

Comprehensive Plan Commission  
August 7, 2017 – 7:00 p.m.

Present:

Melanie Golden, Commission Chairperson  
Jack Barbera, Member  
Janet Gigante, Member,  
Lisa Levin, Member  
Anthony Piazza, Member  
Amy Rapoport, Member  
Donald Wanamaker, Member  
Carl Wanderman, Member

Others Present:

Max Stach, Village Planner  
Jody Cross, Special Counsel to the Commission  
Ira Emanuel, Assistant Village Attorney  
Regina Rivera, Planning, Zoning, Building Clerk

Absent

**1. Minutes**

Member Wanderman made a motion to approve the minutes of the June 28, 2017 Comprehensive Plan Commission meeting and Public Hearing, seconded by Member Piazza. Upon vote, the motion carried unanimously.

2. Mr & Mrs. Guerin of 126 Viola Road were present at the meeting. Mrs. Guerin raised objections that are reflected in her letter of July 7, 2017, and was advised that the Commission's public comment period had closed but that she would have the opportunity to raise all her concerns to the Village Board at the appropriate time.

**3. Discussion and Recap of June 28<sup>th</sup> 2017 Public Hearing**

In addressing the Public Hearing comments, Mr. Stach stated that he did not feel there should be any changes to the Comprehensive Plan in direct response to any of the comments from the public, and reviewed two letters submitted during the written public hearing period; one from a resident, Ms. Patricia Guerin of 126 Viola Road, and one from attorney Joseph Scarmato, PLLC, on behalf of the owners of 84 Viola Road. (Copies attached.)

The minutes of this meeting will reflect, publicly, the Commission's responses to and discussion of the letters.

Getting to the crux of Ms. Guerin's concerns, Mr. Stach explained that under the Historic Preservation Chapter of the draft, there is a list of contributing historic structures to the Scenic & Historic Road District, one of which is Ms. Guerin's home on Viola Road. This does not mean that other properties that are non-contributing are outside the district, he said, nor does it mean that there is any specific regulation aimed at only the contributing structures. Rather, the district's purpose is to preserve the rural character of these roads and that anything within 250 feet from the road will merely be subject to design regulations to be determined later on by the Village Board. There may be a misunderstanding on Ms. Guerin's part that the Village is intending to take that frontage when it is not. Ms. Cross agreed, adding that another common misunderstanding among the public in general is that this is a regulation, when it is only a plan.

Regarding the letter from Mr. Scarmato, Mr. Stach addressed his presumption that this plan has been under consideration and preparation for years. This is false, he explained, saying that the commission began in spring of 2016 and preparations began in earnest last fall. The letter implies that a lot of work on the plan has been done out of the public eye, but this is also false, he said. All meetings have been noticed far in excess of what's required by law, all meetings have been made available to the public, and members of the public have attended these meetings. (Chair Golden also highlighted the Village newsletters that were mailed to all Village residents, which provided many details of the process and invited public participation) Mr. Stach explained further that this Commission began with a public session seeking public input before the statutory public hearing on the draft plan, and that there will be another public hearing that is statutorily required before the Village Board does, or does not as may be the case, adopt the Comprehensive Plan. Therefore, this letter's claim that there was a lack of notice is patently untrue, he said.

Mr. Stach cautioned that, though this letter presents legalistic content, the Commission should consider the relevant factual claims being made, understand some of Mr. Scarmato's opinions on what he thinks the plan should do, and then consider whether the draft deserves any edits.

Mr. Stach then addressed Mr. Scarmato's issues item by item, beginning with the claim that the 2009 Comprehensive Plan's matrix identified certain recommendations as being "done" and felt it is redundant to include the very same recommendations in the current Plan. Mr. Stach explained that some of these recommendations that have been implemented were made in 2003, 2009 and now 2017 and even though they were implemented they are by no means finished. Mr. Stach read one such example from Mr. Scarmato's letter regarding the supposed finite nature of the recommendations:

*"The Village should consider adopting a local law that would allow the Village to review applications that propose to demolish, alter or change a structure that is identified as "historic."*

Mr. Stach explained that a local law has been adopted, which does not mean that the recommendation should be eliminated from the plan. Local laws need to be consistent with the plan, he explained, and as long as there is a landmark law on the books the recommendation should maintain, via the Comprehensive Plan, that the structures that are historic require permitting to demolish or alter them.

Mr. Stach then addressed Mr. Scarmato's assertion that there are

*"...adequate federal, state and local regulations already in place for the protection of historic sites and properties which if utilized by the Village would serve the same ends as the draft plan apparently seeks to serve."*

Here Mr. Scarmato refers to state and national registers and alludes to the fact that any further Village restrictions are redundant and unnecessary. However, he said, the state and national registers do not convey any control on demolitions or alterations on structures except with the use of public funds or by public agencies. If a road has historic resources and the Village wants to protect them, they should control the look of the entire road, not just the individual sites, he explained.



On the same subject, Mr. Stach pointed out that Mr. Scarmato takes issue with the fact that only four sites in Village are designated Landmarks, including the Johnson Farmhouse at 84 Viola Road, but there are no properties in the Village listed on the national register of historic places. This, Mr. Stach said, is not consequential to the Village. State and National listings require consent of the owner, but just because the owner does not consent does not mean that the structure doesn't have historic importance.

He added further that the local Historic Preservation Committee criteria for inclusion is identical to the national criteria with the exception of the following: "Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood in which it is situated." Mr. Stach explained that this is an appropriate consideration for a local landmark law.

With regard to Mr. Scarmato's assertion that the 2017 Draft Comprehensive Plan "...does not contain details on the particular historic value of Viola Road, other than noting it is an old roadway with some stone walls." Mr. Stach said that this statement is absolutely incorrect. The reason why Ms. Guerin attended the meeting this evening, he explained, is because her home is listed as a contributing site of historic importance on the roadway. In addition to specifying twelve specific historic structures, the draft also references other reasons for inclusion, including stone walls and calls for further surveying of those stone walls to better assess the historic resources in the Village. He explained further that the Rockland County Historic Preservation previously evaluated historic roadways and their recommendations included Viola Road, as well as the other roads within the Village.

Continuing that thought, Mr. Stach explained that the Scenic & Historic Road designation was added to this plan specifically because the 2009 recommendations relating to the identified historic and scenic roads had not yet been implemented.

In the letter, Mr. Scarmato claims:

*"The 2017 Draft Comp Plan does not contain an analysis of specific property or land characteristics along Viola Road which justify a 250 ft. regulated area on both sides of the centerline in order to capture structures and yard areas that are generally visible from roadways (see page 70)."*

Mr. Stach said that, ironically, if one turns to pages 69 and 70 of the draft Plan, there is ample justification as to why Viola Road is Scenic, rendering Mr. Scarmato's point as argumentative rather than valid and substantive.

Mr. Stach then read the following excerpt from Mr. Scarmato's letter:

*The 2017 Draft Comp Plan sets forth a multitude of recommendations to maintain existing conditions, regulate compatibility and prohibit the installation of sidewalks and curbs in the Historic and Scenic Roads District. The area is a predominately fully developed residential area with a significant population of residents that by religious custom are obliged to walk to services on at least [a] weekly basis. Prohibiting the construction of safe sidewalks along a busy public thoroughfare invites injury and is therefore, prejudicial to many residents. In short the restrictions on sidewalks and curbs are contrary to public health, safety and welfare. Who does this restriction propose to benefit and at what cost?"*



Mr. Stach said that the recommendation to prohibit sidewalks is there specifically to preserve the historic character of the road, adding that the 2009 Comprehensive Plan recommended the very same. Many of the historic structures are located close to the thoroughfare which precludes the opportunity for the installation of curbs and sidewalks that would alter the character of the neighborhood, he explained, and the recommendation addresses stone walls and trees adjacent to the roadway as well. The installation of sidewalks requires the removal or destruction of the stone walls and trees that provide the historic and scenic character of the road.

Mr. Emanuel noted that Mr. Scarmato makes assertions about the demographics of the area without substantiating them and without a single shred of proof.

Ms. Cross said that if the concern is pedestrian safety, the Comprehensive Plan does discuss ways in which pedestrian safety can be addressed without the addition of sidewalks, which, she added, has traditionally been precluded in this area.

Mr. Stach noted that the local temples on Montebello Road have congregants that regularly walk to services, and noted too that the draft Plan recommends the Montebello Trail which seeks to put pedestrians on local roads better suited to accommodate foot traffic.

Mr. Emanuel reiterated that Mr. Scarmato provided no information or proof of the population. Mr. Stach noted that there are many areas in Rockland County where people walk to services where there are no sidewalks, citing Wesley Hills, New Hempstead, Monsey, Chestnut Ridge, as some examples, and reiterated that the Scenic and Historic Road District designation is not meant as a deterrent to pedestrian traffic, it is meant to maintain the rural character of the neighborhood.

Mr. Emanuel, as a matter of record, stated that 84 Viola Road appeared before the CDRC on an informal basis. One of the major concerns raised by the CDRC was pedestrian safety specifically because there are no sidewalks on Viola and Spook Rock Roads. This letter is clearly an attempt to affect that application by demanding that we do something about allowing the installation of sidewalks, he continued, adding they are trying force the Village to solve their problem, even though they came to the situation on their own.

Mr. Stach continued, addressing a detail of the letter that states:

*"... the 2017 Draft Comprehensive Plan document does not contain an analysis or details of existing tree line, topography, elevations, roadway horizontal and vertical curvature, visual resources or view sheds. There is no supporting information identifying specific locations of concern which require regulations to preserve scenery. Thus, we see no basis to recommend a Scenic District designation."*

There does not need to be, as suggested here, an engineering-level analysis, Mr. Stach said. The idea for a Comprehensive Plan-level basis is to consider things from a practical level of detail, and when the recommendations are put into law and there are design guidelines, those guidelines will set forth what regulations are needed in order to develop the site.

Ms. Cross added that what Mr. Scarmato insinuates is missing from the Plan is something neither she nor any of her colleagues has seen in any Comprehensive Plan in any municipality.



Mr. Stach moved the discussion to Mr. Scarmato's assertions that all the environmental regulations proposed by the draft are redundant and unnecessary.

*"The plan states...intent to create new regulatory controls applicable to development within each EPOD to protect resources. There is no mention of distinguishing developed properties from undeveloped land in the imposition of these regulations. The Village already regulates environmentally sensitive areas and the 2017 Draft Comprehensive Plan does not outline the shortcomings of the existing regulation or what conditions/events have created the need for additional regulatory control."*

Mr. Stach said there are several statements throughout the Plan that speak to why existing regulations may not address all the concerns of this Commission. For example, he said, this Comprehensive Plan has some additional language that addresses the recent hurricanes and their impacts on flooding. Mr. Stach noted that Mr. Scarmato mentioned how Critical Environment Areas (CEA) are not needed because the New York State DEC suggests that there are alternatives. Even if there are alternatives, it does not mean that CEAs are not appropriate. In this instance, he said, the designation of the Historic and Scenic Road district as a CEA provides some protections that wouldn't be provided otherwise.

Mr. Stach said that Mr. Scarmato concludes his environmental discussion with the assertion that the *"...majority of the Village is developed land, particularly along Viola Road. The focus should be on preserving undeveloped areas, not imposing restrictions on already developed land situated along major thoroughfares."* Mr. Stach said that he does not see this as a justification of any of Mr. Scarmato's previous comments. Ms. Cross agreed, saying that it is an inappropriate comment since people redevelop land. If there is land already disturbed and there are still sensitive resources on that land, it is the Village's duty to protect those resources.

Mr. Emanuel reminded the Commission that Mr. Scarmato's client is in fact seeking to redevelop that land [at 84 Viola Road]. Mr. Stach added that the majority of that land is still not developed and has a number of sensitive resources. Ms. Cross said that having one historic structure on a very large parcel doesn't make it a developed property from which the Village should walk away.

With regard to the proposed Aquifer Protection district, Mr. Scarmato protests the regulations on protections for well heads, aquifers and other resources on the basis that there are already Village controls regarding maximum development coverage and wetland and flood hazard areas. Mr. Stach said there is room for additional protections, and that there was never any protection for aquifers specifically before this recommendation.

In response to Mr. Scarmato final comment, *"Therefore, there are ample regulations in place to minimize contamination of groundwater resources. The 2017 Draft Comprehensive Plan provides no detail on why existing regulations are insufficient and why additional regulation is warranted,"* Mr. Stach said this assertion is simply not true and advised the Commission to determine whether any changes are necessary, adding that he did not feel that anything raised in this letter requires a revision to the draft Comprehensive Plan. Ms. Cross said that, from a legal standpoint, she agrees.

#### **4. Draft Comprehensive Plan – suggested changes**

The Commission then reviewed changes suggested by Mr. Stach (**see attached**) and accepted them subject to the following:

Page 14, third paragraph: *...and disturbance within the regulated areas or that negatively impacts these areas should only be permitted where no other alternative is feasible and any harm is appropriately mitigated.*

Page 15, fourth bullet point: *The village should develop a ~~conservation~~/recreation/open space zoning district for significant parcels in the Greenprint that traditionally provide outdoor recreation opportunities or open space important to the rural character of ~~the~~ Montebello.*

Page 37, second paragraph...*While the village cannot on its own impact global climate change or unilaterally mitigate all flooding impacts...*

Page 65, fourth paragraph: *Rockland County Historic Preservation Board recommendations include Haverstraw Road, Viola Road, North Airmont Road, Montebello Road, Hemion Road, Spook Rock Road and Grandview Avenue and are shown on Figure HP-1*

Page 38, the amendment.... We added the word.

#### **5. Resolution and Draft Plan Adoption**

There be no further comments regarding changes to the Plan, Chair Golden read the draft Resolution No. 3 of the 2017 Comprehensive Plan Commission (attached).

Member Piazza made a motion to adoption the 2017 draft Comprehensive Plan, seconded by Member Wanderman. Upon vote, the motion carried unanimously.

Chair Golden expressed her gratitude to the Commission and stated that the Draft Plan will be presented to the Village Board at its meeting on Wednesday, August 16, 2017, at 8:00 p.m. at the Montebello Community Center. She encouraged all Commission members to attend that important meeting.

Member Gigante made a motion to adjourn the meeting at 9:15 p.m., seconded by Member Rapoport. Upon vote, the motion carried unanimously.



VILLAGE OF MONTEBELLO  
COMPREHENSIVE PLAN COMMISSION

RESOLUTION NO. 3  
RECOMMENDING A DRAFT  
COMPREHENSIVE PLAN FOR  
CONSIDERATION BY THE  
BOARD OF TRUSTEES

WHEREAS, the Village of Montebello first adopted a Comprehensive Plan ("Plan") pursuant to section 7-722 of the Village Law in 2003; and

WHEREAS, the Plan was last reviewed and updated in 2009; and

WHEREAS, by Resolution 16-053 of 2016 of the Board of Trustees, a Commission was created and charged with the task of "completing a study and recommending an updated Comprehensive Plan as associated amendments to the Zoning Law to the Village Board; and review and update the Comprehensive Plan of the Village of Montebello ("Plan"); and

WHEREAS, the Commission began operations in May 2016 by reviewing the existing Plan (as updated in 2009), and then continued to gather information relating to the current Zoning Code, current land uses, demographic trends, transportation patterns, storm and flooding issues, aesthetic and historic resources, and other factors affecting life in the Village and its potential for growth in the future; and

WHEREAS, as part of its investigations, the Commission held two public hearings: the first on September 28, 2016, in order to hear concerns that residents wanted to have investigated and the second on June 28, 2017, to hear comments on a draft Plan to be recommended to the Board of Trustees; and

WHEREAS, after the June 28, 2017, public hearing, the Commission allowed for a continued period to accept written comments on the draft Plan until July 7, 2017; and

WHEREAS, at its meeting of August 7, 2017, the Commission considered all comments made by the public and reviewed the draft Plan as revised, dated August 7, 2017, and adopted additional revisions, which draft Plan is incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, that, having taken the actions described above, and having considered the various comments from the public and input from its consultants, the Commission recommends the draft Plan as revised for adoption by the Board of Trustees, subject to inclusion of additional photographs and non-substantive changes.

July 7, 2017

To the Commission,

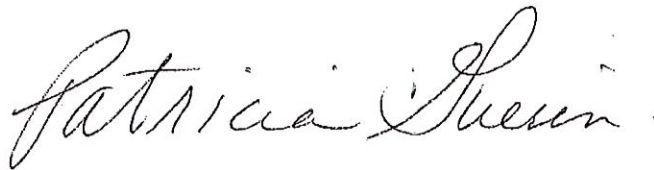
I've lived here for 25 years. I've put three of my children through the Ramapo Central School District. We pay very high taxes, at \$25,000 per year. My husband and I were very much counting and relying upon subdividing our property and selling. That was our nest egg.

This new Scenic and Historic Road District Proposal will ruin us as we will have considerable difficulty adhering to these proposed regulations. This proposal directly affects Viola Road and me personally, with so much road frontage being taken away. It feels to me that my local government is robbing me and not protecting my rights and interests.

I am asking the Commission to be able to submit a formal complaint with legal representation, as I was not informed of these Comprehensive Plan Commission meetings.

Sincerely,

Guerin  
Patricia Guerin

A handwritten signature in cursive script that reads "Patricia Guerin".

126 Viola Road, Montebello



# JOSEPH S. SCARMATO, PLLC

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JUL 07 2017

VILLAGE OF MONTEBELLO  
Planning, Zoning & Building

July 7, 2017

Comprehensive Plan Steering Committee  
Village of Montebello  
1 Montebello Road  
Suffern, New York 10901

Re: Village of Montebello Draft 2017 Comprehensive Plan

Dear Members of the Committee:

This office represents the owner of the premises located at 84 Viola Road, Suffern, New York being sometimes commonly referred to as the "Johnson Farm" and these written comments are being submitted as provided for by the committee at the public hearing on June 28, 2017. While we understand and respect the Village's right to regulate the development of land within its jurisdiction for the health, safety and general welfare of its residents, we find the draft plan lacking in a number of ways that will unfairly impact both our client and those similarly situated. Therefore, on our client's behalf, we hereby submit the following comments and questions with regard to the proposed 2017 Draft Comprehensive Plan for the for consideration of the committee.

## **Lack of Adequate Public Notice and Opportunity to Review and Respond**

After what was presumably years under consideration and preparation, the draft plan was only first made public on or about June 21, 2017 by being published to the Village's web site only a week before the scheduled public hearing on June 28, 2017. A document such as this, being over 100 pages in length and containing recommendations for several broad regulatory restrictions, in fairness, requires more than the meager time allotted for a property owner to analyze, digest and formulate a cogent response. Further impeding the process, the public comment period ending on July 7, 2017 overlapped with the July 4th Holiday. Given that July 4th fell on a Tuesday, this could result in interested members of the public as well as professionals being away for the entire week, which would preclude critical public input. We therefore urge the Village to extend the public comment period so as to allow for adequate public response.

## **Balancing Public Benefit vs. Burdens on Individuals**

As a general comment to the draft plan, there appears to be an effort to impose a series of redundant and burdensome restrictions on a property owner's use of its land without any clear and demonstrable showing of public need. While the desire to protect "historic" and "scenic" areas is laudable for a presumed public benefit, such actions must not unduly burden an individual property owner without either a factual showing of need or without due compensation. As will be presented later in this correspondence, the drafters of the plan have not seen fit to state the need for recommending the imposition of such regulations and the draft plan seems to be a solution in search of a problem. We therefore request that they revise the draft plan accordingly to include the facts and reasons for their recommendations so that they may be submitted to critical analysis and response by the public.

### **Comparison to the 2009 Comprehensive Plan**

A comparison of the 2017 Draft Comprehensive Plan and the 2009 Adopted Comprehensive Plan for the Village of Montebello indicates a reiteration of previously accomplished goals relating to Historic and Aesthetic Resources. In fact, many of the 2017 Draft Comprehensive Plan recommendations are identical to those contained in the 2009 Comprehensive Plan (adopted December 16, 2009). The 2009 Plan lists many of the goals as "done" because they were stipulated in the 2003 Comprehensive Plan and successfully addressed over the years. Relating to Historic and Aesthetic Resources, the 2009 Comprehensive Plan cites the following goals and objectives are identified as "done".

- Maintain the tree cover and general width of the road.
- Avoid unnecessary alteration to existing pavement widths.
- Preserve stone walls and rural wood fences along these roads.
- Erect new street signs that visually identify the roads as distinct.
- Minimize the use of concrete sidewalks along historic roads.
- Minimize the impact of new road openings particularly on the setting of any historic homes in the vicinity.
- Where a new structure will not be substantially in keeping with the historic character of the road or adjoining historic buildings, it should be screened and setback to minimize its visual impact.
- The village should consider adopting a local law that would allow the Village to review applications that propose to demolish, alter or change a structure that is identified as "historic".

We are not clear whether the 2017 Draft Comprehensive Plan is purporting to reaffirm these goals (even though they were considered "done" in 2009), or present them as new 2017 land use objectives. The 2017 Draft Comprehensive Plan should clarify that these are longstanding goals dating back to prior Comprehensive Plans and that progress was achieved.

### **Recommended Regulations are Redundant, Vague and Without Factual Support**

The glaring deficiency in the 2017 Draft Comprehensive plan is that it states goals of further environmental, "historic" and aesthetic controls but has no detailed discussion or examples of why additional measures are required, or necessary.



Historic and Scenic Road District - The Village Comprehensive Plan Committee is recommending an Historic and Scenic Road District along Viola Road based on a vague description (see page 60 of the 2017 Draft Comprehensive Plan) of viewsheds, vistas and other significant historic structures that "contribute significantly to the overall character of the village". There is insufficient detail in the 2017 Draft Comprehensive Plan to support an Historic and Scenic Road District along Viola Road, between Spook Rock Road and US Route 202. Furthermore, there are adequate federal, state and local regulations already in place for the protection of historic sites and properties which if utilized by the Village would serve the same ends as the draft plan apparently seeks to serve.

An "historical" site is something related to the past. In contrast, an "historic" site is one noted to have value or significance in human history. Historic districts are typically areas with a concentration of properties linked by architectural style, historic development or a past event.

Only four sites in the Village are locally designated landmarks (including Johnson Farm) however, there are no properties in the Village listed on the State and/or National Register of Historic Places. The Village sets forth requirements (see S160-60D) and criteria for designation of local landmarks and local historic districts. The local HPC criteria is largely identical to the National/State Criteria with the exception of the one following criteria for designation that is not aligned with National/State standards for determining historic significance:

- "5. Because of unique location, or singular physical characteristic, represents an established and familiar visual feature of the neighborhood in which it is situated."**

The 2017 Draft Comprehensive Plan does not contain detail on the particular historic value of Viola Road, other than noting it is an old roadway with some stone walls. There is no inventory of the stone walls or their location. Therefore, we question the basis for the recommendation of an Historic District along Viola Road. Existing conditions on Viola Road, between Spook Rock Road and US Route 202, do not support the recommendation of an historic district.

Scenic roadways are typically roadways that, in addition to a transportation function, provide opportunities for enjoyment of natural and man-made scenic resources, access or direct views to areas of scenic or exceptional beauty or historic or cultural interest. A scenic district is an area visible from a highway, waterway, railway or major hiking, biking, or equestrian trail that provides vistas over water, across expanses of land, such as farmlands, woodlands, or coastal wetlands, or from mountaintops or ridges. The 2017 Draft Comprehensive Plan does not contain an analysis of specific property or land characteristics along Viola Road which justify a 250 ft. regulated area on both sides of the centerline "in order to capture structures and yard areas that are generally visible from roadways" (see page 70).

Viola Road is known as County Route 74 and traverses a distance of 5.3 miles beginning at US Route 202 and terminating to the east at County Route 35A (West Clarkstown Road) in New City. The roadway also connects Montebello with the nearby communities of Monsey and Spring Valley. Approximately 1.2 miles of Viola Road lies between US Route 202 and Spook Rock Rd in Montebello. It provides vital access and egress for several public schools including Suffern High School and Rockland Community College. Its strategic position in the county will no doubt lead to ever increasing volume of traffic on the road as the county continues its inevitable growth.



Restricting the necessary use of this roadway for the future need of a growing community is in our opinion, irresponsible as it invites congestion and safety risks. So, once again the question is raised, what public benefit outweighs these risks?

The 2017 Draft Comprehensive Plan sets forth a multitude of recommendations to maintain existing conditions, regulate compatibility and prohibit the installation of sidewalks and curbs in the Historic and Scenic Roads District. The area is a predominately fully developed residential area with a significant population of residents that by religious custom, are obliged to walk to services on at least weekly basis. Prohibiting the construction of safe sidewalks along a busy public thoroughfare invites injury and is therefore, prejudicial to many residents. In short, the restrictions on sidewalks and curbs are contrary to public health, safety and welfare. Who does this restriction propose to benefit and at what cost?

Finally, the 2017 Draft Comprehensive Plan document does not contain an analysis or details of existing tree line, topography, elevations, roadway horizontal and vertical curvature, visual resources or viewsheds. There is no supporting information identifying specific locations of concern which require regulation to preserve scenery. Thus, we see no basis to recommend a Scenic District designation.

### **Redundant Environmental Regulation**

The 2017 Draft Comprehensive Plan does not indicate why additional environmental controls are deemed necessary. Since the community already regulates environmentally sensitive areas, we question the basis and rationale for additional environmental regulation.

#### **A. Environmental Protection Overlay Districts**

The 2017 Draft Comprehensive Plan (see Page 38) suggests designating Environmental Protection Overlay Districts to address development constraints for wetlands, steep slopes, floodplain and watercourses. The plan states an intent to create "new regulatory controls applicable to development within each EPOD" to protect resources. There is no mention of distinguishing developed properties from undeveloped land in the imposition of these regulations. The Village already regulates environmentally sensitive areas and the 2017 Draft Comprehensive Plan does not outline the shortcomings of the existing regulations or what conditions/events have created the need for additional regulatory control.

#### **B. Critical Environmental Areas**

The 2017 Draft Comprehensive Plan (see page 39) recommends establishing Critical Environmental Areas to include areas in the recommended Historic and Scenic Roads District and suspected Timber Rattlesnake Range. CEA's are areas with exceptional or unique character. To be designated as a CEA, an area must have an exceptional or unique character with respect to one or more of the following: a benefit or threat to human health; a natural setting (e.g., fish and wildlife habitat, forest and vegetation, open space and areas of important aesthetic or scenic quality); agricultural, social, cultural, historic, archaeological, recreational, or educational values; or an inherent ecological, geological or hydrological sensitivity to change



that may be adversely affected by any change. NYSDEC currently lists only four such areas in Rockland County (three are in Piermont and one is on Orangetown). According to NYS DEC, alternatives to designating an area as a CEA include adoption of regulations for local wetland and steep slopes, acquisition of an area by a public or not-for-profit entity, plus adoption and implementation of a management plan; and, Identification of an area for which an individual agency establishes a policy to require a Full EAF and coordinated review for all or certain kinds of Unlisted actions. The 2017 Draft Comprehensive Plan does not indicate which, if any, of these alternatives have been or, will be, considered.

Regarding the Timber Rattlesnake as a basis for a Critical Environmental Area designation, the species is Threatened in NY State but not federally listed. According to NYS DEC there are approximately 205 extant dens known in the state, but based on interacting populations, the number may really be closer to a range of 35 to 60. Timber Rattlesnakes may travel up to 1.5 miles from their documented locations and typically inhabit steep slopes with south facing hillsides. They hibernate in caves with communal dens with other snakes in rock fissures surrounded by hardwood forests. The hibernation occurs in a den below the frost line. They use forested habitat for foraging.

The majority of the Village is developed land, particularly along Viola Road. The focus should be on preserving undeveloped areas, not imposing restrictions on already developed land situated along major thoroughfares.

### **C. Aquifer/Wellhead Protection**

The Ramapo Basin Sole Source Aquifer is a federally designated aquifer. As such the aquifer supplies at least 50 percent of the drinking water for its service area, and there are no reasonably available alternative drinking water sources, should the aquifer become contaminated. It encompasses most of the land in the eastern half of the Village.

The 2017 Draft Comprehensive Plan (see page 39) repeats a 2009 Comprehensive Plan goal to create an Aquifer Protection Overlay Zone. The Plan mentions the need for wellhead protection measures. The plan focuses on regulations to "significantly reduce the intrusion of toxic substances into the groundwater." Buffers around wellheads are mentioned as a goal. No details are provided on desirable regulations to achieve these goals.

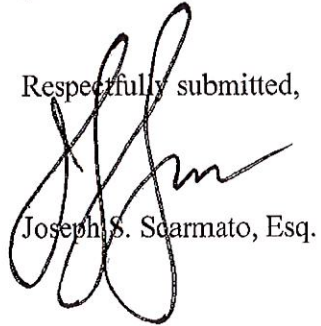
A review of the Village Zoning Map (see attached) indicates low density zoning is already in place for much of the Village encompassed by the Ramapo Sole Source Aquifer. The Village also has existing regulations for maximum development coverage, wetland areas and flood hazard areas. Cluster zoning is in place to preserve sensitive environmental features, such as steep slopes. Additional regulations exist to manage stormwater runoff, thereby preserving and enhancing water quality.

Therefore, there are ample regulations in place to minimize contamination of groundwater resources. The 2017 Draft Comprehensive Plan provides no detail on why existing regulations are insufficient and why additional regulation is warranted.

### **Summary & Conclusion**

For the reasons set forth above, we submit that draft plan contains clear examples of burdensome and redundant over regulation that unnecessarily burdens a select group of residents of the Village without serving any countervailing public purpose. We therefore urge the committee to reexamine their recommendations prior to submitting them to the Village Board for further consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Scarnato', is written over the typed name.

Joseph S. Scarnato, Esq.

CC: 84 Viola LLC

Atzl Nasher & Zigler, P.C.

JSS/jms



Lawyer, etc.), assignment as a special project for an existing Board (i.e. Planning Board, Zoning Board of Appeals), or ad-hoc committees, as the need arises.

13. The Commission reaffirms the 2009 recommendation to set a responsible example for the surrounding communities on the issue of climate control and sustainable building practices. The current Commission continues to recommend updating the applicable Village codes to incorporate new state and national “green” standards. Further recommendations to pursue Climate Smart Community status are added along with a range of other practical measures in the new Sustainability chapter.

14. The 2009 Commission struggled with the issues surrounding walking and biking trails through the Village. This 2017 Commission has reviewed and revised the Montebello Trail submitted in the 2003 Plan. The Commission continues to recommend that short-term efforts should concentrate on developing portions of the trail plan that cross existing public lands (schools, public parks, etc.) followed by a consideration of feasibility to guide next steps.

- 14.15. The Commission recommends the preparation of a matrix of recommendations similar to that contained in the Appendix of the 2009 Comprehensive Plan but for the current recommendations contained within this plan. Such a matrix should detail the Plan recommendation, who is primarily responsible for implementing the recommendation and a time horizon for implementation. Additionally, it is recommended that the Board of Trustees cause a report to be prepared reviewing status of implementation annually prior to adopting the Village budget.

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The Plan recommends that a Review and Renewal of this Plan be performed within seven (7) years of adoption of this Plan (2024).

### **Greenprint**

The Village Greenprint is an open space and environmental assets map identifying significant public and private open space and environmentally sensitive areas in Montebello. As the Greenprint is intended to be the “continuous green spine” of Montebello, it includes Palisades Interstate Park Commission parkland, United Water New York well and wellhead protection properties, the existing Spook Rock Golf Course and Ramapo Town Pool, public school sites, and Conservation Easements. A network of environmentally sensitive areas such as steep slopes, wetlands, streams, ponds, and floodplains links these open space parcels. These linkages serve as corridors for wildlife and maintain biodiversity within the community.

Development of environmentally sensitive resources poses a danger to public health and safety. Construction within floodzones can impact downstream properties by reducing flood storage area. Construction along water resources and on steep slopes has the potential to impact water quality and ecological habitat. Sensitive environmental resources present practical difficulties to development and development in these areas often must include extraordinary measures that are not consistent with sustainable land use practices.

New development and disturbances should be strongly discouraged within proximity to sensitive environmental features and appropriate setbacks should be required. Generally, regulated areas are not appropriate for development, and disturbance within the regulated areas or that negatively impacts these areas should only be permitted where no other alternative is possible, feasible and any harm is appropriately mitigated.

Alterations to existing structures within these areas should be reviewed by the Planning Board to ensure that these alterations are designed and constructed in a manner that minimizes impacts to floodplains, wetlands, streams and steep slopes so as not to create or exacerbate drainage problems. Examples of environmentally sensitive alterations include allowing existing structures to be extended upward over existing foundations, structures to be relocated out of flood hazard areas, and decks to be raised above grade on posts.

New York State Department of Environmental Conservation (“NYSDEC”), United States Army Corps of Engineers (ACOE), and Federal Emergency Management Agency (FEMA) also act to regulate and restrict additional development in this Greenprint Area.

The Spook Rock Golf Course and Pool is an open space and recreational resource that is important to the character of the community dating back to the 1970s. It is perhaps the most critical of open space within the Village as it provides an integral and central connection between the eastern and southwestern portions of the Greenprint. The 2010 Historic Survey highlighted the significance of the “designed landscape and open areas within the Spook Rock Golf Course” as providing “outstanding views to the Ramapo Mountains,” not only to those on the course, but also to those who travel along the southern section of Spook Rock Road. The open space provided by the park lends to the tree-lined and open character of the community and conveys a premium and upscale quality at the heart of the Village. Preservation of public open space parcels not directly under Village control is vital.

### **Recommendations:**

- The Plan recommends the Village establish a formal Greenprint Map (An updated draft Greenprint Plan is included at end of this Element in the Appendix).



- Environmental Protection Overlay Districts (EPODs) are proposed that should subject land to greater scrutiny and controls in order to protect environmental resources and prevent endangering public health or safety.
- Public school sites, golf course and pre-existing single-family residences should be designed and/or uses maintained and operated to minimize impacts, and maximize and maintain the green and natural character of the Greenprint.
- The Village should develop a recreation/open space zoning district for significant parcels in the Greenprint that have traditionally provided outdoor recreation opportunities or open space important to the rural character of Montebello, all public land within the Greenprint. Land use within these areas should be limited to open space, parkland, recreational use, and agriculture. In addition to the recreational opportunities provided by publicly owned parks and open space parcels of the Greenprint, their environmental connections support the health and well-being of Village residents, as well as provide for safe animal movement in and around the area.

### ***Residential Neighborhoods***

Prior to incorporation, the geographic area now comprising the Village of Montebello was designated in the Town of Ramapo Plan as the Ramapo Hills-Mahwah area with the eastern edge designated as the Viola Road area. The majority of the Village was therefore designated in the 1966 Town of Ramapo Plan and reaffirmed in the 1978 update for Low-Density Residential (greater than 50,000 square foot single-family lots), with the eastern edge designated for Medium-Low Density (25,000 and 35,000 square foot single-family lots) residential development. That 1966 Plan recommended a land-use pattern that wisely concentrated higher-density residential and multifamily development in the area surrounding the Villages of Suffern and Spring Valley with the most outlying areas reserved for low-density residential. The first development policy of that 1966 Plan was that, "every effort should be made to preserve those natural features of the Town which give it a pleasant, open setting and which serve as an attractive background to the more developed areas of the Town."

With the incorporation of the Village of Montebello, this overall land use strategy did not change. It was embraced in public hearings in 1986-1987 leading to adoption of the Village's first Zoning Local Law, the Comprehensive Development Plans of 2003 and 2009 and an Economic Development Plan in 2008. Montebello is one of a number of Villages within the Town of Ramapo that provides a diversity of housing options. Higher densities and multifamily housing are still most appropriately located in and around the traditional Villages of Suffern and Spring Valley, where infrastructure, public transit and a concentration of local retail are abundant. Nevertheless, following incorporation, the Village of Montebello sought and was able to accommodate affordable and multifamily options in two areas, where those options would not be inconsistent with the surrounding residential fabric. The first was at Lackawanna Trail, where the Village approved and administered a restricted-income townhouse development consisting of 93 townhouse units that provided affordable homeownership opportunities to the region, and the second was at Montebello Commons, a multifamily senior living facility with 98 mid-rise multifamily units and 80 garden apartment units. Adding to the housing diversity are twenty age-restricted townhouse units at the corner of Hemion Road and Montebello Road on the grounds of the Ryan Mansion (Montebello Park).

Following the expiration of 20-year deed restrictions on the Lackawanna Trail townhouses that required their resale to income-limited families, the Comprehensive Plan Committee explored whether additional opportunities existed for other housing types within the Village. The Route 59 Development District northwest of the intersection of

## Natural Resources Element

### Overview

Montebello's community character is derived in part from the natural resources found within it. The preservation of natural areas provides the Village its sense of openness and "greenness" as well as many other benefits. For example, avoidance of wetland systems limits potential stormwater runoff impacts associated with development. Wetlands are a natural "filter" and help absorb pollutants within stormwater runoff. Avoidance of development on steep slopes helps to limit soil erosion and sedimentation in the Village's water bodies and streams, also limiting future drainage problems. The Village seeks to protect its natural resources that help to establish its existing community character and protect the environment.

Although many of the following recommendations are affirmations of or build upon recommendations of earlier Village Comprehensive Plans, the need to protect natural resources was demonstrated more recently by the impact of Hurricanes Irene and Sandy. These storms resulted in flooding and environmental damage throughout the Village and compromised Village infrastructure necessary to provide utilities and access to residences for emergency services. While the Village cannot on its own impact global climate change or unilaterally mitigate all impacts, it seeks to be a leader in addressing measures intended to reduce carbon emissions, promote a sustainable development pattern, retain wetlands and floodzones for infiltration and cleaning of stormwater, promote aquifer recharge, prevent erosion from disturbance of steep slopes and prevent other pollutants especially in the vicinity of receiving waters or area of aquifer recharge or watershed.

### Physiography and Geology

Montebello's unique form is in part a function of its geology. The Village lies within both the Reading Prong section of the New England physiographic province (known regionally as the Hudson Highlands) characterized by bedrock-controlled uplands and the Triassic Lowlands characterized by small hills and valleys. Most of Montebello is contained within the Triassic Lowlands; the Highlands portion of Montebello is primarily state parkland contained within the Palisades Interstate Park system.

The Ramapo Fault, following the trend of the Mahwah River, separates the Highlands from the Lowlands. Millions of years ago the mountains that form the Highlands in the western portion of the Village were uplifted along this fault zone. Although the Ramapo Fault is not nearly as active or extensive as faults found in other areas of the world, it does represent the source of minor tremors in the area.

### Topography and Steep Slopes

Steep ridges and valleys characterize the topography of the western, Highlands, portion of the Village, whereas the eastern, Lowlands, portion of the Village is characterized by rolling terrain with gentle to moderately sloping ridges and valleys. The lowest elevations in the Town of Ramapo are found in the Village surrounding the Mahwah River, with elevations ranging from 200 to 300 feet Mean Sea Level (MSL), whereas the highest elevations and steepest slopes occur in the western, Highlands portion of the Village ranging from 900 to over 1000 feet MSL. Development within the Village is not limited or controlled by significant steep slopes as much of the terrain is rolling. While, development area is reduced to account for the steep slopes the Village does not prohibit development of steep slopes. Currently, bulk area calculations do not include the area of slopes greater than 25% and only 75% credit for



these vantage points are not compromised. The Village vantage points are part of the Historic and Scenic Road Districts recommended in this plan.

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### Stone walls

The arterial historic roads of the Village provide the most salient evidence of the Village's rural past, being lined almost continuously with stone walls, both old and new. These structures visually define property boundaries and, despite their different construction methods and dates, imbue the roads with a sense of the Village's rural past. Where stone piers flank driveway entrances to private properties, they also signal the country retreat period of development in the Village—a tradition that continues today. The stone walls visually complement the natural rocky terrain and provide a measure of cohesiveness between the historic and newer properties along these routes. The Historic Preservation Survey concluded that "[p]rotective measures to ensure their long-term preservation is indicated."



Spook Rock Golf Course

### Spook Rock Golf Course

The Historic Resource Survey highlighted the "designed landscape and open areas within the Spook Rock Golf Course" as providing "outstanding views to the Ramapo Mountains from its rolling hills and manicured lawns. These views are also enjoyed by those who simply travel along the southern section of Spook Rock Road" and "is a significant landscape that will become increasingly valued over time." It has hosted the MGA Public Links Championship at least three times. Prior to its development as a golf course, the tract was utilized as a Boy Scout Camp and Jamboree site—one of the first in the nation, which adds to its historical significance.

### Historic and Scenic Roads District

The Village of Montebello has, from its creation in 1986, been dedicated to preserving its historic resources, stone walls, natural features, and scenic views adjacent to its historic roadways. Based on historic road maps, early surveys and other resources, the Village identified the following historic and scenic roads in its first Comprehensive Plan in 2003, and again in its 2009 Comprehensive Plan: Grandview Avenue, Viola Road, Montebello Road, North Airmont Road, Hemion Road, Spook Rock Road, State Route 202 (Haverstraw Road), Lake Road, Mile Road and Bayard Lane. Both earlier Comprehensive Plans recommended that the Village "protect the character" of these Village historic and scenic roads and set preservation, maintenance and design guidelines for development along these roads.

This recommendation is consistent with Rockland County recommendations, "To work with and advise the County of Rockland and towns and villages on historic roads programs within Rockland County. These programs should establish guidelines for the maintenance of trees, stone walls and other elements that contribute to the historic character of designated roadways." Rockland County Historic Roadways include Haverstraw Road (Route 202), Viola Road, North Airmont Road, Montebello Road, Hemion Road, Spook Rock Road and are shown on Figure HP-1.

established but not fully developed Rella Boulevard and Executive Boulevard areas and the properties between them, with the balance of the Village remaining residential.

The Indian Rock Shopping Center and the Indian Rock residential community followed a failed attempt to develop that property into an industrial park and the Village Board saw the opportunity to provide work force housing on a portion of the property with retail, restaurant and service businesses northeast of the prominent intersection of Route 59 and Hemion Road.

The 2003 Comprehensive Plan identified areas then zoned for commercial and/or industrial activities on the westerly side of Hemion Road, and proposed a "Village Center". This new designation, consisting of four separate parcels containing the Rube Goldberg Shopping Center and a small office building with direct access to Hemion Road, was designed to provide for a mix of retail, offices and residential dwellings. This designation did not result in the desired development of the parcels. Most of the vacant land located in the area designated as Village Center would remain relatively unchanged through to day. In May of 2007, Montebello's Village Board created an Economic Development Commission (EDC) for the purpose of preparing an Economic Development Report that would provide recommendations to promote economic development revolving around three key initiatives:

1. Identifying strategic public investments to promote and strengthen the economic activity of Montebello in an effort to create jobs and enhance the tax base.
2. Identifying key real estate properties and suggesting policies and land-use regulations to foster economic growth.
3. Proposing tax incentives, credits and fee reductions to leverage quality development and attract future development.

The EDC issued its draft report in June of 2008. The Report was reviewed in connection with the Village's 2009 Comprehensive Plan, as well as this updated Plan.

The 2009 Comprehensive Plan recommended the elimination of the Village Center land use designation at Hemion Road and Route 59 and instead recommended the creation of a Route 59 Development District for two undeveloped parcels in that area, which would allow for commercial (retail and/or office) development, residential development or a mixed usage. The Village implemented this Plan recommendation by amending the zoning and other lots within the former Village Center District were returned to their former designations.

### Commercial and Industrial Village Inventory

As part of its review, the EDC conducted a commercial and industrial area inventory, which was updated in connection with the 2009 Comprehensive Plan. This Plan includes an updated version (2017) of that inventory. A "Commercial and Industrial Property Inventory Map" (see figure ED-1) identifies and labels current and proposed commercial and industrial land use areas in Montebello.

A "Commercial Industrial Property Inventory Table" (see Figure ED-2) sets forth the current use of identified commercial and industrial areas and notes undeveloped sites.

A more detailed description of the current status of the Village's major commercial areas, which highlights key sites, follows. As can be seen, there has been significant development in some of the commercial areas since the 2009



## Community Facilities, Recreation & Open Space Element

### Overview

Community services and facilities are important components of the Village that enhance its quality of life. The term “community” includes not only those facilities owned by the Village, but also those owned and operated by the Town of Ramapo, Rockland County, and other public, quasi-public, and private organizations for the benefit of the Village’s population. The demand for more and varied community facilities and services will increase as the Village’s population increases, existing facilities become outmoded, and public expectations rise.

The 2003 Plan recommended a comprehensive Recreation and Open Space Study. In a 1998 Village Survey, passive recreation such as wildlife viewing areas rated highest among all land use options for vacant lands. In the 2002 Visual Preference Survey conducted in the development of the 2003 Plan, 80% of respondents supported passive parks and 74% supported a community green or common. Another 71% supported active recreation facilities. In 2007 a Montebello Citizens Committee generated a draft report of Open Space recommendations. The 2009 Comprehensive Plan supported the conclusions reached in the 2007 draft report “regarding the importance of preserving additional open space to maintain the rural nature, low density and bucolic setting of the village.” (p. 53) This committee developed the following priorities for acquisition of open space:

1. The impact of development on sensitive ecologies;
2. The need to preserve historically significant sites;
3. The preservation of areas of unique aesthetic value;
4. The impact of development on quality of life issues such as traffic, school crowding, and drainage and sewer capacity; and
5. The potential for present and projected recreational uses.

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This Comprehensive Plan affirms the Village’s commitment to providing quality open space and recreation sites for the use and enjoyment of residents.

This section summarizes emergency services, police protection, educational facilities, libraries and other facilities, open space and recreation and concludes with recommendations. Community facilities are shown in Figure C-1 at the end of this chapter.

### Emergency Services

#### Ambulance and Medical Service

The Ramapo Valley Ambulance Corps (Rt. 59 and Airmont Road) serves the Town of Ramapo west of Route 306, including the Villages of Montebello, Airmont, and Suffern. It is anticipated that the corps will continue to serve the Village of Montebello.

Good Samaritan Hospital, a member of the Westchester Medical Center Health Network, adjoins the Village along its southwesterly border with Suffern. It is a non-profit, 286-bed hospital providing emergency, medical, surgical, obstetrical/ gynecological and acute care services to residents of Rockland and southern Orange

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## Community Facilities, Recreation & Open Space Element

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related resources; enable bird watching and other wildlife viewing; and facilitate science education and research.

While the trail is not intended to include sidewalks, as that would be inconsistent with the Village's rural character north of Montebello Road, it could allow for sidewalks or other appropriate walkable surface from the Suffern Middle School south to Route 59 along Hemion Road. This would provide a safe path for students walking from school to neighborhood retail and the Suffern Public Library. In addition, workers from the Dunnigan Drive commercial district would have a safe walking path to Montebello restaurants and services, while cutting down on local traffic in already congested Airmont Road area. Finally, the Village may explore the possibility of having a segment of the trail that runs from Hemion Road through the proposed Montebello Crossing development in the RR-59 Development District. This could allow access to the Suffern Library if an easement can be worked out with the property (Tagaste Monastery) between Montebello Crossing and the library.

The ownership of this project should be assigned to the Montebello Parks Commission. The Parks Commission should put together an action plan identifying next steps and priorities, seek state and other public or private funding sources to implement portions of the Montebello Trail network.

**4. The Village should change the zoning of Spook Rock Golf Course and Spook Rock Pool ~~from ER-80 as well as other significant parcels in the Greenprint that provide outdoor recreation opportunities or open space important to the rural character of the Montebello~~ to a conservation/recreation/open space zoning district (see discussion in Land Use Element)**

The Spook Rock Golf Course and Pool is an open space and recreational resource that is important to the character of the community dating back to the 1970s. It is perhaps the most critical of open space within the Village as it provides an integral and central connection between the eastern and southwestern portions of the Greenprint. The 2010 Historic Survey highlighted the significance of the "designed landscape and open areas within the Spook Rock Golf Course" as providing "outstanding views to the Ramapo Mountains," not only to those on the course, but also to those who travel along the southern section of Spook Rock Road. The open space provided by the park lends to the tree-lined and open character of the community and conveys a premium and upscale quality at the heart of the Village. Preservation of public open space parcels not directly under Village control is vital.