

## **Attachment to Full Environmental Assessment Form Part 3, Reasons Supporting This Determination**

### **Description of the Proposed Action**

The proposed action is to adopt zoning code text amendments that have been prepared to meet the following objectives:

1. To comply with Federal and State statutory and case law regarding municipal zoning controls of religious uses, and to reconcile the Zoning Code with Religious Land Use and Institutionalized Persons Act;
2. To protect the residential character and quality of existing neighborhoods which currently house a diverse population of many faiths, but which all chose Chestnut Ridge in order to live in largely high-quality, low-density, single-family detached neighborhoods of a quiet, wooded and suburban character;
4. To remove impediments to the free practice of religion, such as allowing for smaller-scale places of worship customary to Orthodox congregations, which are precluded from driving on holy days; and
5. To ensure that the regulations of places of worship foresee the needs of other religions, which may choose Chestnut Ridge as their home.

The amendments would replace the current 5-acre minimum lot size for any place of worship and create and define three new categories of gatherings and worship places, with minimum lot size based on occupancy and building size: Residential Gathering Places, Neighborhood Places of Worship and Community Places of Worship. Residential Gathering Places are proposed to allow smaller or modest-sized assemblies within an existing home by Conditional Use Permit of the Planning Board. A smaller-scale Neighborhood Place of Worship, with up to 10,000 square feet of floor area, would be allowed by Conditional Use Permit of the Planning Board and would allow for mid-sized congregations, requiring more significant screening and other protections on lots that generally conform with the standards for a single-family residence within the zoning district they are located within. Lastly, a Community Place of Worship is proposed to be allowed by Special Use Permit of the Village Board and would largely constitute what types of worship uses are currently permitted on five acre lots today, with specific criteria and standards for the special permit added.

All of these proposed new use categories will be required to obtain a Conditional Use or Special Use Permit with site plan review, and meet standards, including, but not limited to bulk, area, maximum occupancy, hours of operation, parking, architecture and signage.

### **Current Zoning for Gatherings and Places of Worship**

Under existing zoning, all places of worship of any size are permitted in all residential districts (RR-50, R-40, R-35, R-25, and R -15), only by special permit approval of the Village Board and Site Plan approval of the Planning Board, on five acre lots. Although a special use permit must be obtained from the Village Board, in the existing zoning code, there are no specific criteria or standards required to be met.

### **Provisions of the Proposed Action**

These proposed zoning code amendments are expected to result in the following changes to the regulatory environment in Chestnut Ridge:

1. Residential Gathering Places currently are not expressly permitted in the Village, and are

therefore deemed prohibited under the current zoning code. With these amendments, such small gatherings are proposed to be defined and regulated by a conditional use permit and only within a one-family, detached residence. While these types of uses are prohibited under the code, it is believed that several may exist throughout the Village. These suspected regular gatherings are believed to operate under residential certificates of occupancy, and it is difficult for the Village to draw the line between customary use of a home for occasional gatherings and regular use for assemblies. This legislation is intended in part to define when activity within the home rises to the level to be considered a residential gathering place. Criteria regulating Residential Gathering Places include:

- a. No more than 50% of the gross floor area of the structure may be used for religious assembly.
  - b. The maximum number of non-resident persons using the residential place of worship shall be determined by dividing the net lot area by 500 square per person, with up to 49 persons maximum.
  - c. Accessory uses are limited.
  - d. Maximum development coverage is set slightly higher for Residential Places of Worship than for one-family detached residences in the same district. This is intended to accommodate off-street parking and small additions to the homes to better accommodate the gathering.
  - e. Nonconforming lots of record that are at least 80% of the minimum lot area required in the District may be employed for this use. This provision is intended to allow the residential gatherings within homes on lots that may have been created via average density. There are several average density neighborhoods throughout the Village.
  - f. Parking is required to be located on-site or on neighboring lots within 1500 feet.
  - g. The proposed zoning amendments for Residential Places of Worship will also include requirements for hours of operation and other standards, including lighting and screening that are designed to limit potential impacts to surrounding properties and neighborhood character.
2. Places of Worship are largely excluded from the fabric of existing residential neighborhoods by the existing zoning requirement for a 5-acre lot. Allowing a large place of worship within existing neighborhoods could be disruptive to the residential character of the neighborhood. Neighborhood Places of Worship are intended to provide a reduced-scale place of worship that is less disruptive to residential neighborhoods. These Neighborhood Places of Worship are proposed to be permitted by a conditional use permit in any residential district. Criteria proposed to regulate Neighborhood Places of Worship include:
- a. Floor area ratio standards are established regulating the size of the structures to the size of a single-family detached dwelling for each district, with a maximum floor area for all structures of 10,000 square feet.
  - b. Minimum lot area would be the same as would be required for a single-family home in the zoning district.
  - c. Accessory uses to places of worship are proposed to be permitted so long as they don't exceed a percentage of the floor area of the principal use.
  - d. Maximum development coverage may be allowed to be exceeded by ten percent.
  - e. A minimum of 75% of required parking must be provided on-site with some additional parking allowed to be accommodated on nearby lots subject to conditions.
  - f. No catering facilities would be permitted. Only a warming kitchen would be allowed.
  - g. The proposed zoning code for Neighborhood Places of Worship will also include

requirements for hours of operation and other standards, including lighting and screening that are designed to limit potential impacts to surrounding properties and neighborhood character.

3. The category of Community Places of Worship is proposed to be permitted by special use permit of the Village Board and is proposed to require a minimum lot area of five acres to accommodate larger congregations, consistent with the minimum lot sizes for “Churches” under the current zoning code. A full set of accessory uses are permitted including commercial kitchen with catering and hosting of large events. A parking management plan is proposed to be required to address events with a high parking demand. The proposed zoning code for Community Places of Worship will also include requirements for hours of operation and other standards, including lighting and screening that are designed to limit potential impacts to surrounding properties and neighborhood character.

### **Places of Worship Considered Beneficial to Residential Neighborhoods**

The proposed amendments acknowledge that places of worship are presumptively beneficial to the public and appropriate to residential neighborhoods, as has been held in New York State court rulings. The proposed amendments allow the Village to be proactive by adopting special criteria designed to permit such uses while providing minimum standards to ensure that they are in harmony with the surrounding neighborhoods and residents. The proposed amendments facilitate development in a predictable manner consistent with a well-considered plan.

As stated previously, it is suspected that several places of worship already exist within existing homes throughout the Village without land use authorization. It is likely that this is due to the restrictions of the current zoning (most notably the five-acre minimum lot size) and the transitioning demographics of the Village which has experienced an influx of strictly-observant Jewish families, many of which are required by their faith to walk to worship on a regular basis, or to meet frequently in groups to pray.

Gatherings of prayer groups and other assemblies are customary accessory uses within a home within reasonable limits of size and frequency. Beyond these limits, these homes cease to be single-family homes, and become de facto places of worship or assembly halls with accessory residential facilities. When this happens, several externalities may occur that disrupt the quality of the residential neighborhood including frequent and excessive on-street parking, assembly at hours disruptive to restful sleep, noise or lighting impacts to neighboring properties, and changes to the visual appearance of homes that may degrade the quality of the neighborhood. Additionally, residents and congregants may engage in more intensive religious-related practices (such as but not limited to post-weddings celebrations) that are not suited to small lots in residential neighborhoods. Facilities that are more intensively used, may also require different construction or limitations on occupancy to insure the public health, safety and welfare.

The proposed zoning amendments are intended to allow a legal avenue that reasonably accommodates the needs of the religious population, while maintaining the quality and character of the community by establishing clear standards. In the absence of the proposed regulations, legal protections of free religious practice would in some respect allow avenues for places of worship to be located within residential neighborhoods. These legal protections would be both time consuming and costly for both the Village and prospective applicants and the results would not be consistent with a well-considered plan but would

rather be unpredictable and uncoordinated and subject to the judgment of the courts based on more limited considerations.

The changes to the proposed regulation of gathering places and places of worship is not believed to impact the free exercise of any religion.

All future proposals for the aforementioned residential gathering and place of worship uses will be subject to site-specific SEQRA analysis. Since the proposed zoning amendments do not commit the Village to any specific course of action with respect to specific projects, the proposed amendments would themselves not pose any potential for significant adverse environmental impacts.

### **Incremental Difference between Current Zoning and the Proposed Action**

When considering environmental impacts, the proposed action should be considered as an alternative to currently permitted residential uses in each residential district by the existing zoning code. The difference between the environmental impact of a single-family home compared to a home with a residential gathering place or compared to a neighborhood place of worship will be minimal.

As has been noted, the proposed action does not make any changes in the allowable pattern of development for community places of worship, as the current five acre minimum lot size for such a conventional large place of worship is unchanged from the current code requirements.

### **Potential Impacts of the Proposed Action Identified in the Full Environmental Assessment Form, Part 2**

Questions number 13, 17 and 18 of the FEAF Part 2 were answered “YES,” indicating that moderate to large impacts may occur: These impacts are identified below, and the magnitude of each impact is described, considering severity, size and extent. Importance is assessed, relating to the geographic scope, duration and probability of the impact occurring, the number of people affected by the impact, and any additional environmental consequences. Reasons are provided why the impact may or may not result in a significant adverse environmental impact.

**Question 13. Impact on Transportation.** The proposed action may result in a change to existing transportation systems.

13.e. The proposed action may alter the present pattern of movement of people or goods.

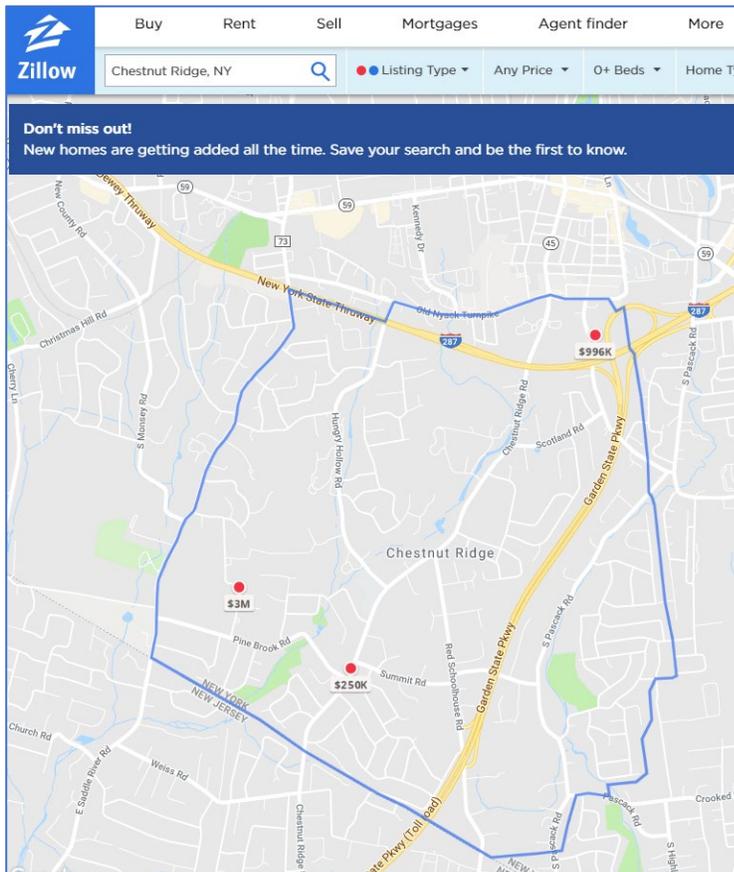
13.f. Other impacts: Increase in pedestrian movements and on-street parking at gathering places and places of worship may create hazards for pedestrians and motorists.

**Identification, Magnitude and Importance of Impact.** The development of places of assembly, particularly for religious purposes, is constrained by the current zoning codes which require a minimum lot area of 5 acres, and are only permitted in Residential Zoning districts. Only 45 residentially-zoned lots in the Village are over this minimum lot area, and only one is available for sale or acquisition currently according to the “Zillow” website. See Table 1 and Figure 1 below.

**Table 1. Current Zoning for Places of Assembly**

Districts Where “Churches and Similar Places of Worship” are Permitted	Use Group Where Permitted	Number of 5+ Acre Residentially-Zoned Lots in Village
RR-50, R-40, R-35, R-25, R-15	Use Group c – Minimum Lot Area of 5 acres	45

**Figure 1. Vacant Parcels over 5 acres Listed for Sale on Zillow (January 7, 2019).**



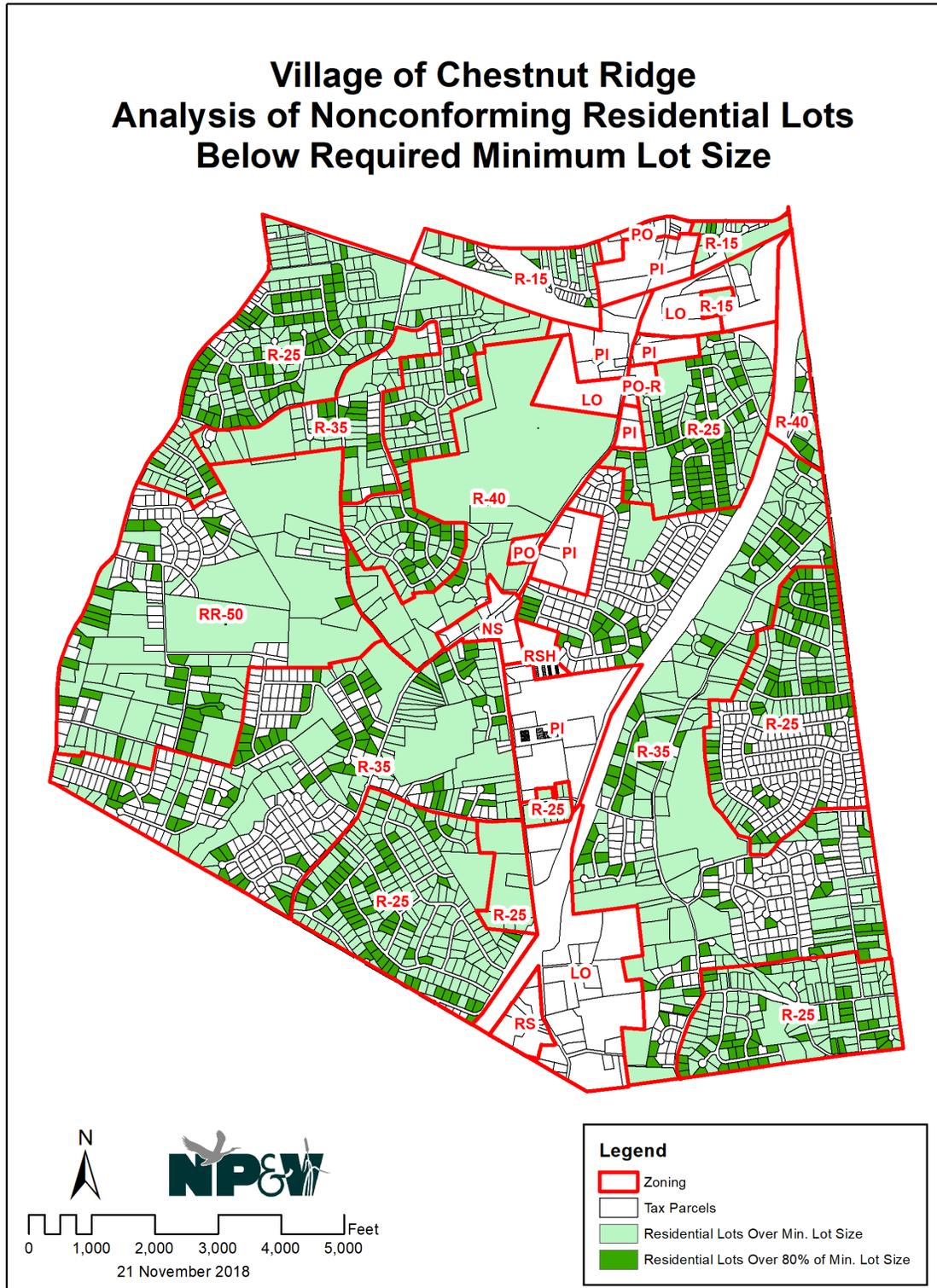
Not only is the supply of available lots over 5 acres severely limited, but the price would be prohibitive. See Ackertown Road property for sale at \$3,000,000 for 14.2 acres, which is the only advertised residentially-zoned lot over 5 acres. The Scotland Hill property for sale at \$996,000 is only 2.16 acres. The third vacant lot currently for sale at 927 Chestnut Ridge Road is being offered for \$250,000 but is only 0.56 acres in size. Neither of these two lots are large enough for place of worship uses under current zoning.

The proposed action amending the Village Zoning Code would still require Use Group c, with a minimum lot area of 5 acres for Community Places of Worship, with a building 10,000 square feet or greater. The opportunity for establishing places of worship on smaller lots than currently permitted would only be extended to the new categories of

“Residential Gathering Places” and “Neighborhood Places of Worship.” Should the local law be adopted, applicants could apply for Conditional Use Permits to establish residential gathering places on lots of record of at least 80% of the current minimum lot area requirement for one family detached residences in the district in which they are located. Applicants could apply for Conditional Use Permits under the proposed local law to establish neighborhood places of worship only on lots meeting the current minimum lot area requirement for one family detached residences in the district in which they are located.

Figure 2 and Table 2 below present an analysis of where such residentially zoned lots are located and how many existing in the Village.

Figure 2. Analysis of Nonconforming Residential Lots Below Required Minimum Lot Size



**Table 1. Analysis of Residentially Zoned Lots below the Minimum Lot Size**

Residential Zoning District	Total Lots in District	Lots above Minimum Lot Area (where Neighborhood Places of Worship Could be Located, with the Proposed Action)	Percent of Total Lots above Minimum Lot Area	Lots over 80% of Minimum Lot Area (where Residential Gathering Places Could be Located, with the Proposed Action)	Percent of Total Lots above 80% of Minimum Lot Area
R-15	87	32	37%	42	48%
R-25	1267	690	54%	1039	82%
R-35	966	272	28%	447	46%
R-40	44	31	70%	37	84%
RR-50	181	54	30%	83	46%
Total	2545	1079	42%	1648	65%

Approximately two-thirds (or 65%) of the residentially-zoned lots in the Village of Chestnut Ridge are at least 80% of the Minimum Lot Area. Therefore, the proposed action, if adopted would meet the Village’s objectives to provide opportunities for residential gathering places within established residential neighborhoods. within walking distance of many residents.

**Projecting the Magnitude of the Impact.** The proposed action, adoption of a local law amending zoning to increase opportunities for the development of places of assembly by allowing smaller lot sizes will not directly create any impacts, but will increase the likelihood of future applications to the Planning Board for Conditional Use Permits to establish such uses. Such specific future applications to the Village Planning Board will be subject to review under SEQR. However, in order to project the impact of the proposed action, a projection of how many applicants may take advantage of any new zoning provisions has been made.

The magnitude of the number of places of worship that might be developed under a revised zoning scheme may be projected by examining the patterns of the establishment of places of worship in neighboring communities where requirements for minimum lot area have been reduced for many years.

In the Village of Airmont, the zoning code amended in 2009 establishes Residential Places of Assembly, Neighborhood Places of Worship, and Freestanding Places of Worship – a three-tiered system similar to that being proposed in Chestnut Ridge. The “Freestanding” category requires a minimum lot area of five acres with a catering hall or social facility, or a minimum of two acres without. The “Neighborhood” category requires at 40,000 square feet, or the minimum lot size required for a single-family residence in the district, whichever is greater. The “Residential” category requires the same minimum lot size for a single-family residence in the district.

In the Village of Wesley Hills, the zoning category for places of worship established in 2009 is called “Neighborhood Gatherings.” A Minor Neighborhood Gathering Place (analogous to the Residential Gathering Place proposed in Chestnut Ridge) is a permitted use without Special Permit Review. A Neighborhood Gathering Place requires a Special Permit. The minimum lot area required for both uses is the same for as for a single-family residence in the district.

Both Villages have undergone a similar pattern of place of worship development which has arisen over the last ten years, since their zoning codes were amended to allow such development on smaller lots. Based on average values, there are about 640 residents or 200 house lots per place of worship in these two Villages, and about 3 per every square mile. Based on these average values from Airmont and Wesley Hills, we might predict that the Village of Chestnut Ridge might support about 13 places of worship, once zoning codes allowing for places of worship on smaller lots (similar to those zoning code changes that were enacted in 2009 in neighboring communities). It should be noted that this is the same number as found today in Airmont, whose population is very similar to Chestnut Ridge's.

In interviews with elected officials and building department staff in these communities, it appears that most users are from within the nearby surrounding residential areas. It appears that the neighborhood or residential gathering facilities attract very few users from other surrounding villages or towns.

**Table 3. Projections for Place of Worship (POW) Development**

<b>POWs in Villages of Airmont &amp; Wesley Hills</b>	<b>POW Parcels</b>	<b>Total Parcels</b>	<b>Parcels per POW</b>	<b>Population 2017 Est. Census</b>	<b>Persons per POW</b>	<b>Square Miles</b>	<b>POW per Square Mile</b>
<b>Airmont</b>	13	2774	213	8888	684	4.56	2.85
<b>Wesley Hills</b>	10	1674	167	5938	594	3.34	2.99
<b>Average</b>			190		639		2.92
<b>POW Projections for Village of Chestnut Ridge</b>				<b>Projected Number of POWs in Chestnut Ridge based on Average Values - Airmont &amp; Wesley Hills</b>			
<b>Total Parcels - Actual</b>	2718			14	based on 190 parcels per POW		
<b>Total Population - 2017 Census Est</b>	8156			13	based on 639 persons per POW		
<b>Total Square Miles</b>	4.95			14	based on 2.92 POWs per square mile		

**Reasons Why the Action Will Not Result in a Significant Adverse Environmental Impact**

When public gatherings and places of worship are established in residential neighborhoods, some increases in vehicle traffic and pedestrian movements may be expected on residential streets, and some additional on-street parking may occur. At the beginning and end of services or gatherings, participants may walk on streets with limited or no sidewalks, and on-street parking may decrease the width of the travelled-way, potentially creating traffic conflicts. Uses may occur at nighttime or early morning hours, and these impacts could be more hazardous during times of low visibility.

It should be noted that the proposed action only increases opportunities for additional residential gatherings and neighborhood places of worship – increased opportunities for “community” places of worship are not included in the proposed action. These smaller scale worship places enabled by the proposed action will not draw significant participation from those residing outside of Chestnut Ridge.

The following provisions included in the proposed action will mitigate the transportation impacts identified above:

1. On-site parking will be required for the Neighborhood and Community categories of places of worship. At Residential Gathering Places, up to 50% of required parking spaces may be provided on private land within 1500 feet, if certain standards are met. The frontage street must be at least 30 feet wide and the applicant must petition the Village Board to restrict parking to one side of the street in the vicinity, in order to provide for pedestrian safety. This standard has been in effect in the Village of Wesley Hills, and many residential streets have been restricted to on-street parking on one side, in the vicinity of places of worship. NPV conducted a field survey of street parking conditions during worship times in Wesley Hills, and found the system to be working effectively, with no undue street congestion noted.
2. Accessory uses will be restricted at any proposed Residential Gathering Places or Neighborhood Places of Worship, and enforced through the conditional use permit process.
3. At Community Places of Worship, a parking management plan for special events will be required, providing off-site parking and shuttle service for special events, which is a new stricter requirement than currently in effect in Chestnut Ridge.

**Question 17. Consistency with Community Plans.** The proposed action is not consistent with adopted land use plans.

17.a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).

**Reasons Why the Action Will Not Result in a Significant Adverse Environmental Impact**

The Village does not have any statutorily adopted overall land use plan or comprehensive plan. The Zoning Code of the Village of Chestnut Ridge serves as its "well-considered plan" in compliance with state law. The proposed action would update the Zoning Code to comply with Federal and State statutory and case law regarding municipal zoning controls of religious uses, and to reconcile the Zoning Code with Religious Land Use and Institutionalized Persons Act. Thus, the proposed action would maintain the zoning code as its "well-considered plan."

The Village has conducted an extensive process of hearings to gather testimony and written input. Four multi-hour hearing sessions were conducted in June, July and November 2018, and in January 2019. Hundreds of written comments were submitted, and dozens presented verbal testimony. The draft of the proposed action was circulated to neighboring municipalities and to Rockland County according to the requirements of State Municipal Laws.

The proposed action is needed to maintain the Village of Chestnut Ridge Zoning Code as the community's "well-considered plan," in response to the changing needs and input of Village residents, and to comply with federal laws and case law regarding opportunities for establishing places of worship.

**Question 18. Consistency with Community Character.** The proposed project is inconsistent with the existing community character.

18.g. Other impacts: Nonresidential assembly and place of worship uses may be established within existing homogeneously developed residential neighborhoods.

The proposed action would allow new uses involving gatherings or worship services that are compatible with residences and part of a residential neighborhood fabric, but are not strictly residential uses, in contrast to surrounding homes. Concerns have been raised that Places of Worship and Gathering Places may have more parking spaces and walkways on-site as compared to a single-family home. Access ramps or lighting with such uses may be larger or more intense than usually found in residential areas. The size and bulk of buildings housing places of worship or gathering places may be somewhat larger than homes in the surrounding neighborhood. Some noise impacts may occur as people leave or enter vehicles, and from conversations prior to participants entering the building. Concerns were also raised concerning noise emanating from activities within the building, including voices, music or dancing.

### **Reasons Why the Action Will Not Result in a Significant Adverse Environmental Impact**

The following conditional use permit provisions that have been included in the proposed action will mitigate the impacts described above:

1. Bulk controls. The maximum size of a residential gathering place would be limited to 50% of the gross floor area of the single-family structure. Neighborhood Places of Worship would be limited to 10,000 square feet. Bulk requirements for Community Place of Worship buildings would remain unchanged.
2. Occupancy controls. Residential Gathering Place occupancy would be further limited by setting a maximum occupancy of one person for every 500 square feet of net lot area. (For example, 43 people on a half-acre lot.)
3. Shielding of outdoor lighting. Any outdoor lighting would be required to be shielded to prevent excessive spillover on neighboring properties.
4. Architectural review of building plans. All places for gathering places and places of worship would be subject to architectural review to assure compatibility with surrounding structures.
5. Screening in rear and side yards. Conditional use permit standards would maintain privacy between properties.
6. Front yard restrictions. Restriction of front yard use for parking would maintain the residential character of views from the streets and sidewalks.
7. Limitations on hours of operation. Prohibition of overnight operations at residential gathering places and neighborhood places of worship would maintain quiet conditions in the middle of the night.
8. Limitations on Accessory Uses. Extensive accessory uses would be limited to community places of worship, which would be sited on lots of sufficient size to mitigate impacts of large gatherings with extensive food and entertainment. Catering and special events would be limited at neighborhood places of worship, and severely restricted at Residential Gathering Places.
9. Control of Signage. At residential gathering places and neighborhood places of worship, signs will be limited to a residential scale, only visible to slow speed traffic and pedestrians.
10. Landscaping Requirements. Additional landscaping requirements for neighborhood places of worship and residential gathering places will ensure compatibility with surrounding residential uses, and soften the visual impact of any additional walkways or rear yard parking.

Furthermore, the Village is cognizant that the federal agencies and courts that review local zoning codes presume that places of worship are inherently beneficial and belong in residential neighborhoods. With

the provisions included in the proposed action to limit and control the negative external effects of places of worship uses listed above, impacts are limited and small in magnitude.