

The Planning Board of the Village of Montebello held a meeting on Tuesday, December 8, 2020 via Zoom. Chairman Caridi called the meeting to order at **7:00 p.m.** and led everyone in the Pledge of Allegiance.

PRESENT

Anthony Caridi, Chairman
Jane Burke, Vice Chairperson, Member
Stan Shipley, Member
Thomas Ternquist, Member
Howard Hochberg, Member
David Levine, Ad Hoc Member
Angus Mackenzie, Ad Hoc Member

OTHERS

Alyse Terhune, Asst. Village Attorney
Jonathan Lockman, Village Planner
Martin Spence, Village Engineer
Regina Rivera, Planning/Zoning Clerk

ABSENT

Meeting Minutes Approval

Member Ternquist made a motion to approve the minutes of the November 10, 2020 Planning Board meeting, seconded by Member Shipley and upon vote, all were in favor.
Ternquist, Shipley all in favor

**Montebello Crossing-- Site Plan/ Subdivision, Amended Site Plan
250 Lafayette Avenue, Montebello, NY**

Application of Montebello Crossing, LLC, 100 Dutch Hill Road, Suite 340 Orangeburg, New York, for 250 Lafayette Avenue, Montebello, New York. The Applicant is proposing a mixed-use development consisting of a 132-unit, 200 bed assisted living facility, a 14,600 square foot pharmacy with drive-through, and a 10,000 square foot office building. The project will also consist of amending the site plan for Hemion Holdings shopping center to the east of the site. The property is located at 250 Lafayette Avenue, on the North side of Route 59, approximately 350 feet west of the intersection of Hemion Road in the Village of Montebello, which is designated on the Ramapo Tax Map as Section 55.10, Block 1, Lot 2 in the R59 DD Zone.

The Applicant's attorney Paul Baum was present, as was the Applicant, Howard Josephs, engineers Joseph Nyitray and Brian Brooker of Brooker Engineering PLLC, and traffic engineer Ron Reiman of Maser Consulting, P.C. Mr. Baum said that the Planning Board declared lead agency and adopted the FEAF part 2, and that the only thing preventing the board from issuing a SEQR decision is the New York State DOT's traffic review.

Traffic engineer Ron Reiman updated the Board, noting that the traffic impact study was completed in April 2020 and was subsequently reviewed by the Village traffic consultant Osman Barrie in a memo dated May 27, 2020 in which he listed six issues (copy on file). From then until recently, Mr. Reiman has been awaiting feedback from the NYS DOT, providing them with additional information as needed. Ultimately, they will not allow a left turn out of the development onto Route 59 primarily because there is a second access road leading out to Hemion Road. That is their default decision, he said, and the traffic study was updated accordingly and we are now anticipating Mr. Barrie's response to this latest study.

Mr. Reiman walked the Board through Mr. Barrie's comments, noting that after the study, the project at 5 Hemion Road was approved so the study was revised to include that new traffic impact.

Chairman Caridi asked if the Rockland County Highway Department made any comments on the access lane or left turn out of the development. Mr. Baum said the Rockland County Highway department, in their review letter of May 26, 2020, requested to see the updated traffic impact study. Mr. Lockman and Chairman Caridi instructed the Planning Clerk to send the latest study to that agency as soon as possible.

Chairman Caridi asked if a new GML review was needed. Mr. Lockman said it was not but that the Applicant should respond to that review dated May 26, 2020 from Rockland County Planning, and Ms. Terhune agreed with that advice.

Chairman Caridi noted that the traffic study was the only open SEQR issue. Mr. Baum said he hoped that since they submitted the full EAF part 3 and revised plans, they can hopefully be ready for a Neg Dec and possible site plan approval at the next meeting.

Chairman Caridi opened the public hearing. No one wishing to speak, Member Ternquist made a motion to adjourn the public hearing to the January 12, 2021 Planning Board meeting seconded by Member Shipley and upon vote, all were in favor.

Montebello Gateway LLC—Site Plan, Special Permit 34 North Airmont Road, Montebello, NY

Application of Montebello Gateway, LLC, PO 782, Monsey, NY 10952. The Applicant is proposing the construction of a 3.5 -story, 50,000 square-foot medical office building with 253 parking spaces. The parcel is located at 34 North Airmont Road, on the northwest side of Airmont Road at the intersection of Montebello Road in the Village of Montebello, which is designated on the Ramapo Tax Map as Section 55.07 Block 1 Lot 3 in the LO-C Zone.

Present were the Applicant, Berel Karniol, his attorney Paul Baum, engineers Joe Nyitray and Brian Brooker of Brooker Engineering PLLC, Traffic Engineer Harry Baker of Maser Consulting, and Blythe Yost of Yost Design Landscape Architecture. Paul Baum explained that they presented three alternate concepts based on feedback by the board and consultants at the last meeting. And, at the advice of the Planner, a FEAF Part 3 has also been submitted for review even though Parts 1 and 2 have not yet been adopted.

Mr. Baum said that they went to the ZBA to introduce the proposal and will return with responses to their comments but reminded everyone that that Board cannot render any decisions until this Board closes SEQR. He said that he was hoping to receive a Neg Dec sooner rather than later but acknowledged that the Board must agree on a concept before proceeding.

Engineer Joseph Nyitray presented Concept A, a building that is nearly conforming and requiring only one variance for the entrance within 300 feet of the residential district and requiring no waivers. This concept is a three-story building with a development coverage of 30% out of a maximum allowance of 50%, and a Floor Area Ratio of 0.15 out of a maximum of .2. However, the building will fall partly within the Scenic and Historic Road District, he explained

Concept B adheres to the current proposal's 50,000 square feet but has two extra stories so the building stands at 5.5 stories with a smaller footprint. It will require the same amount of parking

but encroaches into the front yards of Airmont and Montebello Roads and would therefore require waivers, he said. It will also still need a variance for the entrance within 300 feet of the residential district and the front setback at Airmont Road. The smaller footprint allows for two loading berths thereby eliminating the need for a third waiver.

Mr. Nyitray said that Concept E is closest to the original proposal at 3.5 stories, 50,000 square feet and same layout. The only change is that the building is shifted towards the residential zone, meeting that required setback while increasing the front setback to 67.6 feet. This will also allow an increased landscaped buffer and the removal of some parking on the residential side and adding it to the opposite side against the building. Variances will still be required for height, FAR, development coverage and entrance within 300 feet of the residential zone.

Chairman Caridi asked if Concept E included the land-banked parking spaces. Mr. Nyitray said it did not but that it has the same number of required spaces, and that 34 spaces could be land-banked along Airmont Road.

Mr. Baum said that he submitted a FOIL request for the site plans for other office buildings on Executive and Rella Boulevards and noted that the proposed building is certainly in character with the area. Some of the restrictive bulk requirements of the LO-C zone are more restrictive on this unique parcel with its three front yards, buffer requirements and proximity to the Scenic and Historic Road district. The property is squeezed by all these restraints while the buildings on Executive Boulevard in the LO zone have enjoyed less restrictive zoning, he said, adding that the Sentinel right across the street was approved with much greater coverage and FAR.

Mr. Baum explained that they are trying to figure out how best to conform to the bulk and to be sensitive to the buffers and proximity to the residential zone while being consistent with the 2017 Montebello Comprehensive Plan. The code recognizes the restraints unique to this parcel which is why it allows this Board to grant waivers, he said, adding that he felt the required buffer to Airmont Road does not make sense given it is a busy county road and does not require the same level of protection as does the residential zone or Scenic and Historic Road District. This is a responsible development and if this were 5 acres instead of 4.8 acres, it could be developed in accordance with the n use group which allows smaller yards and a maximum height of 50 feet, he said. Mr. Baum stated that the project is not out scope or character with its surroundings and asked the Board to keep this in mind as they consider this application.

Ms. Terhune said that the Planning Board has no authority to modify the hard lines of the zoning laws except when granting waivers, and that they cannot consider granting waivers under the context of the surrounding buildings. Mr. Baum said he understands the Board can only waive what they are permitted to waive but noted that the ZBA must equally be convinced they should grant the requested variances and the same arguments can be made. Ms. Terhune said this proposal doesn't conform to the zoning and this Board's discretion is limited to the waivers.

Chairman Caridi said that Concept E, with land-banked parking on the Airmont Road side, puts the proposal in a different light and may offer a way around the impasse. Mr. Baum said he hoped that the Board would consider the concept as proposed over concept E. Chairman Caridi, responding to Mr. Baum's previous comment about The Sentinel, said that project is 175 feet away from Airmont Road. The real problem, he continued, is this proposal's small setback from Airmont Road.

Brian Brooker of Brooker Engineering pointed out that it would require a waiver nonetheless. Member Burke asked if Concept E would bring the building closer to the residential zone. Mr.

Baum said the building would be slightly closer but that the parking would not. Mr. Lockman stated that Concept E slides the building a little west giving a bigger buffer to Airmont Road and would move some of the parking away from the residential side of the building. Member Burke remained skeptical because of the proximity to the residential zone.

Mr. Lockman ask Chairman Caridi to confirm that his preference is Concept E with parking along Airmont Road rather than along Montebello Road. Mr. Caridi said that was his preference and opinion. Mr. Lockman noted that the original worry was the impact on the Scenic and Historic Road District and wanted the Board to be aware that Concept E is just emphasizing the protection of the Airmont Road corridor instead. He said that the code based on the 2017 Comprehensive Plan anticipated the Planning Board would give waivers for this site specifically. It says that the Planning Board may modify yards in the LO-C district only when lots have three frontages. This is essentially an escape valve and does not include variances since the ZBA is another arena in which this proposal must contend.

Chairman Caridi said that this parcel is literally the village gateway and appearances matter. Member Burk said she asked for a smaller plan at the October [Planning Board] meeting and would still like to see the variances minimized to satisfy the Rockland County Planning Department's GML review (dated August 17, 2020, copy on file). She said she felt the code never anticipated waivers to be granted on such a large building with so many non-conformances and was disappointed with the additional concepts. She then requested that the Applicant come up with a smaller building at approximately 35,000 square feet.

Mr. Baum said he understands that conformance can be achieved through a smaller building but reminded her that the Applicant expressly stated that 50,000 square feet is required to make this an economically viable project and that anything smaller is not worth building. He explained further that although this parcel is in the "gateway of the village" it is also close to major arteries which is conducive to commerce in general and all the commercial properties in the area.

Mr. Brooker opined that since the Village has a limited amount of developable commercial properties, he didn't see the sense in reducing taxable income for changes in a building that are imperceptible to the untrained eye. Member Shipley said everyone will certainly see this building.

Chairman Caridi said he understood clearly both Member Burke's concerns and the Applicant's stance, but that 50,000 square feet is problematic for this Board and for that parcel. Mr. Baum and Chairman Caridi discussed the proximity to major arteries, notably the NYS Thruway, versus its position in the Village gateway, but ultimately, Chairman Caridi said he was in favor of Concept E if the parking along Airmont Road is land-banked. Mr. Baum said his client has no objection to Concept E.

Member Burke asked Mr. Lockman to comment on the possible negative aspects of Concept E. Mr. Lockman said the downside was that the building is closer to the residential zone, as he outlined in his memo dated December 3, 2020:

Concept E is very close to the current proposal. It shifts the building position and parking along the North Airmont Road frontage slightly westward. The building is slightly closer to the RR-50 boundary on the west side compared to the current proposal, but the edge of the parking lot is maintained at a distance of 80 feet....In our opinion, it is more important to maximize the western buffer against the RR-50 zone, rather than maximizing the North Airmont Road buffer. Therefore, we prefer the current proposal to Concept E. If the Planning Board is inclined to grant the discretionary waiver of the buffer distance to RR-

50 on the west side, it may prefer this alternative to the current proposal, if it wishes the distance of the project from North Airmont Road to be increased, as compared with the current proposal..

Member Burke reiterated her concern about the County's GML review, and Chairman Caridi noted that a supermajority is needed to override the GML review. Mr. Lockman reminded them that the Zoning Board of Appeals also received an action by the County.

Chairman Caridi again said he preferred Concept E but that he wished the Applicant would present a 40,000 square foot building concept and asked the Board members for their input. Member Ternquist said his primary concern is the Scenic Road District [Montebello Road] but recognized the Chairman's concern for how the "gateway" of the Village is presented.

Member Burke said she notice that the traffic report stated that the building would be half medical and half office space but that she always though it would be all medical as presented initially. Mr. Baum said the building will be used for office space and not exclusively medical, and that it all depends on the businesses that lease space. He said that medical use will have a greater impact, but the proposal and the traffic impact study is based on the building being used for both.

Mr. Lockman said that it was presented as half medical and half office space almost from the start, that the Village Traffic Consultant reviewed it as such, and if that use changes, then the Applicant must return to this Board and do a new traffic impact study. If medical space increases, then so does the traffic and the need for parking. Mr. Brooker said that small medical practices, the type that would rent these spaces, are waning and not competitive with the rest of the medical industry so the building is unlikely to be overtaken by medical practices.

Chairman Caridi asked if any Board members would be willing to grant some or all the requested waivers. Member Burke said she was still undecided. Ms. Terhune said the Applicant will need to know which Concept, especially since they will be presenting to the ZBA next week. Chairman Caridi said he was trying to reach a compromise with his Board members and asked once more if they had any objections to granting waivers no matter the concept, adding that again, he was in favor of Concept with enhanced landscaping to the residential zone and land-banked spaces on Airmont Road. No one had any outward objections. Chairman Caridi asked if they could grant a SEQR determination. Mr. Lockman recommended they pick a concept and direct that concept to be further developed first. Otherwise, SEQR will be too vague and subject to challenge.

Ms. Terhune asked if they were still requesting a 40,000 square foot building concept, to which Chairman Caridi responded yes. Mr. Lockman advised that SEQR cannot move forward if the concept is different from the current proposal and that it would need to be recalibrated for a smaller building. Chairman Caridi acknowledged this fact and explained that a 40,000 square foot building would still require waivers and that he is still trying to gage this Board's willingness to grant them.

Member Burke said she had a problem granting waivers because she has a problem going against the County GML and said she would need more convincing that a 50,000 square foot building would be appropriate for the property. Member Levine said he too wanted to see a 40,000 square foot building proposal. Member Shipley asked for a smaller building footprint but a 4th story. Ms. Terhune said that would increase the height variance. Discussion ensued among the Board members about the smaller building until Chairman Caridi asked once again if anyone else had a problem granting waivers. Member Hochberg and Ad Hoc Mackenzie said they had no problem granting waivers.

Mr. Brooker said that making the building smaller would cause small aesthetic changes that most people cannot perceive but will drastically reduce the taxes collected, explaining that 10,000 square feet less would result in \$50,000 less in tax revenue for the Village. He reiterated that there are very few ratable properties left in the Village and said that anything smaller can put this project in jeopardy.

Member Shipley suggested the Board hold a workshop to discuss the issues further and Member Ternquist agreed. Chairman Caridi directed the Planning Clerk to set up a workshop and asked the Applicant to submit a proposal for a 40,000 square foot building. Mr. Lockman said that SEQR will be in abeyance until a Concept is chosen. Mr. Baum noted that there is no point in going to ZBA next week since the variances to be presented are now unknown.

Chairman Caridi opened the public hearing. No one wishing to speak, Member Burke made a motion to adjourn the public hearing to the January 12, 2020 Planning Board meeting seconded by Member Ternquist and upon, vote all were in favor.

Member Ternquist made a motion to adjourn the Application to the January 12, 2020 Planning Board meeting seconded by Member Shipley and upon vote, all were in favor.

The Board and consultants determined that the workshop would take place on Monday, December 14, 2020 at 6 p.m. on Zoom. Mr. Baum thanked the Board Members and consultants for their time.

Member Burke made a motion to adjourn the meeting at 8:49 p.m. seconded by Member Ternquist and upon vote all were in favor.