COMMENTS TO THE OCTOBER 23, 2007 OFF-MAIN STREET RE-ZONING PROPOSAL

Preliminary Statement

The Off-Main Street Committee has reported that its mandate is to:

1. investigate and propose ways to increase the level of conformance within the District; and

2. ensure that the distinct character of this District is and continues to be protected.

Simply put, if enacted, the legislation proposed by the Off-Main Street Zoning Committee could very well signal the beginning of the end of the character of Irvington as we know it today. It will remove virtually all Board oversight of new construction within the District. It will do nothing to ensure that the distinct character of the District is and continues to be protected. It will allow certain existing lots to be subdivided, creating 26 new lots that may be developed. Indeed, it will constitute an open invitation to developers to tear down the historic homes that now exist, and replace them with townhouses with 0 side yard setbacks, a 10' less rear yard setback, increased building coverage by nearly ⅔ on many lots, and nearly double the permissible Floor Area Ratio (FAR) or bulk of structures.

All of this will be accomplished in complete disregard of the wishes and desire of nearly all of the residents of the District.

Background

Most of the buildings off Main Street were constructed between 1850 and 1930, with the close spacing of residential and commercial structures reflecting the shopping patterns of that era.

Irvington's first zoning regulation was enacted in 1929, just as the District had become fully developed. The up-zoning to the current zoning scheme was accomplished in the 1950s. It is generally recognized that this up-zoning was enacted to preserve and maintain the structures within the District as they existed. Thus, the current state of the buildings within the District pre-dates Irvington's Zoning Ordinance, and it is not the product of the granting of variances by the Zoning Board of Appeals, as recently claimed by some.

Over the last 30 years, there has been a recurrent theme sounded by the majority of Irvington residents. Preserve and protect the historic character of the Main Street area, and maintain the spectacular viewscapes of the Hudson River. Control growth, preserve open space, and be mindful of the difficulties in parking on the narrow congested side streets.

The will of the people of Irvington has been confirmed by Irvington's Land Use Committee's 2001/2002 survey of area residents, the 2003 Comprehensive Master Plan, and the Irvington Historic District Sub-Committee 2004 Draft Report.

The Prior Studies And Reports

Over the last decade, the Village and its volunteer citizens have dedicated hundreds of hours conducting surveys and holding public meetings to develop a consensus of its citizens:

(a) Between April 2001 – December 2002, a survey of all of the residents of the District was conducted by the Land Use Committee. This survey established that:

(i) 90% of the residents of the District were aware that a Committee in Irvington was examining whether to designate the Main Street area as a historic district;

(ii) 72% of the residents of the District favored establishing guidelines for renovation, demolition, and new construction in the District;

(iii) Nearly 60% of the residents of the District favored mandatory regulations such as prohibiting new construction out of character with the style of the District; and

(iv) Nearly 81% of the residents of the District favored restricting new buildings to ensure that they would be in harmony with, or consistent with, the existing character of the neighborhood.

(b) The results of the survey were incorporated within the March 2003 Comprehensive Master Plan enacted by our Trustees. The Master Comprehensive Plan[1]:

(i) was drafted with input from dozens of citizens, and those that prepared it included Caroline Niemczyk, Louis Lustenberger, Jan Blaire, John Canning, and our current Trustee Nicola Coddington and Mayor Erin Malloy;

(ii) serves as a policy guide for future growth and development in the Village;

(iii) has as it stated main goals, preserving and enhancing the Village's existing built character and scale and controlling and managing growth in the Village;

[1] The Comprehensive Master Plan provides a guiding overview of the planned development of Irvington. It was crafted after exhaustive village participation through public meetings, committee workshops, and consensus building over an eighteen (18) month period.

(iv) called for the Village to apply for historic district designation for the Main Street area;

(v) determined that to preserve the historic ambiance of the Village, the Village shall create a historic district and landmarks ordinance, and the Village should designate the Main Street area as a historic district; and

(vi) gave birth to a reconstituted Historic District Sub-Committee which was directed to submit a report to the Village Board which would result in the Trustees adopting a Historic District and Landmarks Ordinance, and the Village Board certifying the District, marking it as an overlay on the existing zoning map and creating an overseeing Board.

(c) A review of the Irvington Historic District Committee 2004 Draft Report reveals that:

(i) the residents of the District supported the implementation of guidelines to ensure that the character of this neighborhood remained harmonious and generally consistent with the way it looks now;

(ii) a Board of Trustees' Resolution charged the Historic District Sub-Committee with the responsibility to outline in descriptive layman's terms potential local laws intended to implement guidelines to preserve the character of this neighborhood;

(iii) the Sub-Committee chaired by Earle Ferguson, and counting as its members, Michael Burlingham, Bob Connick, Rebekah and Bill Fiorito, Joy Goudie, David Lovell, and Andy Lyons, with the assistance of Deb Hargraves, produced a comprehensive set of design guidelines to avoid damaging or incongruent alterations of historic architecture; and

(iv) the Committee properly noted that the historic character of a Village can be lost through inappropriate alterations, demolition, insensitive new development, the erosive effect of slow change and lack of maintenance. It noted that losing each small historic detail could have a devastating effect over time, and that historic district regulations could prevent unregulated change and encourage preservation of the original architectural styles and details of historic buildings in downtown Irvington.

The Inaccuracies Of The Report
<u>In Support Of The Proposed Re-Zoning</u>

As an initial matter, while the Committee reports that its mandate is in part, to investigate and propose ways to increase the level of conformance within the District, the Committee has failed to explain the need for such a change. The zoning scheme in the District has been in effect for nearly sixty (60) years, and the Committee has failed to identify one instance where a resident of the District has suffered a harsh result due to the existence of the zoning in its present form.[2] The Committee now proposes to increase the level of conformity without regard for the certain negative impact to the community that will result.

- Despite the long documented history which confirms the desire of the majority of the residents of the Village that the character of the Village be preserved and maintained, the proposed legislation does nothing to preserve or maintain the character of the District. It will permit more expansion, coverage, development, bulk, and density with less front, rear and side yard setbacks, and less oversight by the various Boards of the Village. There is nothing in this legislation that preserves the open spaces currently in place. Indeed, the meeting minutes of the Committee reveal that the Committee expressly recognized that development would increase with the enactment of this ordinance.[3]

- The Committee report relies on the faulty premise that the percentage of current non-conformity is due to variances granted by the ZBA in the recent past. The fact is that virtually all structures in the District were constructed well before the current zoning schemes were put in place. Any existing non-conformity is due to the fact that these structures were constructed before the enactment of the current zoning schemes. It is probable that this area was up-zoned purposefully, to prevent any unregulated change to the distinctive character of this District.

- The legislation's origination relies, in part, on the faulty premise that the ZBA is overburdened by variances requested by residents in the District. The fact is that over the last 4 years, the average number of variances requested for properties within the District has been 1 per year. And these requests all included applications for variances for other issues impacting the properties.

- The legislation relies on the concern that due to the present non-conformity of any of the existing structures, these structures could not be rebuilt to the present dimensions if destroyed or damaged. The fact is that Irvington presently has an ordinance in place (sec. 228-89 D) that permits a rebuilding of non-conforming structures under these very circumstances.

- The package and the legislation fail to address the 2003 Comprehensive Master Plan, the Historic District's Sub-Committee report, and results of the District resident survey conducted between April 2001 and December 2002. It is believed that the Committee did not review these documents or consider the work of those committees that preceded it.

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[2] Anecdotal evidence is that the issue of non-conformity is of little or no concern to residents of the District.
[3] In its Committee Meeting Minutes of July 11, 2007 Meeting, Page 4, the Committee reported that "intensification of development might not be a bad thing."

The New Urbanism –
What The Proposed Re-Zoning Will Accomplish

An August 13, 2007 Memorandum to the Committee from its Planner, entitled "Proposed Zoning: New Urbanism Approach, Allow Single and Two-Family Homes on 2,400 square foot lots" may provide insight into the Committee's true agenda: increase density and more development as part of a "New Urbanism" scheme. This concept of New Urbanism has not been defined, described or disclosed to the public.

It is without question that the New Urbanism scheme embraced by the proposed re-zoning will result in the following:

1. **Less Board Oversight:** the virtual elimination of meaningful ZBA review of proposed new construction, and alterations to existing structures in the District by providing a wide open zoning scheme to developers and others;

2. **Creation of up to 26 New Buildable Lots:** the subdivision of 26 existing lots to add an additional 26 new buildable lots (not the 22 new dwellings claimed in the package). In attempting to minimize the impact of these 26 new lots, the report and legislation relies on the questionable conclusions of Urbanomics, an affiliate of the planner hired by the Committee, that "there might be an additional 6-7 lots added by 2030 (assuming 2-3 per decade from 2000 to 2030). The fact is that virtually every developable lot in Irvington is being developed presently, including those situated in wetlands and on steep slopes. Developers will seize on the opportunity to construct townhouse type dwellings with increased density (nearly double), increased coverage allowances, 10' more buildable space in the rear yard, 0 side yard setbacks, and a much reduced front yard setback (as little as 0);

3. **Increased Density:** the permissible density of structures in the District nearly doubling due to the increase in the permissible FAR from .43 to .80. This will dramatically increase the permissible bulk of structures within the District. There has been no analysis of FAR for the structures now in place. Thus, the claimed basis for nearly doubling FAR is based on pure conjecture;

4. **Increased Building Coverage:** a dramatic increase in the permissible building coverage for many properties. A 4,000 square foot lot will be permitted increased coverage of 33%. A 5,000 square foot lot will be permitted increased coverage of 66%;

5. **Reduced Setbacks:** the reduction of the rear yard setbacks from the existing 30' to 20'. This will permit additions and new construction to be built 10' deeper into each property, and closer to the neighbors to the rear, and will further obstruct side yard open space and views. Virtually no other community permits a 20' rear yard setback. This is a 33% reduction in required rear yard open space. Only 36 lots within the District (23%) have less than a 30' rear yard setback, and only 22 lots within the District (14%) have less than a 24' rear yard setback;

6. **Encouragement of Townhouse Construction:** the encouragement of teardowns of historic buildings by granting to developers of townhouses as of right 0 side yard setbacks, increased density and coverage, and reduced front yard and rear yard setbacks;

7. **Potential Negative Environmental Impact:** increased development with no analyses of its impact on viewscapes, water runoff to properties downhill, traffic congestion, and the already limited parking with the District; and

8. **Selective Zoning:** the inexplicable exemption of South Cottenet St. from the new zoning by creating a special overlay zone for this one street with lot sizes of 4,000 square feet, virtually guaranteeing no material change to its existing density, coverage or setback requirements, and no subdividable lots.

Conclusion

It appears that this Committee's proposal is directly contrary to the Comprehensive Master Plan and the Historic District Sub-Committee's findings and recommendations.

I believe that this proposed re-zoning is ill advised and if enacted will result in encouragement of the teardown of historic homes, and the construction of cookie-cutter, full lot townhouses. I therefore urge the Committee to abandon its embrace of this New Urbanism concept.

I recommend that the Historic District Sub-Committee be reconvened to follow through on the recommendations contained within its Draft 2004 Historic District Sub-Committee Report. I believe that greater involvement by the Architectural Review Board in the Historic District Sub-Committee's work is likely to result in a consensus of what is best for our community.

I further recommend that this Off-Main Street Re-Zoning Proposal, the 2004 Historic District Sub-Committee Report, the 2003 Comprehensive Master Plan, and the minutes of this evening's work session, be immediately posted on the Village's official website to allow a complete and open dialogue of the current proposal being contemplated.

Dated: November 15, 2007
Irvington, New York

Respectfully submitted,

Arthur J. Semetis
Member of the Zoning Board of Appeals