

2.0 LAND USE AND ZONING

Foster Church Inc. intends to develop the project site for construction of the 16,100 square foot Gospel Hall including 165 parking spaces on a 5.1-acre site with access from South Pascack Road in the Village of Chestnut Ridge. This property currently consists of two single family structures which are to be removed as part of this action. The development plan has been designed to conform to the requirements of the Village's R-35 zoning regulations with certain variances required as listed on the site plan and described below.

The frontage along South Pascack Road will include landscaping designed to provide aesthetically pleasing buffering from the surrounding area. As shown on the landscape plan a series of street trees and ancillary shrubs will line South Pascack Road along the site frontage. A decorative wrought iron style fence will further delineate the site frontage while adding a residential character to the overall church site plan. In accordance with the International guidelines of the Brethren Church fencing is to be placed around the entire property boundary to delineate the church use area and to limit disturbance to the surrounding neighborhood. As stated, this fence will be a decorative black aluminum fence along the property frontage on South Pascack Road and a black chain link fence along the remaining property perimeter.

2.1 Conformance to Planning and Zoning

The Zoning Regulations of the Village of Chestnut Ridge were adopted in the interest, protection and promotion of the public health, safety and general welfare of the Village. Among other things the regulations state; the impacts of growth must be controlled to maintain the rural, semi rural, and suburban character of the Village consistent with the ability of the Village to provide facilities and services. The regulations further state: the protection and enhancement of environmental, human and community resources must be fully respected.

Among the goals cited in the zoning, the proposed project is well situated at the confluence of several major highways. In particular, exit/entrance points to the Garden State Parkway existing nearby to provide regional access with minimal disturbance or impact to the local traffic network. The proposed project will help meet the needs of the community in providing a place of worship that respects the character of the surrounding community while preserving the environmentally sensitive steep slope wooded areas in the western portion of the site.

This project has been designed to substantially conform to the applicable zoning regulations, with variances for certain bulk requirements and the proposed 6' fence height. The primary subdivision lot is proposed as a Special Permit use (house of worship); the secondary lot is proposed as a single family detached residential use. A tabulation of the bulk requirements specified for the R-35 district and the proposed project is provided in the accompanying zoning Table 2-2. The required variances are also noted in Table 2-2.

Under New York law, schools and religious institutions receive favored zoning treatment. New York courts have long held that all schools and religious institutions are beneficial to the public welfare, and, to the extent that zoning laws are valid only if they are reasonably related to the public health, safety, morals or welfare, restrictions on schools and religious institutions are difficult to support. 1 New York Zoning Law and Practice, § 11.08; see, *Concordia Collegiate Institute v. Miller*, 301 N.Y.189 (1950); *New York Institute of Technology, Inc. v. Ruckgaber*, 65 Misc.2d 241, 317 N.Y.S.2d 89 (Sup. Ct. 1970).

New York holds “that religious and educational institutions ‘enjoy special treatment with respect to residential zoning ordinances because these institutions presumptively serve the public’s welfare and morals.’” Apostolic Holiness Church v. Zoning Bd. of Appeals of Town of Babylon, 220 A.D.2d 740, 633 N.Y.S.2d 321, 323 (2d Dept. 1995).

“While religious institutions are not exempt from local zoning laws, ‘greater flexibility is required in evaluating an application for a religious use than an application for another use and every effort to accommodate the religious use must be made.’” Rosenfeld v. Z.B.A. of Ramapo, 6 A.D.3d 450, 774 N.Y.S.2d 359 (2d Dept. 2004), quoting Genesis Assembly of God v. Davies, 208 A.D.2d 627, 628, 617 N.Y.S.2d 202 (2d Dept. 1994). “It is incumbent upon a local zoning board to suggest measures to accommodate the proposed religious use while mitigating the adverse effects on the surrounding community to the greatest extent possible.” Genesis Assembly, 617 N.Y.S.2d at 203.

In addition, federal law provides additional protections for religious institutions. It prohibits the imposition or implementation of land use regulations that impose a “substantial burden” on religious exercise unless the government can show that the regulation serves a “compelling governmental interest” and is the “least restrictive means” of furthering that interest. 42 U.S.C. 2000cc(a)(1). Federal law also requires that governments implement land use regulations equally among religious and nonreligious institutions. 42 U.S.C. 2000cc(b)."

“[D]emonstrat[ing] a compelling interest and show[ing] that [the government] has adopted the least restrictive means of achieving that interest is the most demanding test known to constitutional law.” Westchester Day School v. Village of Mamaroneck, 417 F.Supp.2d 477 at 551, quoting Boerne, 521 U.S. at 534.

“Compelling governmental interests are those that protect public health, safety or welfare.” Westchester Day School, 417 F. Supp.2d at 550. “[O]nly those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion.” *Id.* (citation omitted). Governmental action that imposes a substantial burden “must advance ‘interests of the highest order’ and must be narrowly tailored in pursuit of those interests.” *Id.* at 550-51 (citation omitted).

“Least restrictive means requires establishing that ‘[there are] no alternative forms of regulation’ that would further the alleged governmental interest.” *Id.* at 550 (citation omitted). “[I]f a less restrictive means is available for the Government to achieve its goals, the Government must use it.” *Id.* at 550 (citation omitted). “[I]t is the Government’s obligation to prove that the alternative will be ineffective to achieve its goals;” courts will not let “it be assumed that a “plausible, less restrictive alternative would be ineffective.” *Id.* at 550 (citation omitted).

2.2 Existing Conditions

Existing Zoning

As shown in Figure 2-1, the project site falls in one zoning district, the Low Density Residential District (R-35). Zoning in the project vicinity and, in fact, most of the Village of Chestnut Ridge, is Low Density Residential. The New York State Thruway Garden State Parkway Extension traverses the Village and a swath of Laboratory Office and Planned Industry zones are located on either side of the Parkway.

Table 2-1 shows the permitted land uses in the R-35 zoning district which apply to the project site by Permitted, Conditional, Special Permit Use and Accessory Use. Table 2-2 shows the bulk and yard requirements applicable to the R-35 district.

Table 2-1 Permitted Land Uses for the R-35 Zoning District	
	R-35
Underground Public Utilities	P
Orchards, Truck Gardening and Vineyards	P
Open Field Agriculture	P
Single Family Detached Residences	P
Community Residence Facilities	P
Reservoirs or Standpipes on three acres or more	C
Accessory to an Agricultural use, Produce Stands	C
Keeping Breeding or Raising of Horses on 20 acres or more	C
Keeping Breeding or Raising of Cows on 20 acres or more	C
Nursery Schools	C
Residences per the Density Zoning Resolution	C
Accessory Home Professional Office	C
Libraries, Museums and Art Galleries	C
Family and Group Care Facilities (Non-Padavan)	C
Cemeteries on 10 acres or less, adjacent to a place of worship	S
Public and Private Hospitals and Sanitoriums	S
Stables and Riding Academies	S
Volunteer Ambulance Service Facilities	S
Keeping of not more than 2 non-transient Boarders	S
Nursing Homes and Convalescent Facilities	S
Churches and Places of Worship	S
Schools of General or Religious Instruction	S
Up to three; Greenhouses, Barns, silos, sheds, garage tennis courts, swimming pools, or other similar structures.	A
Storage of not more than 1 unoccupied trailer, recreational vehicle, boat trailer or boat less then 35' in length.	A
Domestic Animals	A
Accessory Parking	A
Accessory Loading	A
Accessory to Agricultural Operations	A
Signage, For Sale, For Rent, Home Occupation or Professional Office, Identification Signs	A
Accessory Home occupations	A
Source: Village of Chestnut Ridge, Zoning Code.1/15/08 P= Permitted by right; C= Conditional Use; S= Special Use Permit; A= Accessory Use	

Table 2-2 Bulk and Yard Requirements for the R-35 Zoning District		
	R-35 - Use Group C	
	Required	Provided
Minimum Permitted		
Lot area (square feet)	217,800'	223,532'
Lot width (feet)	400'	412'
Front setback (feet)	100'	144'
Front yard (feet)	50'	50'
Side setback (feet)	100'	88' *
Total side setback (feet)	200'	198' *
Side yard (feet)	75'	25' / 34.0' *
Rear setback (feet)	100'	100'
Rear yard (feet)	75'	27.7' *
Street Frontage (feet)	300'	434.8'
Maximum Permitted		
Building height (feet)	35'	25'
Development Coverage	25%	47% *
Floor Area Ratio (F.A.R.)	0.20	0.08
Source: Village of Chestnut Ridge, Zoning Code.1/15/08		
* Required Variance		

Existing Land Use

The project site consists of two tax parcels, both owned by the Applicant. The site is located entirely in the Village of Chestnut Ridge, Rockland County, New York. The property abuts residential properties on all sides. The property boundary to the east is coincident with the right of way line for South Pascack Road. South Pascack Road (CR 35) is a north-south route which provides the frontage for the eastern boundary of the site. The Garden State Parkway Extension and the NYS Thruway, which are both located within two miles of the project site, provide regional access to the site.

The existing setting of the project site consists of nearly level to sloping topography and is partially wooded. There are no onsite wetlands, watercourses or waterbodies. The portion of the site along South Pascack Road is fairly level progressing to a more steeply sloped area to the west in the vicinity of Nicole Way. The sloped area is the most wooded area of the site, portions of which will remain undisturbed. There are two existing residential structures and other ancillary buildings which are to be removed as part of the project.

Surrounding Land Use Patterns

Land uses in the vicinity of the project area are predominantly year-round single family residences and public parklands. Figure 2-2, Surrounding Land Use map shows land uses in the area approximately one half mile around the project site.

To the east, north, and south of the project area, land use is predominately single family residential. The Pascack Brook lies on the opposite side of South Pascack Road and the Town of Ramapo's Children's Park is located in this area. Children's Park is a public park that provides areas for passive recreation. As shown on Figure 2-2 the industrial/commercial portion of the Village of Chestnut Ridge lies on the west side of the Garden State Parkway Extension. The Parkway effectively separates the Brethren Gospel Hall site from this industrial area.

2.3 Potential Impacts

Zoning

The site falls within one zoning category, R-35, and is comprised of a tract of land under one ownership. Places of worship are permitted in the R-35 zone by Special Use Permit, issued by the Planning Board.

The subject site meets the specified bulk requirements and yard setback requirements for the R-35 zone with certain required variances, as detailed in Table 2-2. Due to the irregular shape of the larger parcel, the specified side yard, rear yard and side setback requirements will require variances from the Zoning Board of Appeals. A buffer of existing forested land will be retained along the western portion of the property. The proposed single family residence lot entirely meets the bulk and yard requirements for the R-35 zone.

Provision of off-street parking conforms with the Village's requirement for Parking for Use Group C, Place of Worship. Table 2-3 below lists the parking data. All parking will be contained on site. Under no circumstance will parking be allowed along South Pascack Road. A sample Special Event Traffic and Parking Management Plan is provided in Appendix F. An event specific plan similar to this is prepared for each event to facilitate orderly traffic management. Similar to normal operations there will be no parking along South Pascack Road during Special Events.

Table 2-3 Proposed Parking Spaces R-35 Zone Use Group C				
Use	Zoning Requirement	Proposed Project	Required Minimum	Provided
Place of Worship	1 space per 200 square feet	16,100 sf	81 spaces	165 spaces
	1 space per 5 seats	780 seats	156 spaces	165 spaces
Source: Village of Chestnut Ridge Zoning Code.				

Land Use

The proposed project will result in a change in use on the project site from single family residential to a place of worship which serves the community in general. The plan allows for preservation of the steep slope wooded areas in the western portion of the project and provides for substantial landscape screening and attractive fencing on the frontage along South Pascack Road. The building is proposed to be set back on the site which will effectively minimize its visual presence from the road.

The construction of the proposed project is to be accomplished in a single construction phase lasting approximately nine months, designed to minimize impacts to surrounding land uses.

The proposed project plan includes a dedication of land along the site frontage for possible future road improvements of South Pascack Road by the County.

Potential Impacts to Public Policy

As discussed above, the Proposed Action conforms with the Village goals as published in its Zoning code. Thus, no significant adverse impacts to public policy are anticipated.

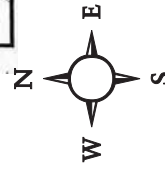
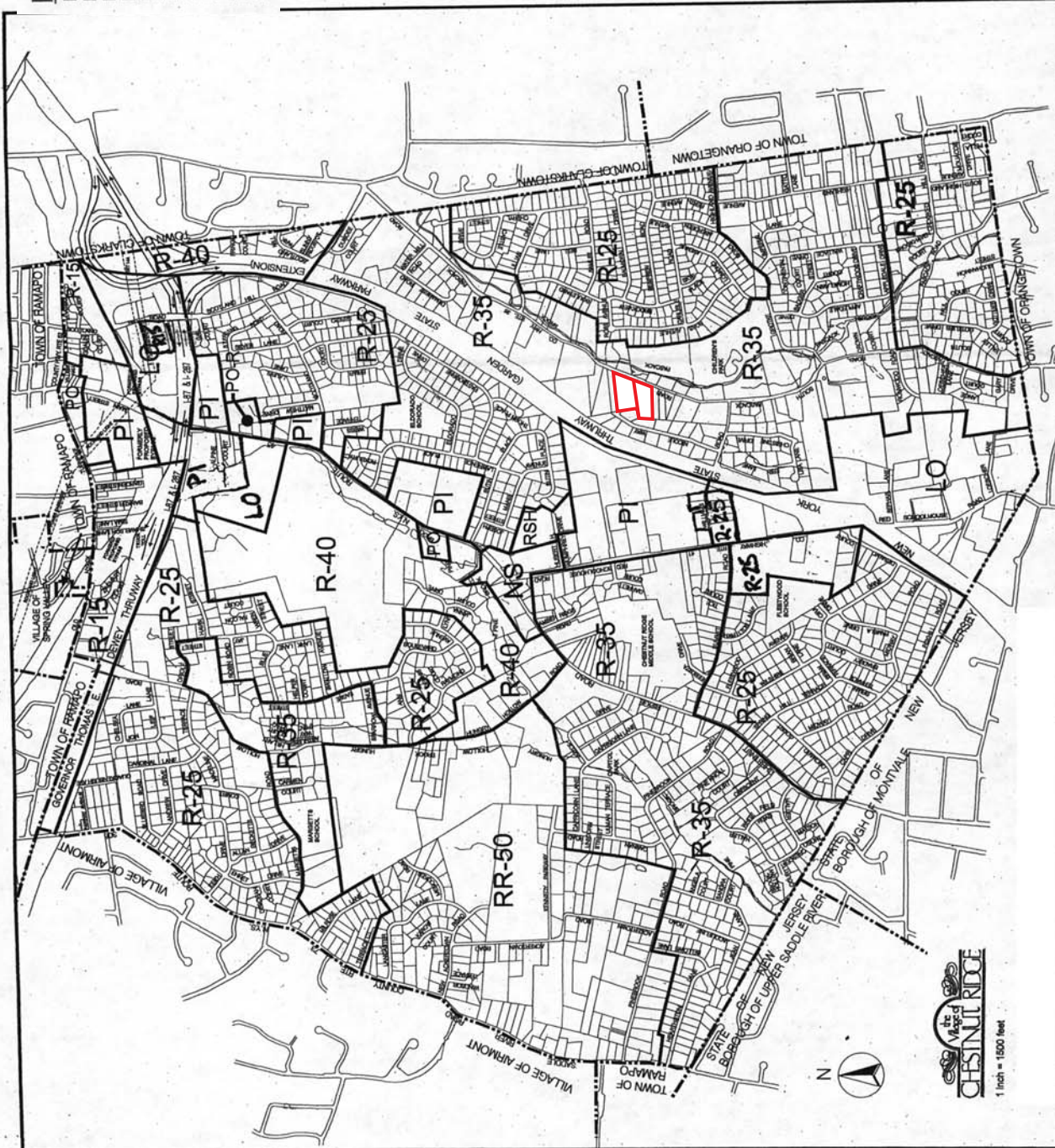
The proposed action will not disrupt any historic structures though it will result in a moderate change to the character of the site and its immediate vicinity. Churches have been sited in residential areas throughout the United States with minimal land use conflicts. It is the Applicant's intent and expectation that this project will be built and operated harmony with the surrounding neighborhood.

2.4 Avoidance or Minimization of Potential Impacts

The Brethren Gospel Hall project has been designed to become an integral part of the local community in a suburban developed environment without significant adverse effects on the surrounding area. Members of the church congregation live predominantly in the Chestnut Ridge area and all members live within Rockland County. As such the church provides a vital place of worship in the community. The Applicant believes that the project can be developed such that any adverse effect on zoning and land use of the Village will be avoided or minimized.

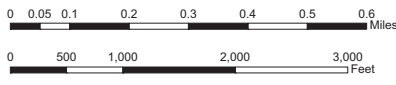
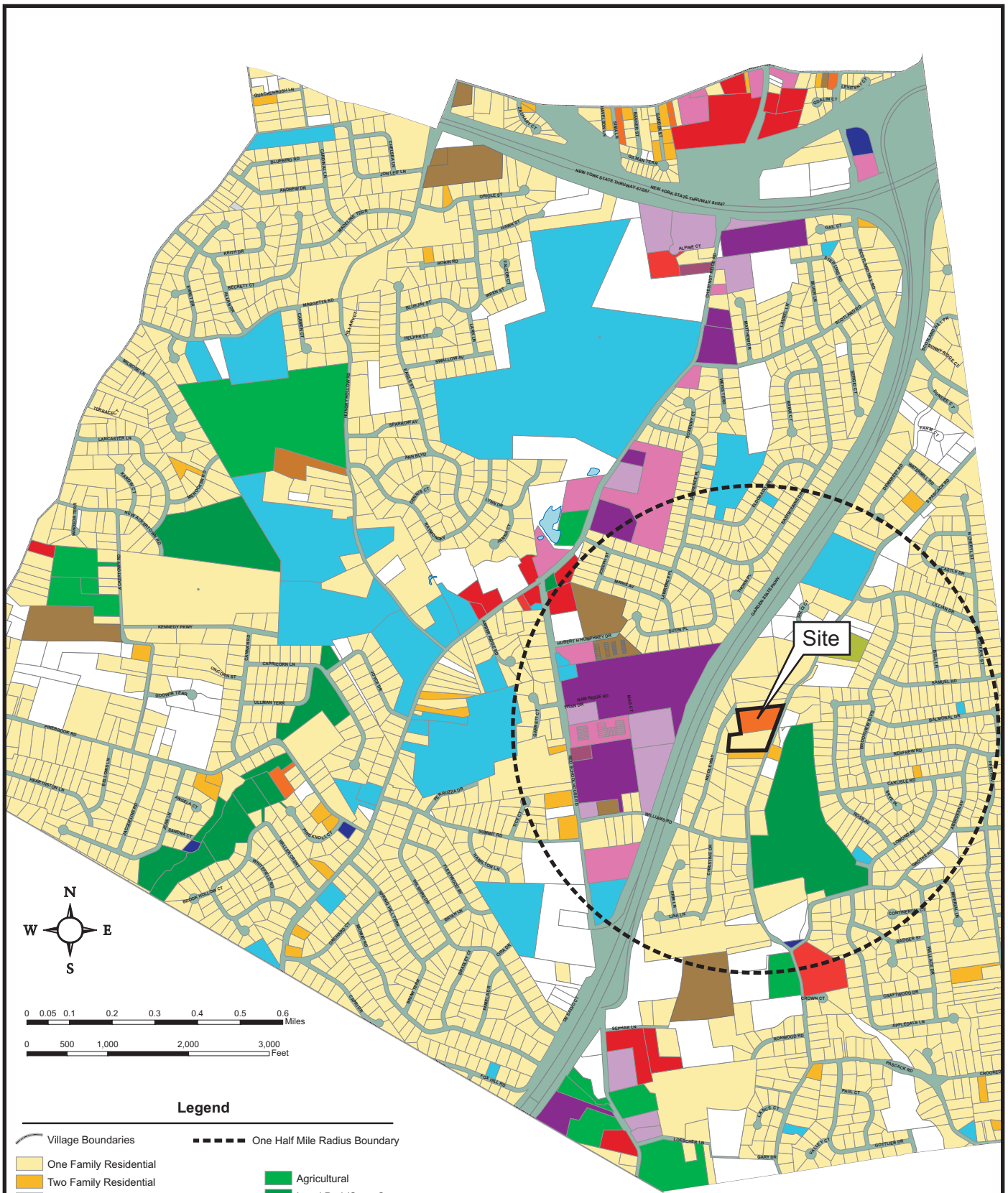
Legend: Zoning District

- RR-50 Rural Residential (50,000Sq.Ft.)
- R-40 Low-Density Residential (40,000Sq.Ft.)
- R-35 Low-Density Residential (35,000Sq.Ft.)
- R-25 Low-Density Residential (25,000Sq.Ft.)
- R-15 Low-Density Residential (15,000Sq.Ft.)
- RSH Special Housing Residential
- NS Neighborhood Shopping
- PO Professional Office
- PO-R Professional Office-Residential
- LO Laboratory Office
- PI Planned Industry



Project Site

Figure 2-1: Zoning Map
 Brethren Church
 Village of Chestnut Ridge, Rockland County, NY
 Scale: Graphic Scale as shown
 Source: Robert Geneslaw Co., 01/15/08



Legend

- Village Boundaries
- One Half Mile Radius Boundary
- One Family Residential
- Two Family Residential
- Three Family Residential
- Multi Family Residential
- Multi Family Residential - Senior Housing
- Mixed Use (Residential/Commercial)
- Office
- Light Industrial/Warehouse
- Heavy Industrial
- Local Neighborhood
- General Business/Community Commercial
- Regional Commercial
- Agricultural
- Local Park/Open Space
- Public Park/Open Space
- Private Recreation/Private Open Space
- Institutional/Quasi-Public
- Utilities
- Vacant
- Road
- Railroad
- Under Water
- Not Yet Classified

Figure 2-2: Surrounding Land Use Map
 Brethren Church
 Village of Chestnut Ridge, Rockland County, NY
 Scale: Graphic Scale as shown
 Source: Rockland County Planning Dept., 2008