



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 6, 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: 8/17/2017

Item: *VILLAGE OF MONTEBELLO COMPREHENSIVE PLAN (M-89M)*

Revisions to the 2009 Village of Montebello Comprehensive Plan.
Throughout the Village of Montebello.

Reason for Referral:

State and County roads, parks, streams, 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***

See attached comments.

Douglas J. Schuetz
Acting Commissioner of Planning

- cc: Mayor Lance Millman, Montebello
- Rockland County Department of Highways
- Rockland County Division of Environmental Resources
- Rockland County Drainage Agency
- Rockland County Sewer District #1
- New York State Department of Environmental Conservation
- New York State Department of Transportation
- New York State Thruway Authority
- Palisades Interstate Park Commission
- Town Board of Ramapo
- Village Boards of Suffern, Airmont & Wesley Hills

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Joan Will, 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.

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The Village of Montebello first adopted its Comprehensive Plan on May 21, 2003. Owing to the need for periodic reviews and updates, a Comprehensive Plan Review Commission was appointed in September 2008. This resulted in the adoption of a Revised Comprehensive Development Plan on December 16, 2009. Reformed last year, the Commission has presented this final draft of the Village of Montebello Comprehensive Plan to the Board of Trustees for adoption.

The Commission began the revision process by reviewing the 2009 Plan to identify areas that had yet to be implemented. Particularly important recommendations that had not been enacted were the adoption of a Greenprint Map, the creation of Environmental Protection Overlay District (EPOD) regulations, and the creation of Aquifer Protection Overlay District regulations. These items have been slated as a priority by the Comprehensive Plan. Some significant changes to the Plan are the addition of a Land Use section applicable to all residential areas, the addition of a Sustainability element, the identification of a proposed Historic and Scenic Road District, and recommendations for adjustments to allowed uses in different zoning districts.

The Plan begins by setting forth five broad goals, followed by more specific objectives, that represent what the Plan calls Montebello's "Core Village Values." The County is supportive of these goals and values, as they represent the collective perspective of Montebello residents and are consistent with good municipal planning. Our following comments will focus on the specific recommendations made to achieve these goals and objectives and their impact on County interests.

1 – The adoption of a municipality's land use plan is a Type I action as indicated in Section 617.4(2)(b)(1) of the New York State Environmental Quality Review Act (SEQRA). This department is an interested agency in the SEQRA process. The Draft Generic Environmental Impact Statement for the Village of Montebello's revised Comprehensive Plan must be submitted to this department for review and comment.

2 - The Land Use element of the Plan identifies 15 designations that make up the recommended Land Use Plan. Adapted from the existing zoning map, the Land Use plan is intended to maintain and enhance the existing semi-rural community character and traditional Village features, while maximizing the utility of non-residential areas in the southern portion of the Village.

- a. The establishment of a Greenprint Map, Environmental Protection Overlay Districts (EPODs), and a recreation and open space district are important steps in protecting the natural assets and environmental resources of the Village. Such actions would be subject to review by this department under the General Municipal Law (GML) review process.
- b. The Land Use element of the Plan makes several recommendations that would apply to all residential-zoned areas: Designate places of worship as special permit uses; eliminate the distinction between schools of general instruction and religious instruction; allow school housing as an accessory use; give approval authority of cluster subdivisions to the Planning Board; provide regulations for transient overnight accommodation in private residences; restrict and regulate the storage of commercial vehicles and equipment; require architectural review for some single-family structures and all non-single-family structures;

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- strengthen residential design and tree preservation regulations; allow and regulate personal horticulture as a primary use; preserve and install stone walls along property lines; and encourage clustering with environmentally sensitive areas. The county supports efforts to minimize the environmental impacts of development, encourage the maintenance of open space, and strengthen controls over uses with the potential for negative impacts on quality of life. Individually, these changes to local law would be subject to GML review by this department.
- c. Design guidelines for streets and right-of-ways are recommended for the Estate Residential, Rural Residential, and Low Density Residential areas that would have the effect of promoting more narrow, winding and scenic roadways. This department cautions the Village that the issues of roadway safety and emergency vehicle access are paramount and must be considered as part of any design guideline. Additionally, the County generally encourages pedestrian-friendly roadways. The County's Complete Streets Initiative, created by Executive Order by County Executive Edwin Day in 2015, calls for roadway designs that give users of all levels of mobility access to safe, multiple modes of transportation. With this goal in mind, the County would like to see accommodations for walkers and bicyclists taken into consideration.
 - d. The Plan recommends the creation of an Estate Preservation District for Ryan Park, which is currently with the LO-C zoning district and the Estate Preservation Overlay District, to more closely match established uses. This action would be subject to GML review.
 - e. Recommendations for the Low Density Residential area includes the review of bulk restrictions with attention given to loopholes that allow structures deemed to be oversized. The county supports efforts to maintain the character of rural and semi-rural areas, minimize the environmental impact of construction, and preserve open space. Changes to bulk restrictions would be subject to GML review.
 - f. It is noted that the Village Residential Area consists of single-family homes that are legally non-conforming with current zoning. The Plan recommends examining lot size and setback requirements in order to bring existing homes into compliance. This department supports this recommendation as it would offer relief to current homeowners and more closely match long standing uses. Changes to the bulk requirements would trigger a GML review.
 - g. The Plan recommends the allowed uses in the Office-Hotel and Office Campus areas to be expanded to accommodate a wider variety of commercial uses. These uses are suitable and appropriate to a commercial area along a major roadway and will, hopefully, generate additional economic activity. The County reminds the Village that, as new uses are allowed, parking requirements for these uses will need to be established in order to ensure adequate onsite parking. In addition, this department concurs with the recommendations to establish site design, architectural, and landscaping standards, particularly with the requirement that access should be routed through Executive Boulevard or Rella Boulevard in order to minimize traffic impacts on neighboring residential areas. The County recommends that any revised site design standards incorporate lighting standards to avoid the negative effects of spillover onto roadways and neighboring properties.
 - h. The 2017 revised Plan reaffirmed the 2009 recommendation to allow environmentally friendly industrial uses within the Planned Industry zone. The current revision further recommends the specific prohibition of environmentally damaging industries and uses that

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would generate public activity, which is not compatible with any industrial activity, even relatively benign ones. The county supports these efforts to minimize public exposure to industrial activity. Any changes to allowed or prohibited uses would be subject to GML review.

- i. The Planned Industry-Campus area represents an area that currently is mainly undeveloped, as it was part of a parcel with a discontinued warehouse use in neighboring Suffern. The Plan recommends allowing light industrial uses (subject to performance standards) and other commercial uses. The Plan also acknowledges that the subject area contains sensitive environmental resources and has no direct access to the 14B Interchange and Thruway. The plan recommends the establishment of a conservation area along Hemion Road and would only allow traffic intensive uses upon a condition of access easements through neighboring industrial parcels. The county supports these measures to promote the responsible development of this area. Changes to allowed uses or buffer requirements would be subject to GML review.
- j. The Plan discusses the two challenges of the Neighborhood Service area: an underperformance in economic activity; and the lack of visual appeal common to retail strip malls. The Plan recommends rezoning certain parcels in the Neighborhood Service area from PO to NS, broadening the allowed uses to any type of retail or personal service, and updating landscaping, building design, and parking layout requirements to create more visual appeal. The County supports these measures to provide additional visual appeal, reduce distractions to motorists, and boost economic activity. Changes to the zoning map, allowed uses and design requirements would be subject to GML review.
- k. The Plan notes that, during the preparation of the Plan, an application was made for an Assisted Living facility in the Route 59 Development District. This department concurs with the observation that this would be an appropriate use for the district and supports the recommendation that Assisted Living facilities be incorporated into the allowed uses. Such a change, and the permitting of said facility, would be subject to GML review.

3 – The Natural Resources Element begins by giving an overview of the Village’s environmental features and cataloging its natural resources. The Plan goes on to list the significant benefits provided by, and the necessity for the preservation of, resources such as ground and surface water, floodplains, wetlands, and plant and animal species. Towards that end of preserving these natural features, the Plan makes several recommendations

- a. The Plan proposes adopting a Greenprint for the Village of Montebello, a map of open space and environmental assets. This would be a valuable tool for future planning and land use regulation, and is supported by the County.
- b. The Plan recommends the creation of Environmental Protection Overlay Districts (EPODs) to establish additional protections for environmentally sensitive features, such as wetlands, steep slopes, flood damage areas, and watercourses. The Plan also recommends revisions to the zoning code to limit development within environmentally sensitive areas and remove these areas from calculations of lot size. The County supports these measures. The creation of overlay districts and revisions to bulk requirements would be subject to GML review.

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- c. Through the State Environmental Quality Review Act (SEQRA), a municipality is authorized to designate Critical Environmental Areas. CEAs allow for more extensive reviews for projects undergoing a SEQRA application. The Plan calls for the creation of CEAs for areas within the Historic and Scenic Roads District and the suspected Timber Rattlesnake range. The County supports the creation of CEAs and the added protection they provide to areas deemed critical by municipalities.
- d. One of the key recommendations to come out the 2009 Plan was the creation of an Aquifer Protection Overlay Zone. The Plan notes the entire Village sits atop a federally designated Sole Source Aquifer and a substantial portion is over a New York State designated Primary or Principal aquifer. The Plan recommends adding regulations that would reduce the influx of potentially toxic substances into the groundwater and place limitations on development that could limit groundwater recharge. As the aquifer is a critical source of potable water for the local population, the County agrees with the Plan's assessment that the creation of an Aquifer Protection Overlay zone should be a priority. The creation of an overlay zone would be subject to GML review.
- e. The Plan recommends that clustering be allowed in large developments without increasing average density as a method to preserve environmentally sensitive areas. The County supports the use of average density clustering, but cautions the Village to take steps to avoid the potential for abuse of such provisions. Legal instruments, such as conservation easements, should be used to prohibit future development and maintain the natural state of set-aside areas, and variances for density should be actively discouraged.

4 – The Historic & Aesthetic Preservation Element recalls the history of the Village of Montebello, beginning with its origins as a pre-Revolutionary farming community, through its growth that resulted from the development of railroads and steamships in the region, and its role as a location for large, country estates during the Gilded Age. The Plan notes that reminders of this agricultural and economic heritage are still visible today, and these features are critical components of the unique character and aesthetic of the Village. The Plan catalogues multiple properties, as well as landscapes, roads, and features, that contribute to Montebello's historic and cultural inventory and should be the target of preservation efforts.

- a. The Plan makes several recommendations to identify and protect historic resources, encourage local, state, or federal historic designations, and increase promotional and outreach efforts on behalf of the Historic Preservation Commission. The County is supportive of these efforts as they align with the County's goals to encourage and support historic preservation.
- b. The Plan recommends the creation of a Historic and Scenic Roads District based on specified roads with historic and aesthetic value and extended to include a 250-foot buffer area along them. The Plan also calls for the adoption of specific regulations within the district that include architectural review, design and material requirements, restrict sidewalks and curbs, promote identifying signage, and underground burial of utility lines. As mentioned earlier, the County cautions the Village that issues of roadway safety and emergency vehicle access are paramount and must be taken into consideration. Additionally, several of the roads identified in the Plan are county roads and their right-of-ways would fall under the

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jurisdiction of the County Highway Department. Lastly, the creation of a Historic and Scenic Roads District and its regulations would be subject to GML review.

5 – The Economic Development Element of the Plan begins with an inventory of commercial and industrial properties within the Village. Several of the specific recommendations include changes to allowed uses previously discussed in the Land Use Element of the Plan, to which this report’s previous comments would apply, as well. The Plan calls for increased promotional activities on the part of the Village. The County is generally supportive of these efforts.

- a. The Plan recommends a review of Village Code by Village staff to identify possible impediments to commercial development. The County concurs that any form of regulation requires periodic review and updating, and the Village should take advantage of their professional municipal staff members, who are a valuable resource. Any changes identified by such a review will likely require a GML review by this office.
- b. The Plan recognizes the impact of traffic congestion along Route 59 and Airmont Road as an impediment to economic activity. It also recognizes the challenges and difficulties in alleviating congestion. The Plan recommends the Village work with the Town of Ramapo, Rockland County Highway Department, and New York State Department of Transportation to address this issue. The County recognizes the importance of this issue and has been involved in ongoing efforts to address the problem of congestion along Route 59. The County welcomes input from all stakeholders towards that end.

6 – The Community Facilities, Recreation & Open Space Element catalogues the public and private services and facilities available to residents of Montebello, including emergency services, educational and library facilities, local government, houses of worship, and various recreation and open space facilities. One of the key sources of information in identifying specific recommendations within this element of the Plan was the 2002 Village Park Survey, which provided data regarding the priorities of citizens. Recommendations emerging out of this Element include: focus on service/cost sharing with other service providers to minimize costs; preserve and acquire open space/passive recreation areas whenever possible; establish the Montebello Trail, a walking and biking trail network; and change the zoning of properties within the Greenprint as described in the Land Use Element. The County supports these efforts to improve public facilities and services and promote passive and active recreational activities.

7 – The Traffic and Circulation Element of the Plan addresses two major goals: To improve driving safety; and to improve pedestrian/cyclist safety.

- a. Recommendations for improving driving safety include promoting the installation of speed humps and other traffic calming measures, implement a speed zone by Suffern High School, request a greater police presence along roads known for speeding, and identify accident prone areas. The County shares the concerns over driver safety and is supportive of these measures. The Plan acknowledges that the State and County have jurisdiction over several

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- roads that may, in the opinion of the Village, benefit from such measures. Any proposed improvements or traffic calming measures along County roads would require approaching the County Department of Highways.
- b. Regarding pedestrian and cyclist safety, the Plan acknowledges that its stated goals of preserving the historic elements of its roads can be at odds with improvements aimed at pedestrians and cyclists. The County supports the recommendations to establish the Montebello Trail and to request that the State make improvements to Route 202 to make the roadway more pedestrian friendly. Pedestrian/cyclist-friendly improvements should be a priority along roadways not included in the Historic and Scenic Roads District.

8 – The Sustainability Element discusses several of the steps Montebello has taken to meet its stated goal to “Create a greener community...”, including pursuing the Climate Smart Community designation by the NYS Department of Environmental Conservation, maintaining its strict tree preservation policy, and promoting energy efficiency in building design and products. The recommendations in this element of the Plan, in general, call on the Village to minimize environmental impacts of its own operations, promote and educate the community about green practices, and provide incentives to use energy efficient technologies. The plan makes specific recommendations to implement the Montebello Trail System and to strictly enforce Montebello’s tree laws, citing the environmental benefits of both items. The County supports these measures to preserve and protect the environment at the local, regional, and global level. The incorporation of incentives for green technology or design into Village land use regulations would require GML review.

9 – This department has concerns about several of the maps used throughout the Comprehensive Plan.

- a. The map on page 63 showing potential historic districts is cited as having been prepared by the Rockland County Planning Department. However, the information depicted in the legend was not created by this department. This could be misleading and must be corrected.
- b. In Figure ED-1 and the Proposed Trail Route, the legends state the maps were updated from Town of Ramapo Tax maps. Tax maps are created and maintained by the County, not the Town of Ramapo. This must be corrected.
- c. Several environmental resource maps do not cite the appropriate data source. Information regarding state wetlands and aquifers should be sourced to the NYSDEC. Federal Sole Source aquifers should be sourced to the Environmental Protection Agency. Federal wetlands should be sourced to U.S. Fish and Wildlife Service.
- d. This department recommends that tax parcel data not be shown along with environmental resource data. The levels of accuracy between tax parcel data and environmental resource data, such as wetlands and aquifers, differs widely. Displaying map products with different scales of accuracy is likely to create confusion and misinformation among the public, and should be avoided.
- e. We recommend that wellhead locations not be displayed at the parcel level, for security reasons.

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We would like to thank the Village of Montebello for the opportunity to review and comment on this revision of the Comprehensive Plan, and commend the Village for having created a thorough and insightful update. The clear articulation of community goals and a thoughtful guide to their implementation are critical to an accountable and responsive local government. We look forward to reviewing those implementation efforts that are subject to GML review as the Village moves ahead, as well as the Draft Generic Environmental Impact Statement as required by SEQRA.

