

Board of Trustees
Village of Tarrytown
Regular Meeting No. 19
November 17, 2014
8:00 p.m.

PRESENT: Mayor Fixell presiding; Trustees Basher; Hoyt; McGee and McGovern;
Administrator Blau; Village Treasurer Hart; Village Attorney Shumejda and Village Clerk
Booth

ABSENT: Trustees Butler and Zollo

The meeting began with the Pledge to the Flag.

REPORTS

Trustee Hoyt noted that the Village's annual Holiday Tree Lighting will be held Saturday, December 6th at 5:00 p.m. at Patriots Park. After the lighting of the tree, children may visit Santa Claus in the Warner Library. There will be new lights on the tree this year, thanks to the efforts of Trustees McGee and McGovern.

ADMINISTRATORS REPORT

Administrator Blau noted that the Village had the loops repaired in the Village owned roadways with existing loops. The loops activate the traffic and turn signals. Hopefully, people will notice that the signals are working more efficiently than they were previously.

RE-OPEN PUBLIC HEARING – HISTORIC COMMONS DISTRICT HC ZONE (adopted)

Trustee Basher moved, seconded by Trustee McGovern and unanimously carried, that the public hearing on Historic Commons District HC Zone be re-opened.

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a continuation of a public hearing on the 6th day of October, 2014, at 8 PM, in the Municipal Building, One Depot Plaza, Tarrytown, New York 10591, to hear, discuss and to act upon a proposed amendment to Section 305-38 entitled "Historic Commons HC Zone" of the Code of the Village of Tarrytown. A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A LOCAL LAW to amend Section 305-38 entitled "Historic Commons HC Zone" of the Code of the Village of Tarrytown.

SECTION 1. FINDINGS OF FACT.

Findings of Fact.

The Village Board of Trustees has determined that the southern portion of the west side of South Broadway, including lands from the Irvington boundary at Sunnyside Lane north to the properties zoned Office Building continues to represent a unique historic and cultural asset to the Village of Tarrytown and that protection of lands within this area requires clarification of the zoning code applicable to this area as adopted by the Board of Trustees on February 7, 2001.

Material to be deleted appears in [parenthesis], material to be added is in **bold typeface**.

SECTION 2. Amendment to Section 305-38 entitled "Historic Commons HC Zone" of the Code of the Village of Tarrytown.

A. Legislative Intent.

The Historic Commons zoning district preserves the remaining open spaces on the southern portion of the west side of South Broadway and maintains the existing pattern of development between South Broadway and the Hudson River. The Historic Commons district preserves the visual integrity of several historic resources including Lyndhurst and Sunnyside, both of which are National Historic Landmarks and listed on the National Register of Historic Places; and the Old Croton Aqueduct, which is listed on the National Register of Historic Places; and the landscape surrounding each of these resources. In addition, the area lies wholly within the Tappan Zee East Scenic District designated June 29, 1993 by the Commissioner of the New York State Department of Environmental Conservation under authority of Article 49 of the Environmental Conservation Law. Article 49 of the Environmental Conservation Law authorizes the Department of Environmental Conservation to designate scenic areas in the State and provides that areas so designated must contain positive aesthetic elements of regional, statewide or national significance, and must have aesthetically recognizable boundaries. It is the intent of this local law to reinforce through clarification of the zoning code applicable to this area, as adopted on February 7, 2001, the purpose of ensuring that any new development or reuse of existing structures within the Historic Commons district is consistent with single family use on large lots designed to complement the single family use, and architecturally compatible with the historic resources and visual quality of existing buildings, landscapes and sites.

B. General provisions.

(1) All uses permitted in the HC Zone shall be subject to site development plan approval. (See Article XVI.)

(2) All uses permitted in the HC Zone shall be subject to the issuance of a certificate of appropriateness by the Architectural Review Board (§9-6B). Any proposed new use or structure or any proposed [raise of] **demolition of or addition to** an existing structure must be designed to be compatible with adjacent historic structures and the surrounding landscape. Site improvements, including roadways, drainage infrastructure, landscaping and lighting shall not negatively affect, to the maximum extent practicable, the visual character of the subject property or of views across the subject property from adjacent properties.

(3) In structures **designated** [certified by the Board of Trustees] as historic structures, the Zoning Board of Appeals may permit the conversion of a one-family dwelling into a maximum of three separate dwelling units where such conversion is necessary to preserve the historic structures, provided that each dwelling unit shall contain the minimum livable floor area required in that district and further subject to the issuance of a certificate of appropriateness by the Architectural Review Board (§9-6B).

C. [B.] Permitted principal uses.

(1) Parks and open space

(2) [(1)] Single-family residences

D. [C.] Permitted accessory uses **for permitted uses**

(1) **Parking lots.** [Public restaurant.]

(2) **Tennis Courts.** [Recreation facilities.]

(3) **Swimming Pools.** [Parking lots.]

(4) **Accessory private garage space.** [Tennis courts.]

[(5) Swimming pools.]

[(6) Accessory private garage space.]

E. [D.] Uses requiring compatible use permits.

(1) Multifamily residence in existing [or new] **historic** building(s), **See Section B. (3).** [not to exceed 10 units per building] **or in new buildings, with residential density as specified in G. 6.**

(2) Senior housing, **excluding institutional uses as defined in §305-127 of this code.**

(3) Bed-and-breakfast.

(4) Inn, provided that more than 10 rooms but fewer than 20 rooms are rented to guests and that dining facilities that are open to the public are provided.

(5) Public restaurant, **within an existing building.**

(6) Cultural institution.

(7) **Religious institutions.** [Conference center.]

[(8) Churches, synagogues, parish houses or buildings for Sunday school or for religious education.]

F. [E.] Permitted accessory uses for compatible use permit uses.

[Minimum lot area: 217,800 square feet for all permitted uses.]

(1) **Parking Lots.**

(2) **Tennis courts.**

(3) **Swimming pools.**

(4) **Accessory private garage space.**

G. Bulk regulations.

(1) **Minimum lot size: 5 acres (217,800 square feet)** [for all permitted uses] .

(2) **Principal building coverage: maximum 4%.**

(3) **Accessory building coverage: maximum 2%.**

(a) **Additional accessory area (without building): maximum 4%**

(4) **Total coverage: maximum 6%.**

(a) **Total overall coverage: maximum 10%**

(5) **Maximum Height: 35 feet or [2.5] 3 stories.**

(6) Single family and multifamily residential density: maximum one unit per five acres.

H. Viewshed Protection.

(1) Any application for new development within the Historic Commons District must include a visual assessment including the following:

(a) Identify whether or not the project will be visible from the following resources and if so, what the distance between the proposed project and the resources will be:

(i) A parcel of land, including designated parkland, that is dedicated to and available to the public for the use, enjoyment and appreciation of natural or man-made scenic qualities.

(ii) A site or structure listed on the National, State or Local Registers of Historic Places.

(iii) A site or structure within a National, State or Local Historic District.

(b) Identify whether or not visibility of the project from the resources identified in (a) above will be seasonal.

(c) Identify whether or not there are any visually similar projects within the Historic Commons District”.

(d) Provide visual materials illustrating the following:

(i) The design of the proposed project, including elevation and materials.

(ii) Views to and from the proposed project from all visible resources identified in (a) above.

(2) Any application for new development in the Historic Commons District must not result in a significant aesthetic impact on any existing place or structure within the Historic Commons District, as determined by the Planning Board based upon review of the required visual assessment, unless the Planning Board determines that such impact can be mitigated by landscaping, building design or topography.

(3) A significant aesthetic impact is defined herein as "a detrimental effect on community character including the perceived beauty of a place or structure that may cause a diminishment of the public enjoyment and appreciation of the place or structure, or one that impairs the character or quality of such a place or structure."

SECTION 3. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law.

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; a request must be made to the Village Clerk at least five days in advance of the meeting.

**BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF TARRYTOWN**

Mayor Fixell acknowledged receipt of the following letters regarding the Historic Commons District HC Zone after the public hearing was closed on October 20, 2014: a November 6, 2014 letter from Timothy Plunkett from McKenna, Long and Aldridge, the Attorney for the Montefiore Medical Center and MMC Corporation; a November 13, 2014 letter from Jeffrey Anzevino, Director of Land Use Advocacy for Scenic Hudson, a November 14, 2014 letter from Jason Klein, President of Federated Conservationists of Westchester County and a November 17, 2014 letter from Howard Zar, Executive Director of Lyndhurst. All of these letters were received by all the Board members and will be made part of the official record of this meeting.

Timothy Plunkett, Attorney at McKenna Long & Aldridge, thanked the Board for accepting his letter and provided a copy to the Village Clerk.

Krytin Hastings-Silver, Associate Director of Lyndhurst, read a letter from Howard Zar, Executive Director of Lyndhurst. She stated that Mr. Zar wanted her to re-iterate their support for the proposed changes to the Historic Commons Zoning District and read his letter which will be attached to the official minutes of this meeting.

Mark Fry, member of the Tarrytown Lakes Committee, stated that he strongly supports the proposed amendment to the Historic Commons Zoning District. Tarrytown has one of the richest histories in the United States and one of the largest collections of great estates in the Hudson Valley. Its Tarrytown's historic past that defines our community and prepares it for a prosperous future. The Historic Commons District gives Tarrytown its unique identity. Washington Irving's Sunnyside reminds us of the very first American writer to achieve international fame and Jay Gould's Lyndhurst reminds us that the richest man on earth selected Tarrytown as his home. The greatest threat to the historic estates operated by the National Trust for Historic Preservation has been the crowding of the great open spaces surrounding the estates through poorly planned residential development. Mr. Fry applauds the pro-active efforts of the Village of Tarrytown Board of Trustees, the Tarrytown Planning Board, and of Scenic Hudson to insure that we will not allow that to happen here. He also applauds the long and deliberative process the Board has gone through to insure that a well-reasoned balance is achieved between the rights of the property owners in the district and the rights of future generations to enjoy the tremendous concentration of assets that this district contains. Those assets are not simply historic and architectural, but recreational, cultural and most importantly, scenic. The beauty of this district is based upon wide areas of open space and sweeping vistas to the Hudson River. The recreational value of this district depends upon the many broad trail ways and the pleasure of walking the trails depends upon the generous spaces between the trails and the buildings. The zoning that the Board of Trustees is proposing will preserve these vistas and the sense of wide-open space that is so important to enjoyment of this unique area by both residents and visitors. This area has the potential of being a magnificent central park on the Hudson River.

Carole Griffiths, 251 Martling Avenue, stated that she is representing the Tarrytown Environmental Advisory Council (TEAC) and thanked the Board of Trustees for their insight for the preservation of this very important area. In addition to the historical importance of this area, it has an environmental importance, the open space and the environmental assets that it gives to the Village. TEAC strongly supports the proposed amendment to the Historic Commons Zoning District.

Ben Sands, 131 Neperan Road, stated that he endorses the proposed amendment to the Historic Commons Zoning District. One of his concerns with the decision going forward is

the involvement of the Zoning Board of Appeals and the Architectural Review Board in the process of reviewing historic structures. He personally just went through this and found that the Zoning Board of Appeals was not aware that they were responsible for landmark designations in the Village. He is concerned if the proposed amendment on the Historic Commons Zoning District gets approved, that the message gets to the Zoning Board of Appeals and the Architectural Review Board regarding their responsibilities.

Mr. Sands noted that the Town of Ossining has a Landmark Committee, a group that is dedicated to historical preservation. The Village of Tarrytown used to have a Historical Architectural Review Board, which was disbanded. Historical preservation is included as part of the Architectural Review Board law. He would like the Board to consider forming a historical preservation landmark committee, separate from the Zoning Board and Architectural Review Board. When something comes up, such as the proposed legislation on the Historic Commons District, this landmark committee can focus strictly on historic preservation.

Frank Fish, Planning Consultant with BFJ Planning; stated that in 2013, he started to work with the Board of Trustees and the Planning Board on the revisions of the Historic Commons District. He had many meetings with the Planning Board on this issue. The Planning Board and the Board of Trustees along with BFJ Planning took Mr. Tung's letter to the Board of Trustees, dated January 6, 2014, very seriously as well as the letters from Scenic Hudson, Lyndhurst and the Federated Conservationists of Westchester County. Mr. Fish reviewed Tim Plunkett's letter to the Board of Trustees dated November 6, 2014 and stated the following:

- Mr. Plunkett refers to Mr. Tung's letter dated January 6, 2014, where he wanted consideration relating to "Senior Independent Housing." Mr. Tung suggested that we incorporate language from State of New York on assisted care and senior housing. The Board of Trustees and the Planning Board felt that an assisted care and/or senior housing use, while it is a good use, were not appropriate in the Historic Commons District. The Boards felt that a Conference Facility and Multi-family housing uses were also inappropriate in the Historic Commons District. This is a zone where the principal permitted use is a single family home on five (5) acres.
- Mr. Tung's letter referenced the "Purpose and Intent" section and the Planning Board worked in great detail on that section, but did not go in the direction that Mr. Tung had desired. Mr. Tung wanted the Village to distinguish and/or break out the "Montifiore" parcel closest to the old Kraft site. The Planning Board felt that it shouldn't be broken out and it shouldn't be treated differently than other properties in the Historic Commons District. It is all part of the existing Historic Commons District. It has a great estate or mansion, gardens and landscape, which was presented to the Board of Trustees by Howard Zar of Lyndhurst. The "Purpose and Intent" section of the code really represents preservation of a very unique section of the Village.
- With respect to "Building Coverage," the Boards did not go in the direction that Mr. Tung had requested. Mr. Fish provided to the Board a copy of the Village of Tarrytown's existing Zoning Schedule of single-family residential uses in the Village's Zoning Code (which will be attached to the official minutes of this meeting). The Zoning schedule goes from R-5 to R-80. R-5 has coverage of 30%, with a minimum lot size of 5,000 square feet. As lot sizes increase, the coverage begins to decrease. R-80 has coverage of 8%, with a minimum lot size of 80,000 square feet. The HC Zone is essentially an R-200 Zone, a five acre zone. There's an internal logic to this zoning code. If you went from an R-80, two acre zone to an R-200, five acre zone, you would expect that coverage to drop in half and that is exactly what has happened. The coverage is 4% on this site for a

- principal building. The 4% was tested and it worked out fine. For example 4% of 217,000 sq. ft. is about 8,600 sq. ft. multiplied by two (two-story) equals 17,200 sq. ft. building. The Historic Commons zoning provisions allows for 3 stories, which would be a house of 25,800 sq. ft. This gives you a very generous size house.
- The other item that Tim Plunkett's letter references, is the "Multifamily Residential Density." It was the feeling of many who testified before the Board as well as the Planning Board's deliberation that multifamily housing as well as new office buildings, institutional buildings, assisted -care buildings were not appropriate in this zone. Multi-family wasn't taken out of the Historic Commons District, multifamily housing is still permitted. There is still a provision there for the Zoning Board of Appeals to allow multi-family in an existing historic structure. There's also a provision that it would be permitted if you had a site like Lyndhurst with a big mansion, with 15 acres, you can still put 2 – 4 units, provided you have 5 acres per unit. The idea is that garden apartments are not appropriate in the zone.

In summary, Tim Plunkett's letter is very appropriate. Mr. Fish read the following from his letter: Concluding that "... MMC applauds the Board for striving to derive the greatest value from the lands within its jurisdictional boundaries....." Mr. Fish feels that the statement is true and he would respect that Mr. Plunkett, representing his client would want to provide for the greatest value from the lands. They would want to represent the greatest value from the lands within their boundaries that they control or that they own.

Mr. Fish noted the following three purposes in the HC Zone:

1. To preserve the vigilant integrity of the historic resources within the district.
2. To preserve their surrounding landscapes. (With this particular site, this is very important)
3. To maintain the existing pattern of development.

Mr. Fish feels that the changes are reasonable and incorporated goals voiced by various speakers. Mr. Fish noted that the Planning Board worked very hard and listened to both Andy Tung and Tim Plunkett during their review and recommendation to the Board of Trustees. He believes the Board of Trustees has achieved a reasonable balance in the proposed amendment.

Mayor Fixell read a portion of Tim Plunkett's letter, "MMC (Montefiore Medical Center) is a dedicated partner in all of its development activity keeping the well-being of the community at the forefront of all its undertakings. MMC has a history and reputation for being a strong corporate citizen and MMC intends to work with the Board to identify mutually acceptable outcomes with respect to any future projects within the Village." Mayor Fixell noted that the Board of Trustees has also authorized a review of the zoning code in regard to the office building zone and that we do look forward to working with Montefiore Medical Center on this effort as well. The process does not end with the Historic Commons District. The Village is looking at updating other portions of the Zoning Code.

Trustee Hoyt moved, seconded by Trustee McGee, and unanimously carried, that the hearing be closed.

Trustee Basher moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby amend the Code of the Village of Tarrytown, Chapter 305-28 entitled "Historic Commons HC Zone" for the purpose to reinforce through clarification of the zoning code applicable to this area, as adopted on February 7, 2001, the purpose of ensuring that any new development or reuse of existing structures within the Historic Commons district is consistent with single family use on large lots designed to complement the single family

use, and be architecturally compatible with the historic resources and visual quality of existing buildings, landscapes and sites.

WHEREAS, a public hearing was held for the proposed action on September 2, 2014 and September 15, 2014; October 6, 2014 and October 20, 2014 and November 17, 2014; and

WHEREAS, a notice of public hearing was published in the Journal News on August 21, 2014 and September 5, 2014; and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that the Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 9 of 2014.

ZONING MAP AMENDMENT (adopted)

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 16th day of December, 2013, at 8 PM, in the Municipal Building, One Depot Plaza, Tarrytown, New York 10591, to hear, discuss and to act upon an amendment to Zoning Map of the Village of Tarrytown. A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A LOCAL LAW to amend the zoning of two parcels and to amend the Zoning Map of the Village of Tarrytown.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees adopted a moratorium on May 6, 2013 regarding development in the Historic Commons Zoning District due to confusion in the Zoning Code in regards to the existing language as to what is permitted to be constructed in the Historic Commons Zoning District as well as the requirements associated with such construction. Thereafter it was discovered that when the Board of Trustees created the Historic Commons Zoning District in 2001, two properties in the study area for the creation of the district were not included in the district and retained the R-40 Zoning District designation. The Board of Trustees included these two properties in the moratorium and the review of the Historic Commons Zoning District by the Planning Board on August 19, 2013. One of the properties is now owned by Westchester County and is designated as parkland and the second property, which remains under the same ownership as in 2001, is now subject to a conservation easement held by Scenic Hudson. It is the opinion of the Planning Board working with the Planning Consultant that based upon their review of the Zoning Code and the existing properties in the Historic Commons Zoning District and the R-40 properties that were part of the original study area for the district that the two properties should be zoned Historic Commons and not R-40.

B. Legislative Intent.

The intent of this legislation to rezone the two properties that were included in the original study area for the creation of the Historic Commons District and later excluded when the new zoning district was created to now include the said properties in the Historic Commons Zoning District.

Material to be deleted appears in parenthesis [], material to be added is in **bold typeface**.

SECTION 2. Rezoning of Parcels

- A. Parcel 1. Designated as Sheet 1.221, Block 129, Lot 1 is hereby rezoned from R-40 to Historic Commons (HC)
- B. Parcel 2. Designated as Sheet 1.260, Block 134, Lot 5 is hereby rezoned from R-40 to Historic Commons (HC)

Section 3. Amendment to Zoning Map

The Official Zoning Map of the Village of Tarrytown, certified by Local Law # 7 of 2001, is hereby amended to reflect the rezoning of two parcels noted in Section 2 hereinabove.

SECTION 4. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law.

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; a request must be made to the Village Clerk at least five days in advance of the meeting.

BY ORDER OF THE BOARD OF TRUSTEES OF THE VILLAGE OF TARRYTOWN

Trustee Hoyt moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby amend the Official Zoning Map of the Village of Tarrytown, certified by Local Law #7 of 2001, to reflect the rezoning of two properties to be included in the Historic Commons Zoning District.

WHEREAS, a public hearing was held for the proposed action on December 16, 2013, January 6, 2014, February 3, 2014, February 18, 2014, March 3, 2014, March 17, 2014, April 7, 2014, April 21, 2014, May 5, 2014 May 19, 2014, June 16, 2014, July 21, 2014, August 18, 2014 and September 2, 2014, September 15, 2014; October 6, 2014 and October 20, 2014; and

WHEREAS, a notice of public hearing was published in the Journal News on December 5, 2013; and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 10 of 2014.

COMPREHENSIVE PLAN AMENDMENT (adopted)

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 16th day of December, 2013, at 8 PM, in the Municipal Building, One Depot Plaza, Tarrytown, New York 10591, to hear, discuss and to act upon an amendment to the Comprehensive Plan for the Village of Tarrytown. The complete text of this legislation follows:

A LOCAL LAW to amend the Comprehensive Plan of the Village of Tarrytown.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees adopted a moratorium on May 6, 2013 regarding development in the Historic Commons Zoning District due to confusion in the Zoning Code in regards to the existing language for the Historic Commons Zoning District. The Board of Trustees directed a review of the language of the Historic Commons Zoning District to the Village Planning Board and authorized the Village Planning Consultant to provide professional assistance to the Planning Board in the review and recommendation process. During the review process, it was noted by the Planning Consultant that there was an error in the map in the Comprehensive Plan, Figure 10.1, Future Land Use Plan. The map shows that the properties in the Historic Commons Zoning District are “Medium Density Residential” and are reflected on the map in a bright yellow color. The properties in the Historic Commons Zoning District are actually “Low Density Residential” and should be reflected in a less vibrant yellow on the Future Land Use Plan in the Village’s Comprehensive Plan. During the review of the specific language of the Historic Commons Zoning District, it was determined that one of the properties to be incorporated into the Historic Commons Zoning District was designated on the Future Land Use Plan as “Institutional” and the property is now subject to a conservation easement and no longer an institutional use. The Future Land Use Plan needs to reflect this change. In addition, since the adoption of the Village of Tarrytown Comprehensive Plan, the RiverWalk South linear park has been constructed which traverses a portion of the Historic Commons Zoning District and the Future Land Use Plan should reflect this new linear park.

B. Legislative Intent.

The intent of this Local Law to amend the Comprehensive Plan for the Village of Tarrytown to reflect on the Future Land Use Plan that the properties now and in the future that are located in the Historic Commons Zoning District are low density residential and not medium density residential.

Material to be deleted appears in parenthesis [], material to be added is in **bold typeface**.

SECTION 2. Amendment of Village of Tarrytown Comprehensive Plan, Figure 10.1 Future Land Use Plan

Figure 10.1 Future Land Use Plan in the Village of Tarrytown Comprehensive Plan shall be amended to reflect that the properties in the Historic Commons Zoning District are low density residential and not medium density residential. The Historic Commons (HC) Zoning District is bounded by Route 9 (South Broadway) on the east, the Hudson River on the west, West Sunnyside Lane on the south and the Office Building Zoning District on the north. The amendment of Figure 10.1 Future Land Use Plan in the Village of Tarrytown Comprehensive Plan shall also reflect the construction of the RiverWalk South linear park.

SECTION 3. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law.

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; a request must be made to the Village Clerk at least five days in advance of the meeting.

**BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF TARRYTOWN**

Trustee McGee moved, seconded by Trustee Basher, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby amend the Comprehensive Plan for the Village of Tarrytown to amend the Future Land Use Plan in the Comprehensive Plan to reflect that the properties now and in the future that are located in the Historic Commons Zoning District are low density residential and not medium density residential and shall also reflect the construction of the RiverWalk South linear park.

WHEREAS, a public hearing was held for the proposed action on December 16, 2013, January 6, 2014, February 3, 2014, February 18, 2014, March 3, 2014, March 17, 2014; April 7, 2014, April 21, 2014, May 5, 2014 May 19, 2014, June 16, 2014, July 21, 2014, August 18, 2014 and September 2, 2014, September 15, 2014, October 6, 2014 and October 20, 2014; and

WHEREAS, a notice of public hearing was published in the Journal News on December 5, 2013; and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that the Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 11 of 2014.

CONTINUATION OF A PUBLIC HEARING – CHAPTER 281: TREES - Continued

Mayor Fixell noted that there will be no action taken tonight on the Tree Law. We still have all comments under consideration made previously.

Trustee Basher moved, seconded by Trustee McGovern and unanimously carried, that the public hearing on “Trees” be opened.

Peter Bartolacci, 67 Miller Avenue, noted the following:

- What is the liability for the Village if a resident requests a permit to take down a tree and the permit is denied and that tree proceeds to fall and injure someone or someone’s property? Administrator Blau stated that he does not believe there is a liability issue for the Village. There has been a Tree law in the Village as many other Villages have for a very long time and it has been reviewed by the Village

- Attorney. He believes if there was a liability issue for having such a law, this would have been addressed some time ago. He noted that we can look into this, but he doesn't believe there are liability issues above and beyond because of our law.
- Within the last two weeks, a tree on Riverview Avenue fell onto a car and crushed the car. There were no signs that this tree was going to come down. Just something to think about. We have these laws, but there are potential consequences that could be costly to the Village or to peoples' lives.
 - He read a statement from the existing tree law as well as from the proposed tree law. The statement reads, "The destruction of trees causes increased municipal costs for proper drainage control and impairs the benefits of occupancy and use of existing properties in the Village." He asked what the statement meant and can we say this statement is true in all cases. He noted that if it is not true in all cases, he doesn't believe it should be in the law.
 - He is aware of the appeals process when a tree permit is denied. If the appeal is denied, the cost of the appeal is borne by the resident. That doesn't make sense to him.

Mark Fry, member of the Tarrytown Lakes Committee, stated that he has worked closely with Stephan Yarabeck, a landscape designer, who wrote a big part of the original Tree Law for the Village. This Tree Law has been adopted throughout the Hudson Valley and is seen as a model law. In response to two points that were raised:

- All trees die and when they die, they fall down. One hopes that they are able to assess the condition of trees and to take trees down before they fall. It is technically not possible to assess a tree's condition as to whether a tree is going to fall down in a particular storm. There is a provision in the Tree Law that includes if a tree on private property that endangers or may endanger the security of the property owner or the public, it shall be removed.
- As far as private property rights versus public benefits, it is clearly to everyone's benefit to live on a tree-lined street. Houses that are surrounded by trees are clearly more livable and attractive. In fact, we have legislation that requires private property owners to landscape their properties.

Mr. Fry believes that the Village is well within its rights to strengthen the Tree Law. He applauds the Board for their efforts in making the Tree Law even better.

Anne O'Brien, Chairperson of the Tree Commission, thanked the Mayor and the Board of Trustees for their interest in trees and the future of Tarrytown and for their patience with this issue. The Tree Commission is meeting and will consider all the comments from the public. Ms. O'Brien thanked the public for their comments. The Tree Commission is working on a response, but she is not prepared to discuss it this evening.

Trustee Basher moved, seconded by Trustee Hoyt, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby continue the public hearing to the next regular Board meeting on December 1, 2014.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD ONLY ON AGENDA ITEMS. SPEAKERS SHALL HAVE THREE (3) MINUTES TO ADDRESS THE BOARD OF TRUSTEES

Mayor Fixell asked if anyone wanted to address the Board on agenda items. No one appeared.

APPOINTMENT OF LABORER

Trustee McGovern moved, seconded by Trustee Basher, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby appoint Raymond A. DeFiore to the position of Laborer effective November 18, 2014, at an annual salary of \$45,165.00, Step 1, subject to all civil service rules and regulations.

HOLIDAY METER PARKING

Trustee Basher moved, seconded by Trustee Hoyt, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve a holiday parking meter program for the 2014 holiday season by designating certain parking meters to be covered to allow free parking subject to a two-hour time limit, from the period from Friday, December 5, 2014 through Friday, December 26, 2014 at the following locations: all downtown business district street meters, municipal lots on South Washington Street, South Washington Street (west), McKeel Avenue, Windle Park (Village portion), Neperan Road (Village portion), South Broadway and the West Elizabeth Street/Junior League Lot.

WESTCHESTER COUNTY FORCE MAIN ON CHURCH STREET

Trustee Hoyt asked how much advance notice Westchester County will give the Church Street residents prior to their meeting with the residents and prior to the commencement of construction.

Westchester County Commissioner Tom Lauro stated that as soon as the County has an awarded bid to a contractor, they will setup the meeting with the residents of Church Street and any residents on Broadway who would like to come to the meeting. Before the start of any construction, there is a period of time when shop drawings are submitted. Construction is planned to start in the spring of next year, so there will be ample time to notice the residents.

Trustee Basher moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby grant permission to the Westchester County Department of Environmental Facilities to construct a new sanitary sewer force main on Church Street.

BE IT FURTHER RESOLVED that the permission hereby granted shall be subject to the following conditions:

1. Final paving shall be curb to curb the entire length of the roadway.
2. Contractor working for Westchester County shall take care to avoid damage to existing pavement, trees, vegetation, structures and utilities that are not indicated to be demolished or removed.
3. All driveways, curbs and sidewalks damaged or disturbed by the contractor during construction shall be restored to equal or better than the existing condition prior to the damage or disturbance.
4. All structures or driveways damaged or disturbed outside of the Village road right-of-way or easement shall be fully restored to equal or better than the existing condition prior to the damage or disturbance at no cost to the resident or property owner.
5. All homes and properties on the street shall be accessible for emergency responders at all times.

6. Excavations in roadway shall be temporarily backfilled except where the excavated area is needed for construction sequencing within the subsequent 72 hours.
7. Excavations in roadway not temporarily backfilled shall be covered and pinned with roadway plates.
8. The section of plated roadway shall be backfilled as soon as practicable. The contractor working for the County shall take all efforts to backfill within 72 hours.
9. There shall be one lane of traffic open at all times.
10. Access shall be maintained to every residence or property adjacent to the work at all times.
11. Work shall be performed between the hours of 9:00 a.m. and 3:00 p.m. Set up and break down of equipment may occur between the hours of 8:00 a.m. and 4:00 p.m. In the case of an emergency during construction, these hours may be modified by either the Village Administrator or the Village Engineer.
12. The Westchester County sanitary sewer force main shall be constructed below the bottom of Tarrytown's water mains and laterals and sanitary sewer mains and laterals serving the homes and properties.
13. If utilities in the construction excavation area servicing the homes and/or properties are damaged, the utilities will be immediately repaired at contractor's expense.
14. If utilities in the construction excavation area servicing the homes and/or properties cannot be supported during the construction project, the utilities will be replaced at contractor's expense.
15. If there is interference between the utilities servicing the homes and/or properties and the new sanitary sewer force main, the service utility will be relocated at contractor's expense.
16. Contractor working for Westchester County shall televise existing sewer main in Church Street, both pre and post construction.
17. Contractor working for Westchester County shall televise the existing sewer laterals of the homes and/or properties on Church Street, both pre and post construction from the Village sanitary sewer line to the edge of the road right-of-way (point where road right-of-way and private property meet).
18. Church Street shall be videotaped, prior to construction, from the road right of way on the south side of the street to the road right of way on the north side of the street. The videotape shall include, at a minimum, the sidewalks, curbs and driveways within the road right of way. A copy of the videotape shall be provided to the Village Engineer prior to the commencement of construction.
19. Notice shall be provided to each of the homes and/or properties as to when work will be performed in front of that home and/or property. The minimum notice shall consist of placing a note in the door of the home and/or property that the construction work will occur on a date specific.
20. Westchester County shall only operate both sanitary sewer force mains at the same time in the case of an emergency. Westchester County shall provide notice to the Village of Tarrytown in the case of such an emergency and shall provide notice prior to activating both sanitary sewer force mains.
21. Westchester County will provide a letter to every resident and property owner on Church Street that will provide information on who to contact if there are any issues or concerns during or after construction.
22. Westchester County will meet with the residents of Church Street prior to the commencement of construction.
23. Westchester County will meet with representatives from the Police Department, Fire Department and Tarrytown Volunteer Ambulance Corps to discuss the construction project prior to the commencement of construction.
24. Contractor working for Westchester County shall remove and dispose of all debris off site that is generated during the project.
25. Westchester County shall provide to the Village "as-builts" of the sanitary sewer force main construction.
26. Westchester County shall provide a full time inspector on the sanitary sewer force main construction project. The inspector shall work cooperatively with the Village and provide reports requested by the Village Administrator, Village Engineer or their representatives.

27. Westchester County shall provide notice to the Village of any work planned for and completed on the existing sanitary sewer force main. The County shall provide the Village the results of any pressure tests completed on the said force main.
28. The Village shall act as a liaison between Westchester County and the residents of Church Street in regards to the conditions included in this resolution both during and after construction. The Village shall have no monetary or legal obligations associated with serving in the capacity as liaison.

AMENDMENT OF THE 2014-2015 CAPITAL BUDGET

Trustee McGovern moved, seconded by Trustee Basher, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby amend the 2014-2015 Capital Budget in the sum of \$115,000 and is hereby appropriated from said Capital Budget and made available to the Route 9 Beautification Project.

VEHICLE AND TRAFFIC CODE AMENDMENT – PARKING – NORTH BROADWAY

Trustee Basher moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the following amendment to Chapter 291 of the Code of the Village of Tarrytown entitled “Vehicles and Traffic” to allow for a change that will create more of a restriction on North Broadway north of the Warner Library.

Material is to be deleted is shown in parenthesis ()

New Material is set forth in **bold**.

291-77. Schedule XII: Parking Prohibited at All Times

In accordance with the provisions of 291-16, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Broadway, North	West	From Wildey Street northerly for a distance of (204) 300 feet.

INTER-MUNICIPAL AGREEMENT – TOWN OF GREENBURGH

Trustee Hoyt moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby authorize and direct the Village Administrator to execute an Inter-municipal Agreement with the Town of Greenburgh associated with the operation and maintenance of property abutting Taxter Ridge Park Preserve which will be assigned to the Village from the Town of Greenburgh.

ACCEPTING ASSIGNMENT OF PROPERTY

Trustee McGovern asked if the acceptance of the assignment of park property has to occur by December 31, 2014. Administrator Blau responded, yes, the Village is granted permission to accept this assignment by December 31, 2014; after that, the language of the resolution does not grant permission to accept.

Trustee Basher moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees accepts the assignment of park property with an adjacency to the Taxter Ridge Park from the Town of Greenburgh. This acceptance shall be effective through December 31, 2014.

BE IT FURTHER RESOLVED that the Village Administrator is hereby authorized and directed to execute any documents associated with the assignment of the park property.

SCHEDULE A PUBLIC HEARING – REMOVAL OF SNOW AND ICE

Trustee Basher moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby schedule a Public Hearing for the regular meeting of December 1, 2014, to hear and discuss and act upon a proposed amendment to the Code of the Village of Tarrytown, Chapter 259 entitled “Streets and Sidewalks,” by amending Article XIII, “Removal of Snow and Ice,” Section 259-37 to modify the time requirements for businesses and residents to clear their sidewalks of snow and ice.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES HELD ON NOVEMBER 3, 2014

Trustee McGovern moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the minutes of the regular meeting of the Board of Trustees held on November 3, 2014 as submitted by the Village Clerk.

APPROVAL OF AUDITED VOUCHERS

Trustee Basher moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved: Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve Abstract No. 9 of Audited Vouchers to be paid in the following amounts:

General	\$	302,204.05
Water		162,922.08
Sewer Fund		0.00
Capital		241,856.25
Library		4,049.64
Trust & Agency		42,892.00
Total	\$	753,924.02

The Board was polled all voting “aye” with the exception of Trustee McGee who recused herself from Voucher Number 2012247910. Motion carried. 5-0

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD. SPEAKERS HAVE FIVE (5) MINUTES BEFORE YIELDING TO THE NEXT SPEAKER; THEN THREE (3) MINUTES FOR ADDITIONAL COMMENTS

Paul Cancro, 18 Short Street, asked why the street lights were changed on Main Street.

Administrator Blau responded that the Village had an energy audit completed for the Village which was conducted by NYPA (New York Power Authority). The audit included the changing of the lights. The lights that were put in were the lights recommended in the

energy audit by NYPA. Once the lights were installed it was obvious that the lights do not provide enough illumination. We are looking at replacing the new replacement bulb lights with brighter bulbs which will match the brightness of the old lights.

Mr. Cancro asked what the cost savings is between the two kinds of lights.

Administrator Blau stated that L.E.D. lights are more energy efficient and provide a significant cost savings. He would have to go back and look at the audit to know exactly how much savings were anticipated through the audit.

Mr. Cancro asked if we are changing the lights throughout the entire Village.

Administrator Blau stated that this audit was to replace the decorative downtown street lights on Main Street and Broadway. However, the Village is looking at an L.E.D. streetlight replacement program for the entire Village. Many municipalities throughout Westchester County are converting to L.E.D. lights because there is a significant cost savings even with the cost of installation and the cost of the bulbs.

ADJOURNMENT

Trustee Basher moved, seconded by Trustee Hoyt, and unanimously carried, that the meeting be adjourned at 9:08 p.m.

Carol A. Booth
Village Clerk