

Comprehensive Plan Commission

April 3, 2017 - 7:00 p.m.

Present:

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

Absent:

Carl Wanderman, Member
Lisa Levin, Member

Others Present:

Max Stach, Village Planner
Jody Cross, Land Use Attorney
Ira Emanuel, Assistant Village Attorney
Regina Rivera, Planning, Zoning and Building Clerk

1. Minutes

Member Rapoport made a motion to approve the minutes of the March 27, 2017 Comprehensive Plan Commission meeting, seconded by Member Wanamaker. Upon vote, the motion carried unanimously.

2. Land Use Element

The Village Planner presented land use recommendations set forth in the attached memorandum dated March 31, 2017 that was prepared by the Village Planners Max Stach and Matthew Ryan.

- #6. The LO-C should reconsider whether daycare is an appropriate use for the LO-C: Commission agreed that daycare should be allowed only as an accessory to office space..

3. Architectural Review Board

Commission discussed whether homes in new subdivisions should be subject to ARB review, as per the 2009 Comp Plan recommendation. If so, would such homes be subject to ARB review in perpetuity, e.g. homeowners wishing to build additions? Professionals to look into it and report back for further consideration.

4. Next Meetings

April 27th meeting has been **CANCELLED**
May 15th - review Draft Comprehensive Plan (tentatively)
June 5th - Previously scheduled Public Hearing must be **rescheduled**. New date TBD. Meeting date held if needed.



MEMORANDUM

TO: MELANIE GOLDEN, ESQ., CHAIR
MEMBERS, MONTEBELLO COMPREHENSIVE PLAN COMMISSION

FROM: MAX STACH, AICP
MATTHEW RYAN, AICP

SUBJECT: LAND USE RECOMMENDATIONS AND DISCUSSIONS

DATE: MARCH 31, 2017

CC: JODY CROSS, ESQ.
WARREN BERBIT, ESQ.
IRA EMANUEL, ESQ.

We have conducted a review of the 2009 Land Use Element and considered it in light of the public outreach conducted to date as well as visioning discussions held with the Commission. Based on these discussions we are making the following recommendations with regard to updating the 2009 Land Use Plan Element:

1. Route 59 Development District - The 2009 Update recommended reducing the size of the Village Center Zoning District by designating two lots for Route 59 Development and returning other lots within the former VC District to their former designations. This resulted in a single lot being rezoned to Professional Office. This designation should be reconsidered and the lot melded into the adjacent Neighborhood Shopping District which would allow a greater range of uses. Office and other uses permitted in the PO District should be permitted in the NS District.
2. Planned Industrial Campus – The 2009 Plan included a range of recommended uses for the PI-C zoning district to cover the front of the former Novartis Parcel. The following uses should be added to the list of permissible uses: Assisted Living, Continuing Care Retirement Community and Commercial Recreation. Upon a condition of gaining access (via easements) through the industrial parcels to the east so that traffic bound for the Thruway exits via Dunnigan Drive in Airmont as opposed to Route 59 or Montebello Road, the following uses should be considered: Non-accessory warehousing, Distribution, Industrial Park (Contractor Storage). The requirement for a buffer from Hemion should be retained.
3. Office Campus Area – The 2009 Plan recommended the Village purchase some or all of the Archdiocese property. The Committee has suggested that the Village seek a right of first

refusal with the Archdiocese to potentially retain the property as open space and establish a trail along the Thruway frontage of the property linking Executive Boulevard with Hemion Road via the School District properties to the north. Additionally, the specific use "existing places of worship" should be removed as a permitted use in the LO-C. The Archdiocese can legally continue to operate as a pre-existing non-conforming use, but the designation as an actual permitted use suggests that the Village is favorable to use of the LO-C on land reserved for economic development, which it is not.

4. Office Campus Area - The Village should consider adding the following uses to the LO-C district: Hotel/Motel/Resort/Spa, Commercial Recreation, Prototype manufacturing, Distribution/Warehousing subject to strict design standards, Retail Center, Assisted Living, Continuing Care Retirement Community, Specialty Grocery Store of less than 20,000 square feet, Brewery and Restaurants.
5. Office Campus Area – The LO-C district includes the Ryan Mansion property, which has been developed under the provisions of the Estate Preservation Overlay District. The District should be rezoned for EP and acceptable alternative non-residential uses for the Mansion itself added to the district.
6. Office Campus Area - The LO-C should reconsider whether daycare is really an appropriate use for the LO-C.
7. Neighborhood Shopping – The NS district is limited to local convenience commercial (small stores and shops catering to the needs of local shoppers) and “retail boutique and specialty shops” which seems to connote an upscale or rare offering that is hard to define. We suggest that the Neighborhood Shopping district that comprises Indian Rock Plaza and the Plaza to the west (Kindercare/7-eleven) be changed to allow for any retail sales or personal services.
8. Neighborhood Shopping - Museums, Libraries and noncommercial art galleries should be removed as a permitted use as these are uses that do not further the economic development interests of the Village.
9. Dormitories – Currently dormitories are not permitted accessory to religious or special instruction schools. Further the allowance of dormitories could result in significant changes to local neighborhood character. It is suggested that dormitories be permitted accessory to any type of school in a residential zoning district. Further it is suggested that special permit criteria be developed for insuring that the dormitories are truly accessory and subordinate in both nature and floor area to the principal use as a school and that impacts to surrounding residential neighborhoods be minimized. The definition of dormitory should be broadened to refer to any residential use accessory to a school and the outward appearance and density of dormitories should be in harmony with the surrounding residential Village fabric and not obviously different from residences that would otherwise be permitted in the zoning districts.
10. Special Permits Generally – We suggest that special permits no longer be approved by the Village Board. The Village Board should divest itself of the approval of special permits as currently only four uses in the Village require special permit approval by the Village Board,

and the Planning Board is capable of judging criteria relative to the issuance of a special permit. It should be made clear that the Planning Board is allowed to require additional criteria as are necessary to insure the general special permit criteria are met and the health, safety and general welfare of the community is safeguarded. All special permit uses should be subjected to a probationary period and periodic expirations every five years with provisions for automatic renewal if fewer than one violations is issued for the use within the previous permit period.

11. Violations - The Village should review the fines and provisions relative to violations to insure that the penalties and fees are adequate to discourage violations.
12. Schools of Special Instruction (Vocational Schools) – Should be limited to the PI and PI-C districts because of the potential noise, odor and other externalities associated with vocational schools. Currently these uses are also allowed in the NS and LO districts, which should be reserved to local commercial uses due to the lack of area available for such uses within the Village.
13. School of General Instruction – There should be no distinction between general instruction and religious instruction.
14. School of General Instruction - May wish to consider that religious vocational schools such as seminaries be defined as general (and closer in nature to universities) instead of special instruction, thereby being more appropriate to residential areas than to economic development areas.
15. School of General Instruction 3 – The Village should designate schools as special permit uses and prescribe the limitations and character safeguards that will be necessary when considering schools. Size of schools should be related to lot size and larger schools should be required to be located on County or State Roads. Transportation management plans that preclude busses from queuing on roads should be required as should safeguards for surrounding residences. Adequate water and sewer facilities should be a requirement of the permit.
16. Places of Worship – The Village should designate Places of Worship as special permit uses in all residential districts. Because of the lack of remaining land for economic development, it is suggested that places of worship be excluded from non-residential zoning districts. Safeguards to neighborhood character should be prescribed as should stringent requirements for parking to preclude frequent on-street parking on residential streets. The special permit should include criteria for periodic renewal of the special permit to insure parking standards are met on a continuing basis. Further, safeguards from impacts to neighboring residences should be required. A tiered approach to regulations should be considered to allow for small religious or other non-religious accessory public assembly in homes, neighborhood scaled places of worship and larger places of worship that draw from outside of neighborhoods. The Village Board may wish to empower the Planning Board to allow deminimis waivers of bulk standards for Places of Worship, given their favorable status under Federal and State Law. For example the Planning Board could be authorized to allow 5% variations and 10% variations by supermajority. This would establish limits to the

amount of consideration the Planning Board should give before requiring relief by the Zoning Board.

17. EPODS – The Commission already forwarded their recommendation to the Village Board that the greenprint be protected by a series of Environmental Protection Overlay Districts. The Village Boards should strengthen the protections within the EPODs to severely limit any type of development in areas of environmental sensitivity and only provide relief via variance.
18. Cluster Subdivision – The authority to allow or require average density subdivision (clustering) should be entrusted to the Planning Board to streamline review.
19. Construction Equipment Storage – The Village should consider explicitly prohibiting the non-temporary outdoor storage of construction equipment within residential zoning districts.
20. Other Actions by Municipalities - It should be made expressly clear that land owned by the Town and County are subject to a first-instance consideration by the Village of whether local zoning applies. Specifically the Plan and Code should explicitly subject any land use activity by another governmental entity to Village Zoning, except where the Village finds a compelling reason to exempt the proposed use upon consideration of the following criteria:
 - the nature and scope of the instrumentality seeking immunity;
 - the encroaching government’s legislative grant of authority;
 - the kind of function or land use involved;
 - the effect local land use regulation would have upon the enterprise concerned;
 - alternative locations for the facility in less restrictive zoning areas;
 - the impact upon legitimate local interests;
 - alternative methods of providing the proposed improvement;
 - the extent of the public interest to be served by the improvements; and
 - intergovernmental participation in the project development process and an opportunity to be heard;
21. Spook Rock Golf Course and Pool – The Plan should clearly state the value of this facilities to the recreational and open space needs of the Village. The Village may want to consider redesignating public open space and parklands to a much more restrictive zoning district which would preserve the value of public recreational and open space resources not in direct Village control.
22. Home office and Home Businesses - The provisions that allow for home offices and businesses should be revisited. A tiered approach should be taken to allow residents to use a portion of their homes for businesses. Small home businesses that do not involve patrons visiting the home and that employ no more than one non-resident employee should be allowed by approval of the Building Inspector if certain criteria are met. Larger home businesses that involve patrons visiting the home or more than one non-resident employee should be permitted subject to a special permit by the Planning Board.

