

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 3, 2017

Montebello Village Board
One Montebello Road
Suffern, NY 10901

Tax Data:

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

Map Date:

Date Review Received: 3/27/2017

Item: *VILLAGE OF MONTEBELLO/MAILING OF NOTICES (M-168)*

Proposed Local Law amending the Montebello Code with respect to the mailing of notices for public hearings affecting land use applications.
Throughout the Village of Montebello

Reason for Referral:

State and County roads, parks, streams and facilities, and adjacent municipalities

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:

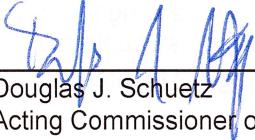
****Recommend the following modifications***

- 1 The word "certified" must be eliminated from the third sentence in Section 2.D. of the proposed Local Law since the intention is to reduce the cost to the applicant of mailing notices.
- 2 Section 3.B. proposes to change the distance requirement for subdivision mailings from property owners within 500 feet to only the adjacent and opposite property owners. While the decision to reduce the cost burden for applicants by eliminating the certified mail requirement is understandable, it is not clear why so few property owners will be notified of a proposed subdivision. A minimum distance must be specified. We suggest reducing the distance to 300 feet from the subject property if the 500-foot requirement is too burdensome.

VILLAGE OF MONTEBELLO/MAILING OF NOTICES (M-168)

3 The new language in Section 3.B. is duplicative of what is indicated in Section 3.A. We believe that Section 3.A. contains incorrect text. In the current version of the code, Section 163-11 is entitled "Approval of preliminary plat." Subsection C addresses preliminary approval. It now states, "After holding the public hearing, the Planning Board shall approve with or without modification or disapprove such preliminary plat within the time frame required by Village Law § 7-728, Subdivision 5. The basis of a modification, if any, or the basis for disapproval shall be stated upon the records of the Planning Board. Notwithstanding the foregoing provisions, the time in which the Planning Board must take action on the preliminary plat may be extended by mutual consent of the applicant and the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing modifications, if any, as it deems necessary for submission of the plat in final form. Within five days of the approval of the minutes memorializing a preliminary plat, it shall be certified by the Clerk to the Planning Board as granted preliminary approval and a copy placed in the Planning Board file. A certified copy shall be mailed to the applicant. In the event that the Planning Board fails to take action on the preliminary plat within the time prescribed herein, such plat shall be deemed granted preliminary approval." Clarification must be provided.

4 Related to our comment above, the notification distance requirement for Wetland and Stream Protection applications is for property owners within 500 feet of the site, but only adjacent and opposite property owners are required to be notified of the public hearing of the Board of Appeals or on a final site development plan. It is unclear why all land use applications are not subject to the same public hearing notification distance requirement. This must be clarified. As indicated above, if the 500-foot requirement is too burdensome, we suggest that the minimum distance requirement be reduced to 300 feet.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Lance Millman, Montebello
New York State Department of Transportation
Rockland County Department of Highways
Palisades Interstate Park Commission
Rockland County Division of Environmental Resources
Rockland County Drainage Agency
Rockland County Sewer District #1

Town of Ramapo
Villages of Suffern, Airmont and Wesley Hills

Debra Mastroeni, Village Clerk-Treasurer

**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.