

## DEPARTMENT OF PLANNING

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

March 2, 2017

Montebello Planning Board  
One Montebello Road  
Suffern, NY 10901

**Tax Data:** 41.17-1-65.1

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M

**Map Date:** 1/24/2017

**Date Review Received:** 1/31/2017

**Item:** *INKBERRY PROPERTIES, INC./131 SPOOK ROCK ROAD (M-125C)*

Site plan application to grow blueberry bushes and keep bees on a 1.31 acre site in the RR-50 zoning district.

West side of Spook Rock Road, opposite Marget Ann Lane

### **Reason for Referral:**

Spook Rock Road (CR 85)

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

### ***\*Recommend the following modifications***

While a more complete site plan has been submitted for this proposal, several other issues raised in our previous GML review have not been satisfactorily addressed. Our recommendations on the current site plan and overall proposal are listed below.

1 Growing blueberry bushes can be considered an agricultural use permitted by right in the RR-50 zoning district. However, it is unclear whether beekeeping is an as-of-right or special permit use. This must be clarified and the appropriate use group identified.

2 It is unclear how Use Group "h" was selected. The Use Table for the RR-50 zoning district does not specify a use group for agriculture. It is unlikely that the minimum lot area for agriculture is the same as that for single-family residences. In the ER-80 zone, agriculture is included in Use Group "b" with a minimum lot area requirement of ten acres. This is almost five times greater than the minimum lot area requirement for a single-family residence in the ER-80 zone. The RR-50 minimum lot area requirement for this use must be clarified.

**INKBERRY PROPERTIES, INC./131 SPOOK ROCK ROAD (M-125C)**

- 3 Section 195, Attachment I, specifies that agricultural operations are permitted provided that "there are no structures or storage or odor- or dust-producing substance with a distance of 300 feet of any lot line." Given that the subject site is just under 200 feet wide, it is deficient in meeting this requirement. A variance is therefore required.
- 4 A review must be completed by the Rockland County Highway Department and all required permits obtained.
- 5 A review of the planned well must be completed by the County of Rockland Department of Health and all required permits and/or approvals obtained.
- 6 The previously submitted project narrative stated that the applicant "will not be selling blueberries to customers at the site." This contradicts information posted online about this facility. It is advertised as a "u-pick" blueberry farm on several sites. Given the limited on-site parking proposed and the commercial nature of a "u-pick" operation, it must be clarified whether the sale of produce is proposed and permitted.
- 7 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 8 If a special permit application is deemed necessary for either use, it will be subject to a review by this Department, as mandated by the New York State General Municipal Law.
- 9 Any variances required for this proposal are subject to a review by this Department, as mandated by the New York State General Municipal Law.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Lance Millman, Montebello  
Rockland County Department of Highways  
Rockland County Department of Health  
Anthony R. Celentano P.L.S.

William Oster

*\*NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

*The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.*

*In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.*

*Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.*

*Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.*