three vehicles including vehicles used by customers, vendors, or delivery services to visit the premises per day.”<sup>14</sup> Residents have expressed support for live/work units as potentially conducive to artists and artisans and home occupations. Some residents have suggested that more people working at home would increase the number of people in the Village during the day, which could increase the amount of money residents spend in the Village and reduce the use of cars. It could also contribute to a safer neighborhood as people working at home keep an eye on the street. The current owner of the Marathon site has stated that the conceptual plans he presented in May 2011 embody more of an urban concept than a suburban concept, which is in keeping with the Village character, and that live-work spaces (with the second floor as a loft) would be more suitable for adults than for families, and that he does not believe that single-family homes on one-acre lots are consistent with the Village character. Also, because Village residents have expressed a desire to have more senior housing in the Village, it would be advisable to explore the possibility of including in any residential development at Marathon some accessible units.

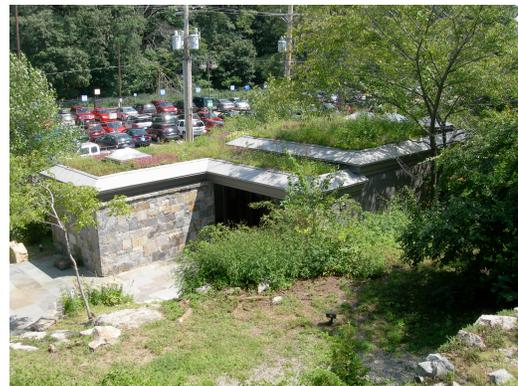
- *Commercial development.* There has also been some support for commercial development, to encourage small businesses that would be tax positive, could provide jobs to Village residents, and would have low impact on the community in terms of traffic and noise. In particular, there has been support for the possibility of attracting scalable technology, research, design, communications, “clean” light industrial, or “green” companies that could employ Village residents, so long as they are low-profile. Such companies could be engaged in pursuits as varied as jewelry-making, glassblowing, or the manufacture of medical devices such as prosthetics. Although there appears to be demand for non-retail commercial space within the Village, there is not much support (or apparent demand) for additional retail space, although craft/repair shops could have an ancillary retail component. Many residents have expressed the view that non-retail commercial space should complement Main Street, not compete with it, and provide opportunities for Village/local entrepreneurs and workers. The current owner of the Marathon site has stated that he would consider commercial development that could attract artisans.
- *Public open space.* Many residents strongly support the reservation of a portion of the Marathon site as public open space. Indeed, the drawings commissioned by the Special Board and the drawings presented by the current owner of the Marathon site in May 2011 include a small park at the northeast corner of the site, as a “gateway” or

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<sup>14</sup> See *id.*

Village green. Although some residents have advocated other community amenities, such as a theater, galleries, a community pool, playing fields, and dog run, concerns have been raised about the impact of these uses on neighboring residences in terms of traffic and noise.

- *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, and an archaeological survey should be required during the SEQR review of any application for development proposed in this area. One significant planning technique that could be used to conserve scenic and archaeological resources while allowing for development is 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 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.
- *Development should proceed only after the satisfactory remediation of environmental contamination.* Residents are quite concerned about issues related to the VOC plume on existing residences, and the impact of the plume on potential residents or occupants of the site. In July 2011, the EPA announced a pilot program to remediate the VOCs using air sparging and soil vapor extraction and issued an addendum to the Third Five-Year Review Report on the Marathon Battery site. The EPA expects the pilot program to begin before the end of 2011, although it is not known when the program will be complete. After the EPA-directed remediation project is completed, a thorough study and remediation of contaminants at the site should be performed to assess future risks before development begins. Future occupants of the Marathon site should be made aware of the past contamination issues, and structures should contain active indoor air mitigation systems.
- *Development should be green.* Many Village residents are quite concerned about protecting the natural environment and would like to see greater use of green building and landscaping techniques in the Village. The Marathon site could serve as a model for state-of-the-art energy-efficient design elements, uses of alternative energy sources such as solar and geothermal, and innovative landscaping techniques to control stormwater. The Marathon site is downhill from a large imperviously surfaced area at the Village's commercial plaza, which causes serious stormwater issues after heavy rains. To control stormwater, development at Marathon should utilize green infrastructure techniques as indicated in the



New York State Stormwater Management Design Manual (2010): green roofs (as shown in the photo on page 130 of the Chancery Building at the Chapel of Our Lady Restoration), reducing impervious surfaces, using soil and vegetation within a shallow depression to manage and treat small volumes of rainwater, bioretention areas, vegetated swales, porous pavement, and rain barrels or cisterns. New development should also meet ENERGY STAR, LEED (Leadership in Energy and Environmental Design) or other similar standards. Additionally, new development should use low-wattage, fully shielded lighting to improve energy conservation, visibility and public safety, while minimizing light pollution. The current owner of the Marathon site has stated that he is interested in obtaining LEED certification for structures at Marathon and that rain gardens could be used to manage stormwater at the site.

- *Development should employ design elements consistent with the Village character.* Residents have expressed their desire that buildings constructed at the Marathon site, which is located within the Local Historic District, be consistent with the historical character of the Village, as depicted in the photograph at right of a Main Street entryway. Site layout should give prominence to pedestrians, rather than being oriented towards the automobile, with buildings located close to the street and to each other, and parking located behind buildings. Design standards should be adopted to ensure that new development in this area incorporates the features of traditional village neighborhoods. The current owner of the Marathon site has stated that, in view of the Village’s industrial past, he would explore the idea of an industrial “look” to development at Marathon.



- *Development should maximize Kemble Avenue south of the Boulevard as a pathway.* Residents have expressed their desire to preserve the “small-town” streetscape of Kemble Avenue, and to create an attractive walking and bicycle path from Main Street down to the Foundry Preserve, with places to stop and sit. Such a path, which would include sidewalks and shade trees (as shown in the photo of Main Street above) and possibly benches, could tie together Main Street and the Foundry and would remind people of the industrial heritage of the Village. Additionally, if the lots on the eastern side of Kemble are developed (or, in the case of the VFW building, redeveloped), both sides of Kemble should have similar characteristics, in terms of setbacks and building height.

- *Parking should be secondary to main uses and hidden from streets.* Many residents wish to avoid the unsightliness and pollution of parking lots by ensuring that parking areas are not visible from streets. Generally, only sufficient parking

Working Draft - Subject to Revision and Approval by Village and NAL



that is necessary for future uses should be created, and such areas should be hidden from view (as shown in the photo at right of the parking area behind the waterfront condominiums) and have pervious surfaces. Although in the past some Village residents have considered a parking lot as a desirable use for a portion of the Marathon site, the site has been rejected by Metro-North as a feasible location for commuter parking (because it is too far from the train station and such parking would not be visible from the platform) and is not realistic for Main Street parking (because patrons of Main Street businesses would be unlikely to park several blocks away).<sup>15</sup> Additionally, a parking study conducted by the Special Board in 2008 concluded that there is ample parking in the Village such that there is no “parking problem” but rather a “convenience problem” on Main Street at peak times such as weekend afternoons (which can be addressed by measures such as charging for on-street parking rather than building more parking lots). Moreover, building a parking lot at Marathon could create more traffic in the surrounding area, a situation that many residents wish to avoid. Notwithstanding these issues, a small winter parking area could be set aside to replace the current winter parking strip along Kemble. The current owner of the Marathon site has stated that he is in favor of siting parking areas behind buildings.

Photos: Page 120 view of Kemble Ridge from Foundry Cove; Page 128, shops on Main Street; Page 130, green-roofed Chancery Building, new annex to Cold Spring’s Chapel Restoration; Page 131, Main Street entryway; Page 132, cars parked behind the Cold Spring Landing condominiums.

## 4- Butterfield

[To be updated]

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<sup>15</sup> The planning firm Phillips Preiss & Shapiro has expressed strong skepticism that parking at Marathon could alleviate the perceived parking problem in Cold Spring:

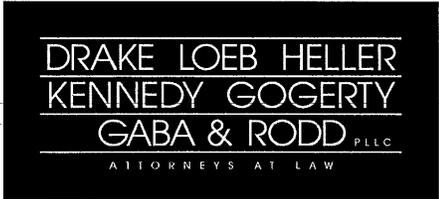
Remote parking (at, for instance, the Marathon Battery site) is a mirage. Remote parking is most successful in places like Disneyland where there is a compelling reason to forego the convenience of the car. Instead, *merchants should be induced to park on the periphery of downtown*. With two employees per store, and since they arrive before shoppers, Main Street merchants otherwise preempt something like 60 of the most convenient parking spaces. *Parking space regulations should be carefully calibrated mindful of the need to assure parking turnover, yet allow long enough parking for browsing and dining*. This would argue for something like three-hour parking.

“Pointers for Economic Development,” at p. 37, available at <http://philipstown.com/shapiroReport.pdf>.

## 5 – Drake Loeb Correspondence on Village Boundary

DRAFT

Working Draft - Subject to Revision and Approval by Village and State and Federal Agencies - NOT FINAL



# Memo

**To:** CPSB/LWRP  
**From:** SJG  
**Date:** January 4, 2013  
**Re:** Village Waterfront Boundary - Our File #65003

**QUESTION**

WHAT IS THE LOCATION OF THE VILLAGE OF COLD SPRING'S BOUNDARY ALONG THE HUDSON RIVER?

**SHORT ANSWER**

The Village's boundary along the Hudson River extends to the present low water mark of the east bank of the river, not the low water mark as it existed in 1846 when the Village's Incorporation Papers were approved. The Village's boundary encompasses those lands that were added-in along the river front over the years.

**APPLICABLE LAW**

Setting the boundaries of a municipality is a legislative act. Municipal boundaries are established by the document creating the political subdivision at issue (e.g., by a charter, articles of incorporation, statute, etc.).

Most frequently, the location of municipal boundary lines is set by a description referencing monuments or other fixed land marks.<sup>1</sup> In such cases, the municipal boundary is permanently fixed and cannot be relocated without a further legislative act.<sup>2</sup>

It is sometimes the case that a municipal boundary is described as the bank of a river or a stream or the sea shore. In such cases, the municipal boundary may either (1) actually *be the bank* of the river or the stream or the sea shore or (2) may be a fixed location which happens to correspond to the location of the bank or shore of the body of water as it existed at the time when the municipality was created. See 62 C.J.S. §55 (2012).

<sup>1</sup> Sometimes municipal charters simply reference certain lands as marking a boundary but, by reviewing the descriptions in the deeds to the lands referenced, fixed land marks, such as surveyors' pins, can be ascertained.

<sup>2</sup> For example, a municipal boundary may be changed through annexation proceedings under the General Municipal Law.

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When a municipal boundary is a water body, the boundary line may move as the bank or shore line changes over time. Such municipal boundaries are described as "variable" (as opposed to "fixed") and are subject to the rules of accretion, erosion and avulsion. Lawkins v. City of New York, 272 A.D. 920, 71 N.Y.S.2d 112 (2d Dept. 1947) aff'd 297 N.Y. 747, 77 N.E.2d 516 (1948); see Board of Ed. of Union Free School Dist. No. 11, Town of Hempstead, Nassau County v. Nyquist, 28 A.D.2d 936, 281 N.Y.S.2d 486 (3d Dept. 1967).

"Accretion" is the increase of water-front land by the gradual deposit by water of solid material, whether mud, sand, or sediment, so as to cause that to become dry land which was before covered by water. "Erosion" is the gradual decrease or wearing away of water-front land by water, so as to cause that which was dry land which to be covered by water.

"Avulsion," on the other hand, is a sudden, substantial change in the course or bed of a water body, such as where a river changes course by cutting through a bend during a flood. Avulsion may also be caused by man-made improvements, such as excavation and filling.

Accretion and erosion result in shifts in municipal water boundaries. Avulsion, as a general rule, does not.

For example, in State of Nebraska v. State of Iowa, 143 U.S. 359, 12 S.Ct. 396, 36 L.Ed. 186 (1892), the boundary between Nebraska and Iowa was the middle of the Missouri River, and over the years there were significant changes in the course of the river such that it flowed in bed very different from its location at the time when the border between the two states was originally set. The two states brought a lawsuit to settle the dispute over whether their state boundary line had been fixed in the original location of the Missouri River or had moved with the river. The U.S. Supreme Court held that, in regard to changes to the river's location resulting from accretion and erosion, the boundary line between the states had shifted [stating: "The boundary, therefore, between Iowa and Nebraska is a varying line, so far as affected by these changes of diminution and accretion in the mere washing of the waters of the stream."]. However, in regard to changes produced by avulsion, such as a location where the river had originally pursued a course in the nature of an ox-bow and suddenly cut through the neck of the bow and made for itself a new channel, the boundary line had not changed, and had become a fixed and unvarying boundary in the location of the former center of the river bed.

Thus, the rule of law is that, when a municipal boundary is a water body, the location of the boundary moves with the water body if the changes to the water body's location are slow, gradual, "natural" changes. However, a sudden, extreme change to the location of the water body will not result in a change to the location of the municipal boundary but, rather, will cause the municipal boundary to become fixed in the spot corresponding to the location of the body of water at the time of the sudden, extreme change.

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The determination of whether a municipal charter listing a water body as a municipal boundary has created a variable boundary dependent on the present location of the water body or has established a "fixed" boundary corresponding to a set location along the water body as it existed at the time the charter was adopted depends on the language used in the charter. Unless the document creating the municipality contains language evidencing that the Legislature intended that the municipal boundary along the water shall remain precisely as it existed at the time of the granting of the charter, the water boundary will be deemed to be variable (i.e., subject to movement with the body of water).<sup>3</sup>

### **THE VILLAGE'S BOUNDARY ALONG THE HUDSON RIVER**

The Village of Cold Spring's 1846 Incorporation Papers describe the western boundary of the Village as being:

"bounded by a line beginning on the east bank of the Hudson River at the northwest corner of General George P. Morris's land; thence along the east bank of said river, at low water mark to the southwest corner of General George P. Morris's land, thence along the east bank of said river, at low water mark to the southwest corner of the West Point Foundry farm,..."

This description of the Village's boundary along the Hudson River does not contain language evidencing that the Legislature intended that the boundary should be a fixed location remaining precisely where it existed in 1846. If a fixed and stationary boundary were intended, a metes and bounds description or other reference to fixed land marks along the river bank would have been provided. Therefore, the Village's boundary extends to present low water mark of the east bank of the Hudson River.

I understand that over the years some lands along the Village's western boundary have been extended into the river by means other than accretion. Certainly, the act of increasing the size of waterfront property by adding fill to the waterfront may raise a number of legal issues for the property owner. However, even an artificial increase in the size of the waterfront property may result in expansion of a variable municipal water boundary. See 62 C.J.S. §55 (2012).

The fill used to create additional lands along the river, such as for the rail road line, has been in place for many years. I am not aware of any legal challenge to it and it seems to have been legitimized over time. I don't believe that the doctrine of avulsion would be deemed to apply to it and, therefore, it is my opinion that such filling has resulted in extension of the Village's boundary to encompass the dry land created. Such additional lands are the present low water mark of east bank of the Hudson River within the meaning of the Village's incorporation papers.

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<sup>3</sup>The preference for construing municipal charters as setting variable water boundaries arises from the presumption that a municipal waterfront is desirable and its continuation is intended. In theory, a fixed boundary along a water body could result in loss of waterfront property within a municipality due to changes in shore line from accretion.

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**REGULATION OF LAND USE ON PROPERTY LOCATED ALONG  
THE VILLAGE'S HUDSON RIVER BOUNDARY**

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With respect to all lands within the Village's boundaries, including the lands built up along the Hudson River over the years, the Village may enact land use regulations under its power to adopt zoning regulations. However, adopting land use regulations *for the Hudson River and the land beneath it* along the Village's river boundary is an entirely different matter.

New York State has sovereign authority over the navigable waters of the State, including the Hudson River and the land under it. See Navigation Law § 2(4). The state retains jurisdiction over navigable waters and a municipality's zoning authority does not extend to those waters or the land beneath them absent some specific grant of authority from the State.

Currently, the Village of Cold Spring does not have any grant of authority from the State to enact regulations for the Hudson River or lands under the water along the Village's river border. For example, the Village is not within any of the subdivisions under Navigation Law §46-a that allow local legislative bodies to regulate the manner of construction and location of boathouses, moorings and docks on the water.

In order to obtain a grant of authority from the State to enact regulations pertaining to its waterfront (i.e., to the river or lands under the water) the Village may enact a Comprehensive Harbor Management Plan under Article 42, §922 of the Executive Law. Additionally, if so advised, the Village may become a member of the Greenway Compact, and thereby obtain authorization to regulate structures such as boathouses and docks in the Hudson River.

- SJG

As stated in my prior memo, it seems clear that the Village's boundary along the Hudson River is not a "fixed" or "stationary" boundary but, rather is "variable," and dependent upon the location of the east bank of the Hudson River. As a result, I believe that the Village's water boundary is also dependent upon the location of the east bank of the Hudson River. Likewise, I believe that the Local Waterfront Revitalization Area's water boundary under a Harbor Management Plan would be dependent upon the location of the east bank of the Hudson River.

#### **QUESTION #2**

As noted above, for the purposes of the LWRP, the baseline for calculating the Local Waterfront Revitalization Area's water boundary under a Harbor Management Plan is the "shoreline" (i.e., the current low water along the eastern bank of the Hudson River). If a gigantic storm resulted in a large portion of Dockside being washed away, would the Village's boundary be changed?

Answer: It depends on how much land was suddenly washed away.

A sudden, extreme change to the location of the water body will not result in a change to the location of the municipal boundary but, rather, will cause the municipal boundary to become fixed in the spot corresponding to the location of the body of water at the time of the sudden, extreme change. So, if there was a hurricane or storm surge that caused a very substantial part of the waterfront to wash away, the Village's (and the Town and County's) boundary might become a fixed boundary, at least in that area.

As a practical matter, I expect that in the event of a large loss of through a storm event or flooding, the State of New York and U.S. Army Corps of Engineers would authorize filling or "reclamation" work along the waterfront to restore the river bank to its previous location. Such restoration of the river bank would likewise restore the Village's boundary (both land and water) to its previous location. Assuming that such a project were undertaken within a reasonable amount of time after the loss of the land I doubt that anyone would even raise the issue of a potential change in the location of Village's boundaries.

#### **QUESTION #3**

If Metro North, in building up the causeway bed of the railway tracks, added fill on the west side of the bed, would the Village's boundary change accordingly?

Answer: It depends on whether the causeway is considered the eastern bank of the Hudson River.

# Memo

**To:** CPSB/LWRPB  
**From:** SJG  
**Date:** March 11, 2013  
**Re:** Follow Up Questions Memo On Village Waterfront Boundary.  
Our File #65003

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Our memo of January 4, 2013, concluded that the Village's boundary along the Hudson River extends to the present low water mark of the east bank of the river, not the low water mark as it existed in 1846 when the Village's Incorporation Papers were approved, and that the Village's boundary encompasses those lands that were added-in along the river front over the years. The CPSB/LWRPB has submitted some follow-up questions as listed below. This memo attempts to address those follow-up questions.

## QUESTION #1

For the purposes of the LWRP, the baseline for calculating the Local Waterfront Revitalization Area's water boundary under a Harbor Management Plan is the "shoreline" (i.e., the current low water along the eastern bank of the Hudson River). Assuming that the sea level will gradually rise over the coming years, and consequently the low water mark will gradually creep up higher on the eastern bank of the Hudson River, will this result in a concomitant change in Village's water boundary? (This scenario seems to be a case neither of accretion, erosion or avulsion, but something more akin to land loss through "submersion")

Answer: YES.

Submersion (or "submergence" as the doctrine is sometimes called) is the gradual disappearance of soil under the water and the formation of a more or less navigable body of water over it. "Submergence" impacts boundary lines of property in same way as erosion does.

As stated in my prior memo, it seems clear that the Village's boundary along the Hudson River is not a "fixed" or "stationary" boundary but, rather is "variable," and dependent upon the location of the east bank of the Hudson River. As a result, I believe that the Village's water boundary is also dependent upon the location of the east bank of the Hudson River. Likewise, I believe that the Local Waterfront Revitalization Area's water boundary under a Harbor Management Plan would be dependent upon the location of the east bank of the Hudson River.

#### **QUESTION #2**

As noted above, for the purposes of the LWRP, the baseline for calculating the Local Waterfront Revitalization Area's water boundary under a Harbor Management Plan is the "shoreline" (i.e., the current low water along the eastern bank of the Hudson River). If a gigantic storm resulted in a large portion of Dockside being washed away, would the Village's boundary be changed?

Answer: It depends on how much land was suddenly washed away.

A sudden, extreme change to the location of the water body will not result in a change to the location of the municipal boundary but, rather, will cause the municipal boundary to become fixed in the spot corresponding to the location of the body of water at the time of the sudden, extreme change. So, if there was a hurricane or storm surge that caused a very substantial part of the waterfront to wash away, the Village's (and the Town and County's) boundary might become a fixed boundary, at least in that area.

As a practical matter, I expect that in the event of a large loss of through a storm event or flooding, the State of New York and U.S. Army Corps of Engineers would authorize filling or "reclamation" work along the waterfront to restore the river bank to its previous location. Such restoration of the river bank would likewise restore the Village's boundary (both land and water) to its previous location. Assuming that such a project were undertaken within a reasonable amount of time after the loss of the land I doubt that anyone would even raise the issue of a potential change in the location of Village's boundaries.

#### **QUESTION #3**

If Metro North, in building up the causeway bed of the railway tracks, added fill on the west side of the bed, would the Village's boundary change accordingly?

Answer: It depends on whether the causeway is considered the eastern bank of the Hudson River.

As I indicated in my prior memo, where land along the river bank is built out into the river (i.e., where it is filled in), the location of the river bank shifts. But, portions of the railroad track causeway in Cold Spring are not like an expansion of the river bank but, rather are more like an earthen man-made bridge. Construction of a structure (as opposed to formation of a feature of the land) would not result in the Village boundary changing. An argument could be made either way for the railroad causeway. Ultimately, this is an issue only a court could conclusively determine.

#### **QUESTION #4**

The Village owns underwater land west of the boat club, in an area that seems to be outside the Village. What authority does the Village exercise over this underwater property?

Answer: Assuming that the underwater land is outside of the Village's boundaries, it has the same status as any other property that the Village owns outside of its boundaries, for example, like the reservoirs in the Town of Philipstown. As the owner, the Village may decide what can and cannot be done on the property.

There is one caveat. Riparian owners upon the Hudson River are affected by certain civil law the doctrines limiting their rights. One of these is the so-called "public trust doctrine,"<sup>1</sup> under which there is deemed to be an easement owned by the public for purposes of travel on the Hudson River. The owner of a portion of the river bed cannot use his property in such a way so as to unreasonably and substantially limit navigation<sup>2</sup>. So, unlike the reservoir property in Philipstown, the Village is somewhat limited in regard to what it can do with its underwater lands and in the extent to which it can exclude others from them.

#### **QUESTION #5**

With respect to the underwater lands immediately to the south of the Village's Boat Club underwater lands, what rights does the Village have with respect to use or potential fill?

Answer: As the owner of underwater lands, the Village may seek to "reclaim" them (i.e., fill them in so that they are no longer submerged). Such action would require permits from the U.S. Army Corps of Engineers and the NYS DEC.

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<sup>1</sup> The public trust doctrine is based on the legal principle that navigable waterways belong to the sovereign (or "the people") and certain rights are inalienable despite conveyances purporting to transfer ownership to others.

<sup>2</sup> I would also note that the public trust doctrine imposes some obligation on riparian owners to permit public access to the River or at least not unreasonably obstruct it.

**QUESTION #6**

With respect to Wood Dock, a promontory immediately to the west of the Metro North tracks at the north end of the Village Garage site, is this both Village property and land within the Village?

Answer: I don't know anything about the Wood Dock. But, if the property is within the confines of the eastern bank of the river, then it is within the Village's boundary.

- SJG

## 6 – West Point Foundry Preserve Plans (to come)

## 7 – Coastal Fish and Wildlife, Mile 44-56 (To come)

## 8 – Coastal Fish and Wildlife – Constitution Marsh (To come)

## 9 – Working Group Report List and LWRP Bibliography

### A. Working Group and Consultant's Reports

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#### *Economic Development*

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Working Draft - Subject to Revision and Approval by Village and State and Federal Agencies - NOT FINAL

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## 10 - Glossary

**Area plan:** An area plan is an illustrative plan intended to serve as a template for the application of specified design principles in order to achieve a desired form and appearance of development on a specified parcel or group of parcels in an area. Area plans have no regulatory authority unless they are adopted as part of a comprehensive plan or zoning regulation. Area plans generally illustrate street layout, dwelling types, mixed and/or commercial use locations, park areas, and appropriate civic functions.

**Building Code:** The New York State Uniform Fire Prevention and Building Code.

**Bump-Out:** A type of traffic calming using roadway narrowing to achieve speed reduction. Narrowing is usually accompanied by plantings, street furniture, or other vertical elements to draw attention to the constriction and visually bound the space. Bump-outs are achieved by use of curb extensions at intersections, that reduce roadway width curb to curb. They are also called neckdowns, nubs, bulbouts, knuckles, or inter-section narrowings. If coupled with crosswalks, they are referred to as safe crosses. Bump-outs are the most common type of street narrowing. Their primary purpose is to “pedestrianize” intersections. They do this by shortening crossing distances for pedestrians and drawing attention to pedestrians via raised peninsulas.

**“Clean” Light Industry:** The manufacture of relatively small articles, using small amounts of raw materials, in such a manner that limits any adverse impacts on the community and the environment.

**Code:** A collection of laws, in this case, the laws and ordinances of the Village of Cold Spring.

**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.

**Conservation easement:** An easement, covenant, restriction or other interest in real property, created under and subject to the provisions of Article 49 of the New York State Environmental Conservation Law (ECL), which limits or restricts development, management or use of such real property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of the property in a manner consistent with the public policy and purposes set forth in Section 49-0301 of the ECL. Conservation easements can be either donated or sold only to a bona fide not-for-profit land trust or to a public agency. Conservation easements include what are also referred to as historic preservation or façade easements, agricultural preservation easements, scenic easements, open-space easements, forever-wild easements, or working-forest easements, provided they are understood to include easements granted for a conservation purpose under Article 49 of the ECL.

**Critical Environmental Area: Critical Environmental Areas (CEAs):** Areas in the state which have been designated by a local or state agency to recognize a specific geographical area with one or more of the following characteristics: a feature that is a benefit or threat to human health; an exceptional or unique natural setting; exceptional or unique social, historic, archaeological, recreational or educational values; or an inherent ecological, geological or hydrological sensitivity to change that may be adversely affected by any physical disturbance. Local or state agencies may designate a CEA under subdivision 6 NYCRR 617.14(g) of the SEQR regulations. Local agencies may designate specific geographic areas within their boundaries as CEAs. State agencies may also designate specific geographic areas which they own, manage or regulate, as CEAs. CEA designation serves to alert project sponsors to the agency's concern for the resources or dangers contained within the CEA. Once a CEA has been designated, potential impacts on the characteristics of that CEA become relevant areas of concern that warrant specific, articulated consideration in determining the significance of any Type I or Unlisted actions that may affect the CEA [see 617.7(c)(1)(iii) and 617.14 (g)(4)]. Often CEAs are recognized and designated be-

cause a locality sees this as an avenue to protect or ensure consideration of the resource in land use decisions. As an example, Dockside would be a CEA candidate.

**DEC:** New York State Department of Environmental Conservation.

**ENERGY STAR:** ENERGY STAR is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy helping save money and protect the environment through energy efficient products and practices. Products with the ENERGY STAR, “meet strict energy efficiency guidelines set by the EPA and U.S. Department of Energy.” For business, “EPA provides an innovative energy performance rating system” for buildings.

**Façade easement:** A type of conservation easement used to protect an historic building façade, whereby the owner either donates or sells the right to make alterations to a bona fide not-for-profit land trust or to a public agency.

**Form-based codes:** A form-based code is a “land use control” that uses physical form rather than separation of uses as its organizing principle. They address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. The land use controls in form-based codes are presented in both text and clearly drawn illustrations and other visuals. They are keyed to a regulating plan that designates the appropriate form and scale (and therefore, character) of development, rather than just distinctions in land-use types and control of development intensity through uncoordinated parameters such as setbacks and parking ratios. They are based upon a premise that the impacts of a use are more important than the actual use and, as such, this approach contrasts with conventional zoning’s focus on the strict segregation of uses. The oldest parts of the Village were built before zoning and much of the development in those days was based upon pattern books and long term knowledge of the physical forms of old world settlements that were both time honored and worked well for a pedestrian based transportation system. Ultimately, a form-based code is simply one tool in a broad toolbox of planning approaches that are recommended. The quality of development that results in the Village will ultimately depend on the goals and objectives the community establishes and that a code provision implements.

**Land use regulations:** Also known as land use controls, such regulations include but are not limited to the Village Zoning Law, Historic District Law, Tree Law, Floodplain Law, Signs and Placards Ordinance, and Subdivision Regulations.

**LEED (Leadership in Energy and Environmental Design):** Developed by the U.S. Green Building Council, LEED is an internationally recognized green building certification system, providing third-party verification that a building or community was designed and built using strategies aimed at improving performance across all the metrics that matter most: energy savings, water efficiency, CO2 emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to the impacts.

**Live-Work Unit:** a Mixed-Use unit consisting of both commercial and residential functions. The commercial function is limited to the ground floor of the building. It is intended to be occupied by a business operator who lives in the same structure that combines the commercial activity or industry.

**Low Impact Development:** Low impact development (LID) is a comprehensive planning and engineering approach to maintaining and enhancing pre-development hydrology of watersheds.

The LID approach is designed to protect both water resources and the environment generally, through site design techniques that replicate pre-existing drainage conditions on a site.

**Main Street Program, National Trust for Historic Preservation:** The Main Street Program of the National Trust is a preservation-based economic development tool that helps enable communities to revitalize downtown and neighborhood business districts by leveraging local assets from historic, cultural, and architectural resources to local enterprises and community pride. It is a comprehensive strategy that addresses the variety of issues and problems that challenge traditional commercial districts.

**Main Street Program, New York State:** A program of the New York State Office of Community Renewal. The New York State Main Street program provides financial resources and technical assistance to communities to strengthen the economic vitality of the State's traditional Main Streets and neighborhoods. The program provides grants, from the New York State Housing Trust Fund Corporation (HTFC), to local government, business improvement districts, and other not-for-profit organizations that are committed to revitalizing historic downtowns, mixed-use neighborhood commercial districts, and village centers.

**Mixed-Use:** Mixed-use generally refers to a building or parcel containing both residential and commercial floor space, conceived and designed as a single environment in which both commercial and residential amenities are provided.

**NFF - Needed Fire Flow:** Needed fire flow is the amount of water, in gallons per minute, that should be available for providing fire protection at selected locations throughout a community. Needed fire flow for individual non-sprinklered buildings is generally calculated based upon construction, size, occupancy, exposure and other factors.

**Overlay District:** An overlay district is an area or section of the Village illustrated on the Zoning Districts Map, and within which additional requirements are provided to protect identified natural and cultural resources or to provide for incentives for specific types of development that may be encouraged in the Village or to complement those of the underlying land use district to which the "overlay" designation is added. Overlay districts are a way to customize standards for a neighborhood, street, or area.

**Payment in Lieu of Taxes (PILOT);** An agreement between a government agency and a not-for-profit organization designed to compensate the government for some or all of the tax revenue that it is unable to collect because of the nature of the non-profit ownership or use of a particular parcel of real property.

**Performance Standards:** Performance standards in the context of the Village Comprehensive Plan and Zoning refers to measurable attributes of use, occupancy and operation for environmental conditions like odor, noise, smoke, and other potential nuisances that may have an impact on neighborhoods.

**Qualitative Traffic Analysis:** An analysis of traffic that focuses on context sensitive solutions to integration of vehicular, bicycle and pedestrian traffic, and includes a qualitative assessment that equally addresses safety, mobility, parking, and the preservation of scenic, aesthetic, historic, environmental, and other community values. Context sensitive solutions should involve a collaborative, interdisciplinary approach in which residents are made a part of the design process.

**Quantitative Traffic Analysis:** An evaluation of vehicular, bicycle and pedestrian traffic at intersections and crossings that involves tracking and assessing the volume of traffic within discrete time

periods, often comparing the volumes and intensity of traffic at different times of day or different days of the week with published standards.

**Riparian Corridor:** That portion of a watershed immediately adjacent to a stream channel.

**Scenic overlay district:** A type of overlay district designed to protect scenic views to or from the district.

**Shared parking factor:** A multiplier in common use that is designed to estimate the number of needed parking spaces, by accounting for spaces that are shared and available to more than one land use or owner, including both commercial and residential uses.

**SmartCode:** A model regulatory document that can be adopted by local jurisdictions to enable the legal use of traditional planning techniques. The SmartCode codifies many traditional planning techniques such as mixing uses, utilizing interconnected street networks, and designing compact, walkable, and environmentally-sustainable communities. The SmartCode must be legally customized for each local jurisdiction that wants to implement the SmartCode as a zoning option. The SmartCode is a viable alternative to the strict Euclidean structure of Cold Spring's conventional Zoning Law and, if adopted, would allow the Village to legally utilize traditional neighborhood planning techniques.

**Smart growth:** The concept of smart growth was originally conceived in the early 1970's as a way to promote compact development in areas that already had existing infrastructure. It generally refers to a land use control system that is intended and designed to achieve a variety of objectives, such as encouraging mixed uses, preserving open space and environmentally sensitive areas, providing a choice of housing types and transportation modes, and making the development review process more predictable. Smart growth provides more transportation options and allows for more compact, mixed-use development. As such, smart growth has public health implications because it encourages walking, bicycling, and human interaction, with the potential to support more active, socially engaged lifestyles that result in better physical and mental health.

**Stewardship Fund:** A stewardship fund is typically established when a conservation easement is donated to or purchased by a land trust. The fund is used for all aspects of managing a conservation easement after its acquisition: monitoring, landowner relations, recordkeeping, processing amendments and landowner notices and requests for approval, managing stewardship funds, and enforcement and defense.

**Traditional neighborhood development:** Compact, walkable neighborhoods with a variety of housing types, a mix of land uses, and streets forming a well connected network, similar to the development found in traditional village centers.

**Traffic calming:** Traffic calming has many names around the world including traffic mitigation, neighborhood traffic management, and traffic abatement. The Institute of Transportation Engineers (ITE), the recognized authority for traffic engineering in the United States, defines traffic calming as *"The combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for non-motorized street users."* A major purpose of traffic calming is to reduce the speed and volume of traffic to acceptable levels to increase traffic safety and active street life. Traffic calming consists of a variety of engineering tools including roundabouts or intersection islands, speed controls like curb extensions (bump-outs), speed radar, street narrowings, speed humps or speed tables, textured pavements, raised crosswalks, and numerous other proven traffic engineering measures.

**Tree City USA:** The Tree City USA program is sponsored by the Arbor Day Foundation in cooperation with the US Department of Agriculture's Forest Service and the National Association of State Foresters. The program provides direction, technical assistance, public attention, and national recognition for urban and community forestry programs in thousands of towns and cities around the nation.

**Trees for Tribs Program:** This is an initiative of the State's Hudson River Estuary Program. The Program offers free native trees and shrubs for qualifying projects, and the Estuary Program's Riparian Buffer Coordinator can assist with plant selection, designing a planting plan, site preparation, project installation, and other technical information to improve the odds of success for the project. The Estuary Program's Riparian Buffer Coordinator will also pre-dig all planting holes when needed.

**Village Code:** See the definition for Code.

**Work-Live Unit:** A Mixed-Use unit consisting of a commercial and residential function. It typically has a substantial commercial component that may accommodate employees and walk-in trade. The unit is intended to function predominantly as work space with incidental residential accommodations that meet basic habitability requirements.

**Zoning Law:** A part of the Village Code that divides the community into land use districts and establishes building restrictions limiting the height, lot coverage and other dimensions of structures that are permitted to be built within each district. There are two parts to the Zoning Law including the Zoning text (which may also include graphics to illustrate concepts) and a Zoning map. By referring to the Zoning map, it is possible to identify the use district within which any parcel of land is located and, by referring to the Zoning text, to discover the uses that are permitted within that district and the dimensional restrictions that apply to building on that land.

## 12 – Project Chronology 2006 – 2014

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|----------------|--|
| March 2006     | Funding awarded by the Hudson River Valley Greenway Communities Council  |
| December 2006  | Establishment of Special Board for Comprehensive Plan/Local Waterfront Revitalization Plan and appointment of 11 members.  |
| January 2007   | Funding awarded by the New York State Department of State Division of Coastal Resources (DOS)  |
| May 2007       | Formation of five Working Groups: Community Resources; Economic Development; Government, Infrastructure and Public Services; Village Character, History and Historic Preservation; and Waterfront and Open Space |
| June-July 2007 | Training by New York State Department of State (DOS),  |

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Department of Environmental Conservation (DEC),  
Sustainable Hudson Valley, and others

October 2008	Meeting with DOS Liaison and agreement to obtain new Work Plan from DOS
July 2009	Size of Special Board reduced to nine members
August 2009	DOS signs 2006 contract with term of Dec. 2006 to Dec. 2009  Request for Proposal (RFP) circulated seeking planning consultants
October 2009	Received 22 proposals from consulting firms. Interviewed four.
November 2009	GREENPLAN, Inc. selected as planning consultant
December 2009	Initial meeting with GREENPLAN and new DOS Liaison.
January 2010	Work on LWRP suspended because extension of grant beyond 2009 neither approved nor re-appropriated by DOS.  Decision to pursue stand-alone Comprehensive Plan with assistance from GREENPLAN, but less extensive and at far lower cost, funded by the Village Board.
Jan.-Sept. 2010	Intensive community outreach (see Fig. 1, page 11), meetings, research, review and drafting of Comprehensive Plan by Special Board.
September 2010	Proposed Plan made available to public. Hearing set.
October 2010	Public Hearing October 14, concluded October 21.
November 2010	Public Presentation to Planning Board, Zoning Board of Appeals, Village Board, Historic District Review Board and Recreation Commission
December 2010	Special Board Recommends Comprehensive Plan
January 2011	Village Board reviews, modifies, and publishes revised Comprehensive Plan for March 1 Public Hearing
March 2011	Village Board holds Public Hearing on Comprehensive Plan
May 2011	Special Board presents concepts for Dockside, the Village Garage and Marathon in Public Workshop

September 2011 Special Board presents recommendations for Dockside, the Village Garage and Marathon in Public Workshop

October 2011 Special Board publishes draft LWRS Report and holds public meetings to hear comment on draft LWRS

November 2011 LWRS completed; Application submitted for LWRP grant funding

December 2011 Grant awarded by Department of State to complete LWRP

January 2013 Community Workshop, "Hurricanes and High Water"

May 2013 Completion of LWRP deferred pending revision of Village Code and Historic District Review Standards, per direction of Department of State