

PLANNING AND ZONING REVIEWS AT THE COUNTY LEVEL



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George Latimer
Westchester County Executive

Department of Planning
Norma V. Drummond
Commissioner



American Planning Association
New York Metro Chapter

Introductions

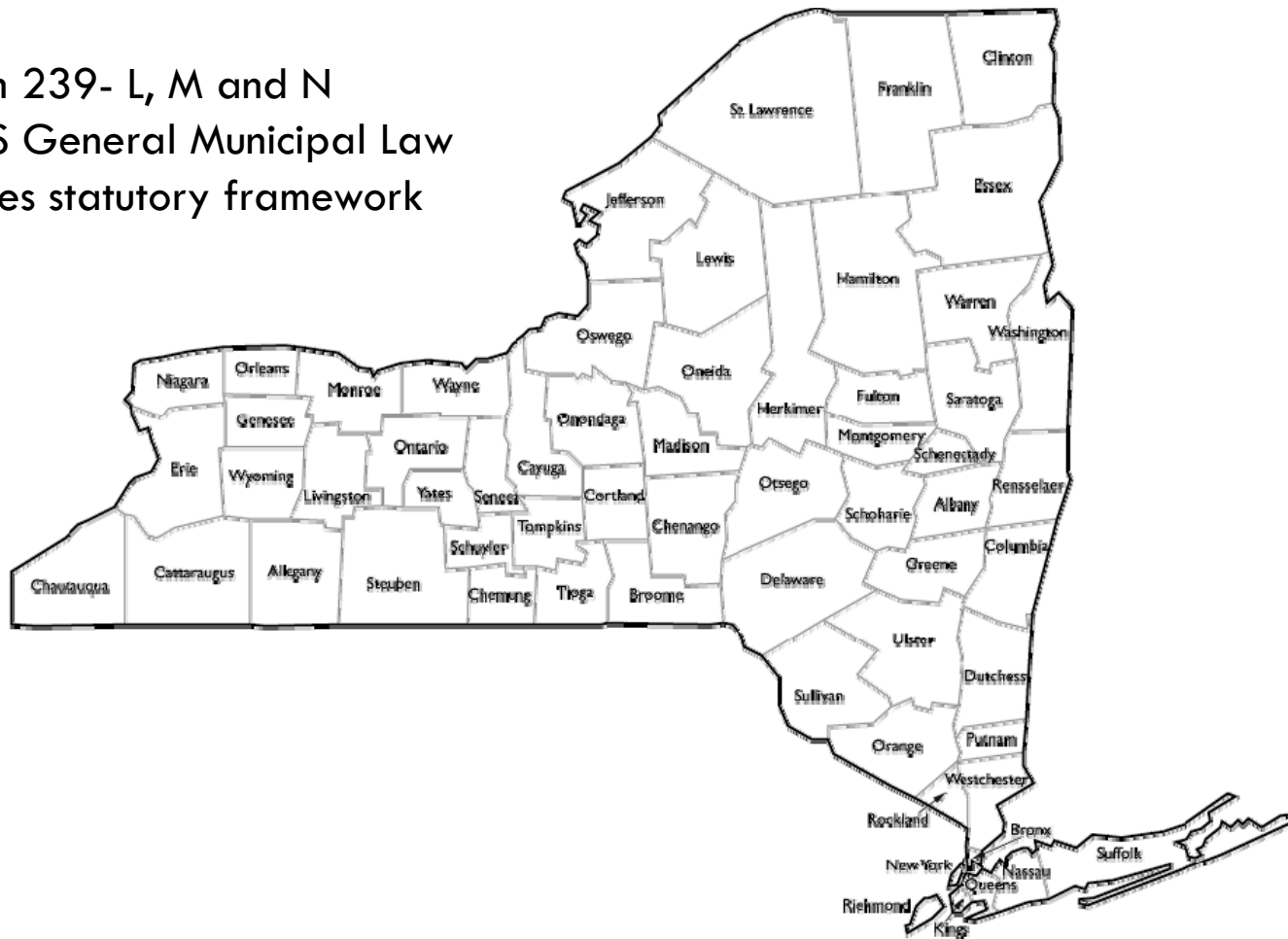


Why do counties review planning and zoning matters?

- “To bring pertinent inter-community and county-wide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction”
 - NYS General Municipal Law
- Provide technical assistance with reviews
- Can include various issues:
 - ▣ Land use compatibility
 - ▣ Traffic
 - ▣ Facilities
 - ▣ Community character
 - ▣ Drainage
 - ▣ Capital plans
 - ▣ Shared services
 - ▣ Impacts beyond borders

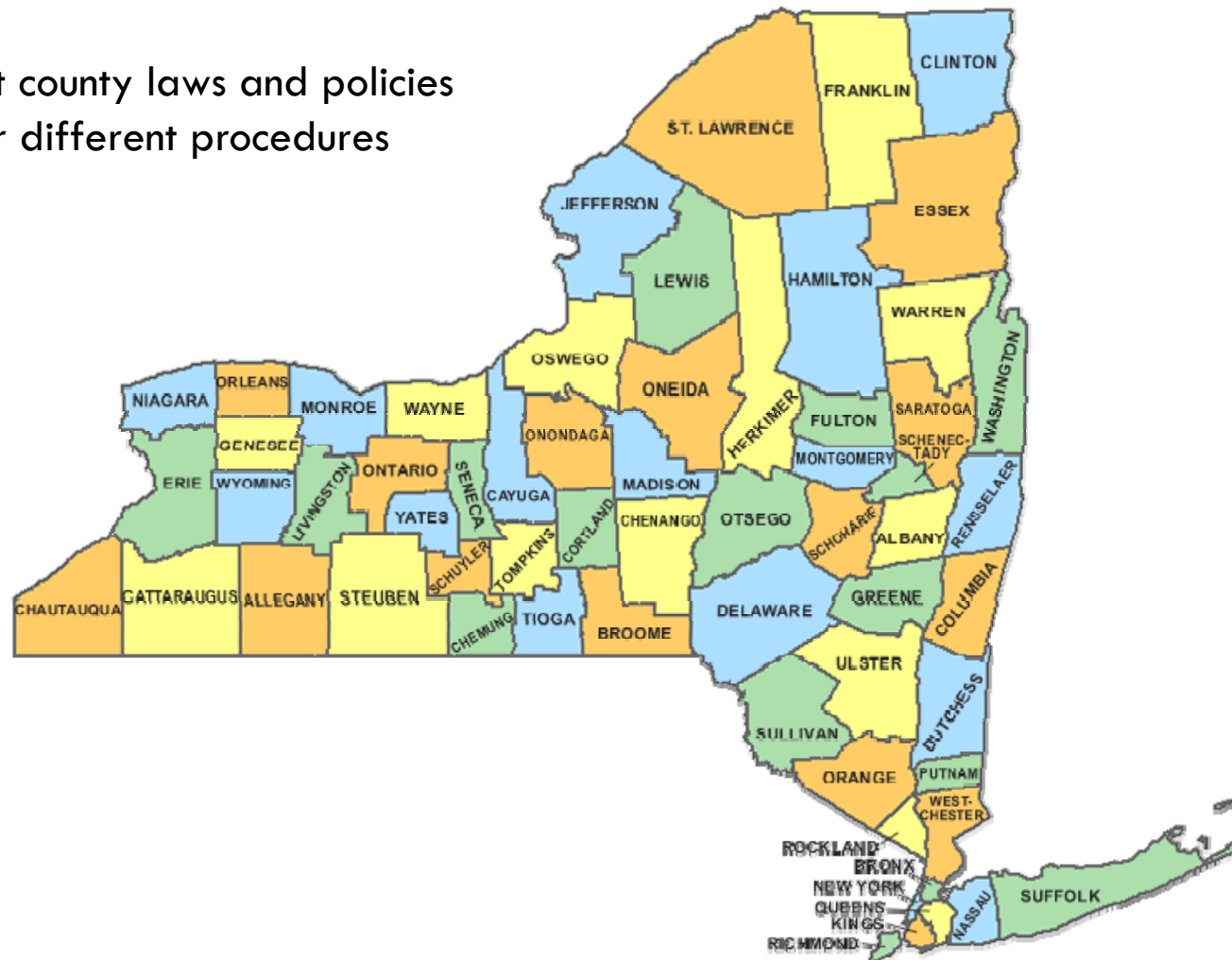
County Planning Reviews in New York State

Section 239- L, M and N
of NYS General Municipal Law
provides statutory framework



County Planning Reviews in New York State

Different county laws and policies
make for different procedures



NYS General Municipal Law



- Requires referral of certain planning and zoning actions from cities, towns and villages to a county planning agency or regional planning council
 - ▣ County planning agencies could be County Planning Boards or Departments
 - ▣ Regional planning councils can be authorized by county legislative bodies in cases where there are no county planning agencies

NYS General Municipal Law



- Planning and zoning actions that must be referred:
 - adoption or amendment of a comprehensive plan
 - adoption or amendment of a zoning ordinance or local law
 - issuance of special use permits
 - approval of site plans
 - granting of use or area variances
 - certain subdivision plats

- EXCEPT....

NYS General Municipal Law

- Planning or zoning actions are referred only if they apply to real property within 500 feet of:
 - ▣ the boundary of any city, village, or town;
 - ▣ the boundary of any existing or proposed county or state park or other recreation area;
 - ▣ the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway;
 - ▣ the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines;
 - ▣ the existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
 - ▣ the boundary of a farm operation located in an agricultural district, as defined by Article twenty-five-AA of the Agriculture and Markets Law

NYS General Municipal Law



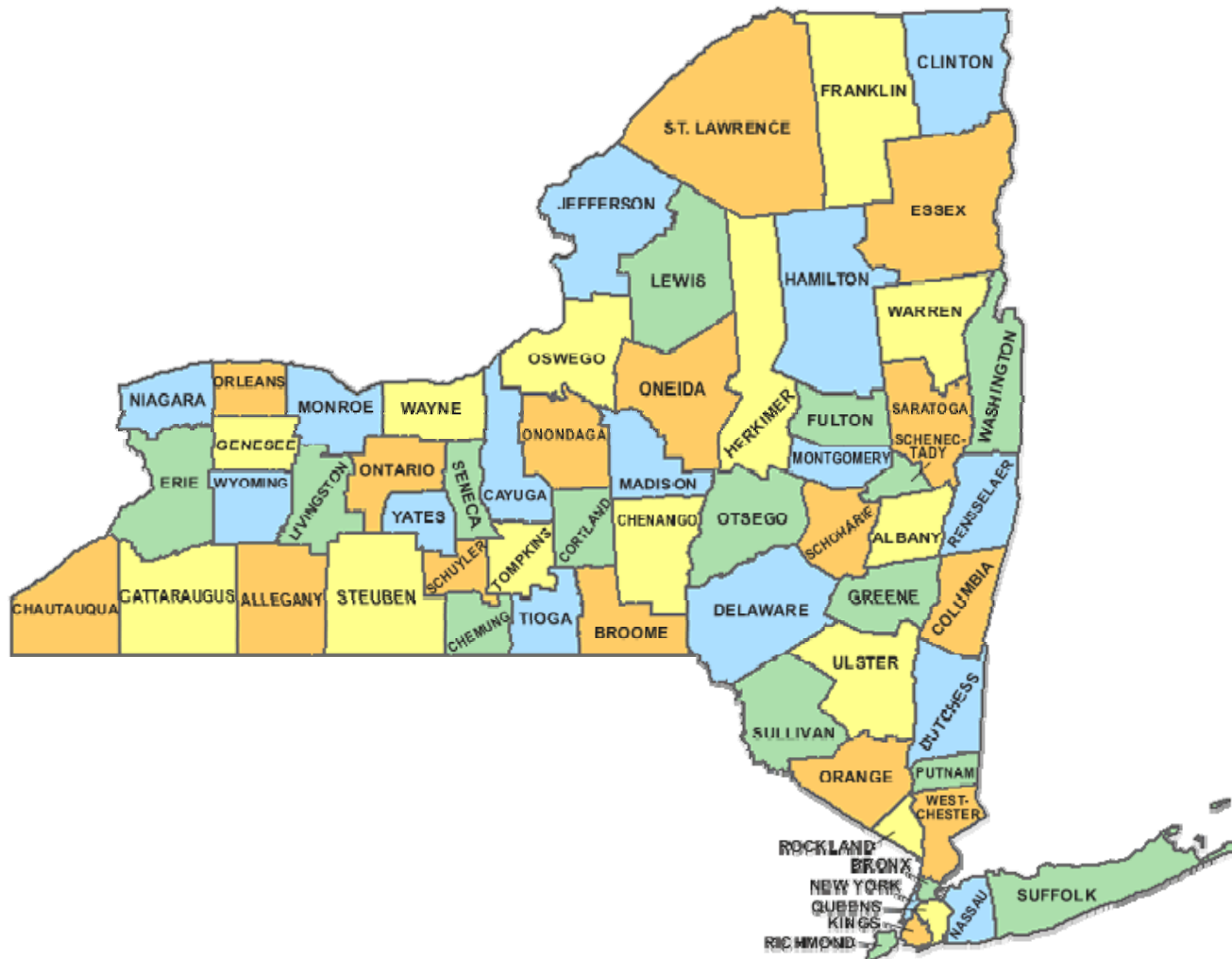
- A “full statement” must be submitted
 - ▣ All materials required by and submitted to the referring body
 - ▣ All SEQR documentation
- County planning agency has 30 days to respond after full statement is received
 - ▣ Recommend approval, modification or disapproval
 - ▣ Or report that the proposed action has no significant county-wide or inter-community impact
 - ▣ Fail to take action
- Referring body may take action after 30 days

NYS General Municipal Law



- Extraordinary vote (may not apply in Westchester)
 - ▣ Applies to referral responses recommending modification and disapprovals
 - ▣ The referring body shall not act contrary to such recommendation except by a vote of a majority plus one.
- Report of final action
 - ▣ Within 30 days, the referring body shall file a report of the final action with the county planning agency or regional planning council

Different county laws and policies



Westchester County Administrative Code



- Section 277.61 – Powers and duties of County Planning Board in relation to villages, cities and towns of the county
- “to aid in maintaining a high level of effectiveness of municipal action...and [to bring] pertinent inter-community and county-wide considerations to the attention of such municipal agencies”
- Requires notification of a different set of planning and zoning actions

Westchester County Administrative Code



- Planning and zoning actions that must be referred:
 - ▣ Adoption of amendment of a zoning ordinance
 - ▣ Issuance of special permit or use permit changing the use classification of property
 - ▣ Proposal decreasing the front yard set back or the minimum street frontage or average width of any property abutting any state highway, parkway or thruway, or any county road or parkway or state or county park

Westchester County Administrative Code



- Planning and zoning actions that must be referred:
 - ▣ A subdivision plat involving a new street connecting directly into any such state or county highway, parkway, thruway or road or involving drainage lines connecting directly into any channel lines established by the County under the County Stream Control Act
 - ▣ The proposed adoption or amendment of an official map affecting streets connecting directly into any such highway, parkway, thruway or road or affecting drainage lines connecting directly into such channel lines

Westchester County Administrative Code




- Requires notice of a public hearing 10 days prior to hearing.
- The County Planning Board may appear at any such hearing and be heard and file a memorandum of its position
- If the County Planning Board disapproves the proposal on which the hearing is held or recommends changes or modifications thereof, the municipal agency having jurisdiction shall not act contrary to such disapproval or recommendation except by the adoption of a resolution of such agency.

Two sets of laws



NYS GML 239
L, M and N

Provisions have been updated
periodically

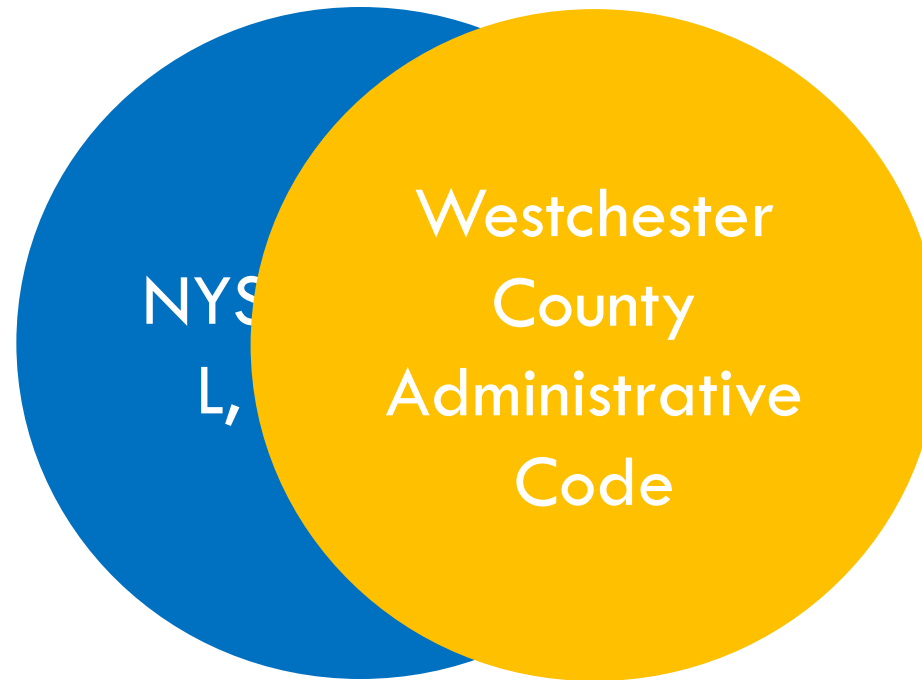


Westchester
County
Administrative
Code

Remains unchanged since 1961

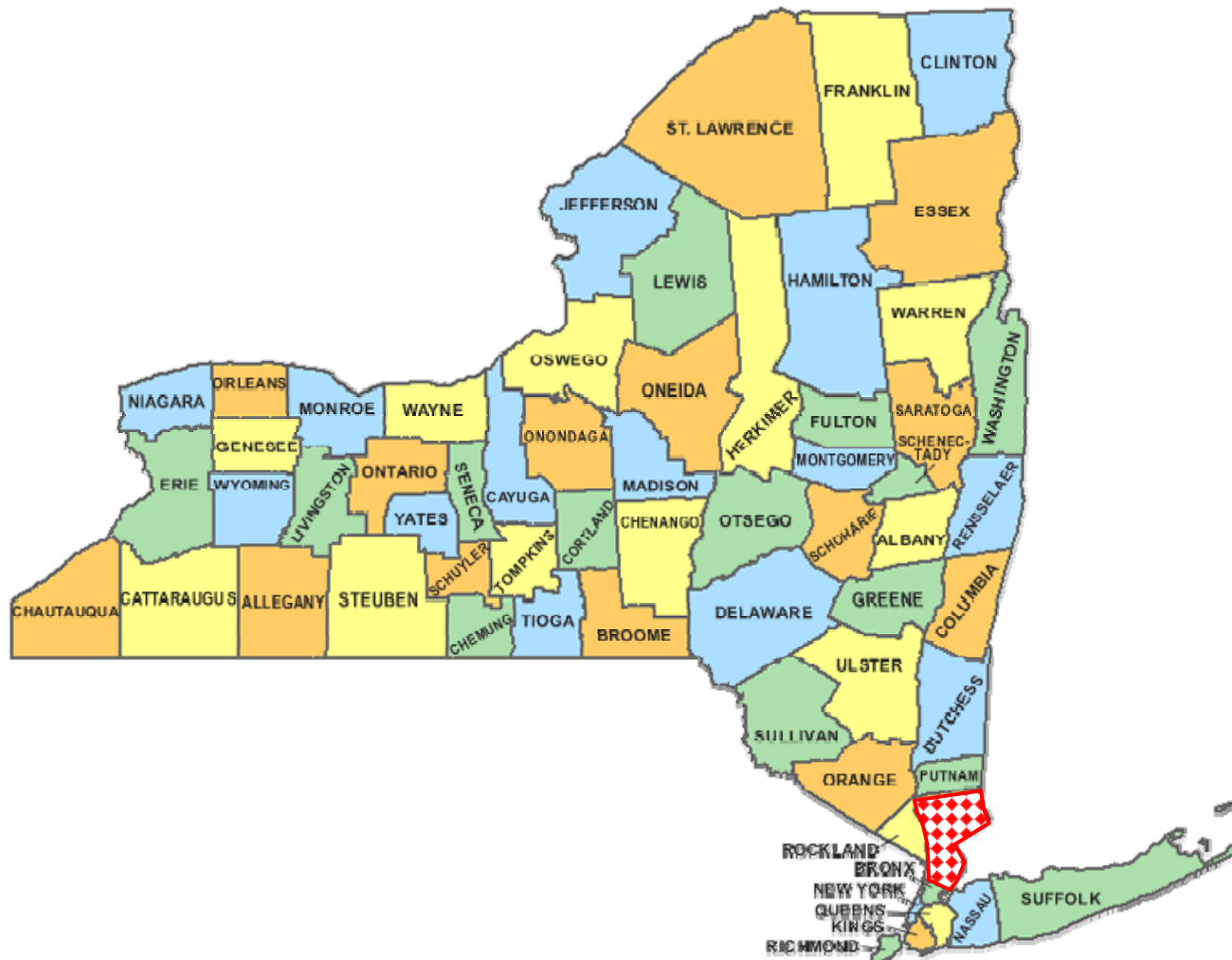
1980's lower court decisions concluded that the
provisions of both laws apply in Westchester
County and that when there is a conflict, the
County Administrative Code takes precedence

Two sets of laws



1980's lower court decisions concluded that the provisions of both laws apply in Westchester County and that when there is a conflict, the County Administrative Code takes precedence

Only in Westchester...



What gets referred?

NYS GML

- ❑ Adoption or amendment of a comprehensive plan (affecting property within 500 feet....)
- ❑ Adoption or amendment of a zoning ordinance or local law (affecting property within 500 feet....)
- ❑ Issuance of special use permits (affecting property within 500 feet....)
- ❑ Granting of use or area variances (affecting property within 500 feet....)
- ❑ Approval of site plans (affecting property within 500 feet....)
- ❑ Other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law (affecting property within 500 feet....)
- ❑ Certain subdivision plats (affecting property within 500 feet....)

Westchester County Code

- Adoption of amendment of a zoning ordinance
- Issuance of special permit or use permit changing the use classification of property
- Proposal decreasing the front yard set back or the minimum street frontage or average width of any property (abutting state or county roads & parks)
- A subdivision plat (involving a new street connecting into state or county road or drainage connecting to county stream)
- Adoption or amendment of an official map

What gets referred?

- Adoption or amendment of a comprehensive plan (affecting property within 500 feet....)

- Adoption of amendment of a zoning ordinance

- Issuance of special permit or use permit changing the use classification of property

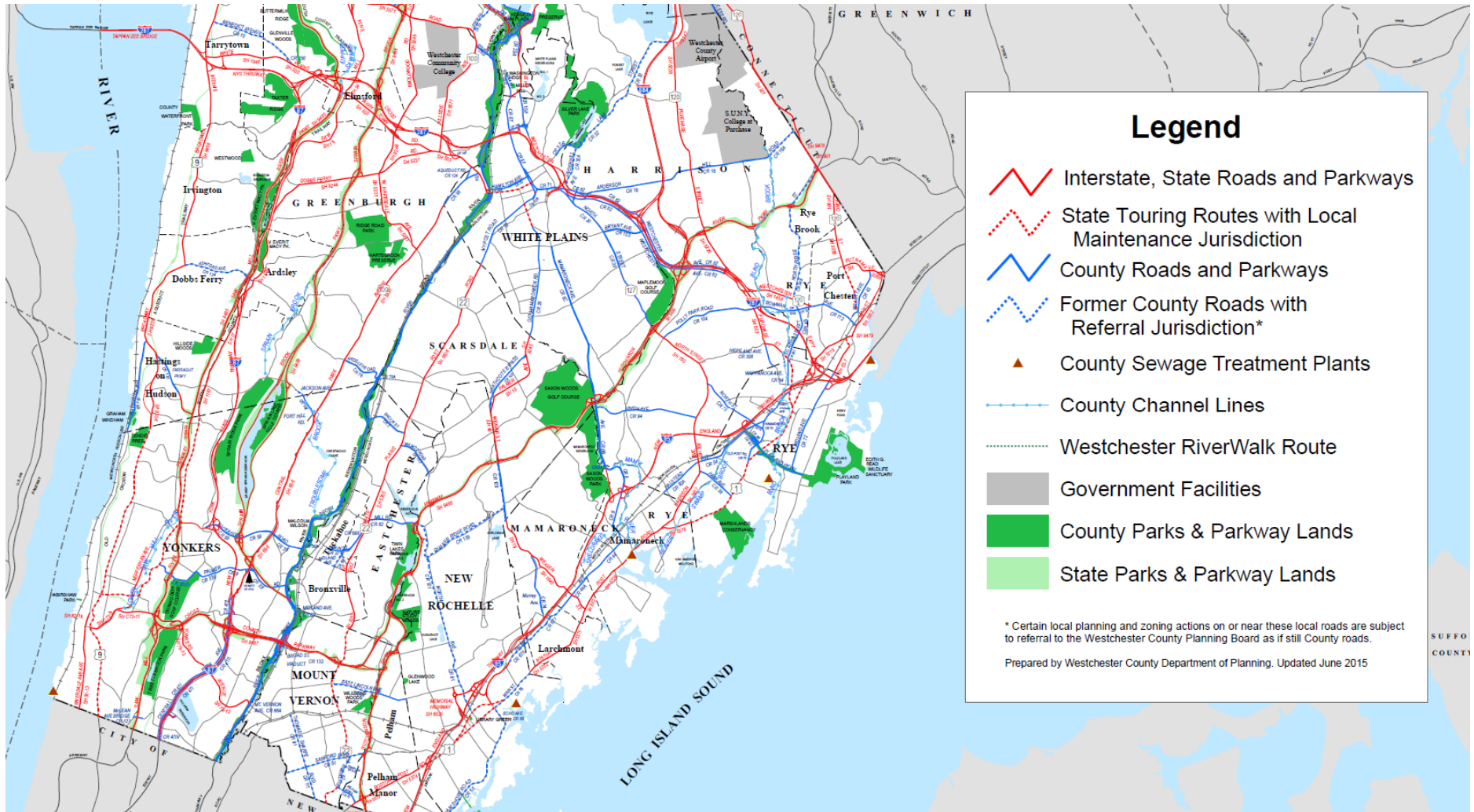
- Proposal decreasing the front yard set back or the minimum street frontage or average width of any property (abutting state or county roads & parks)

- Approval of site plans (affecting property within 500 feet....)

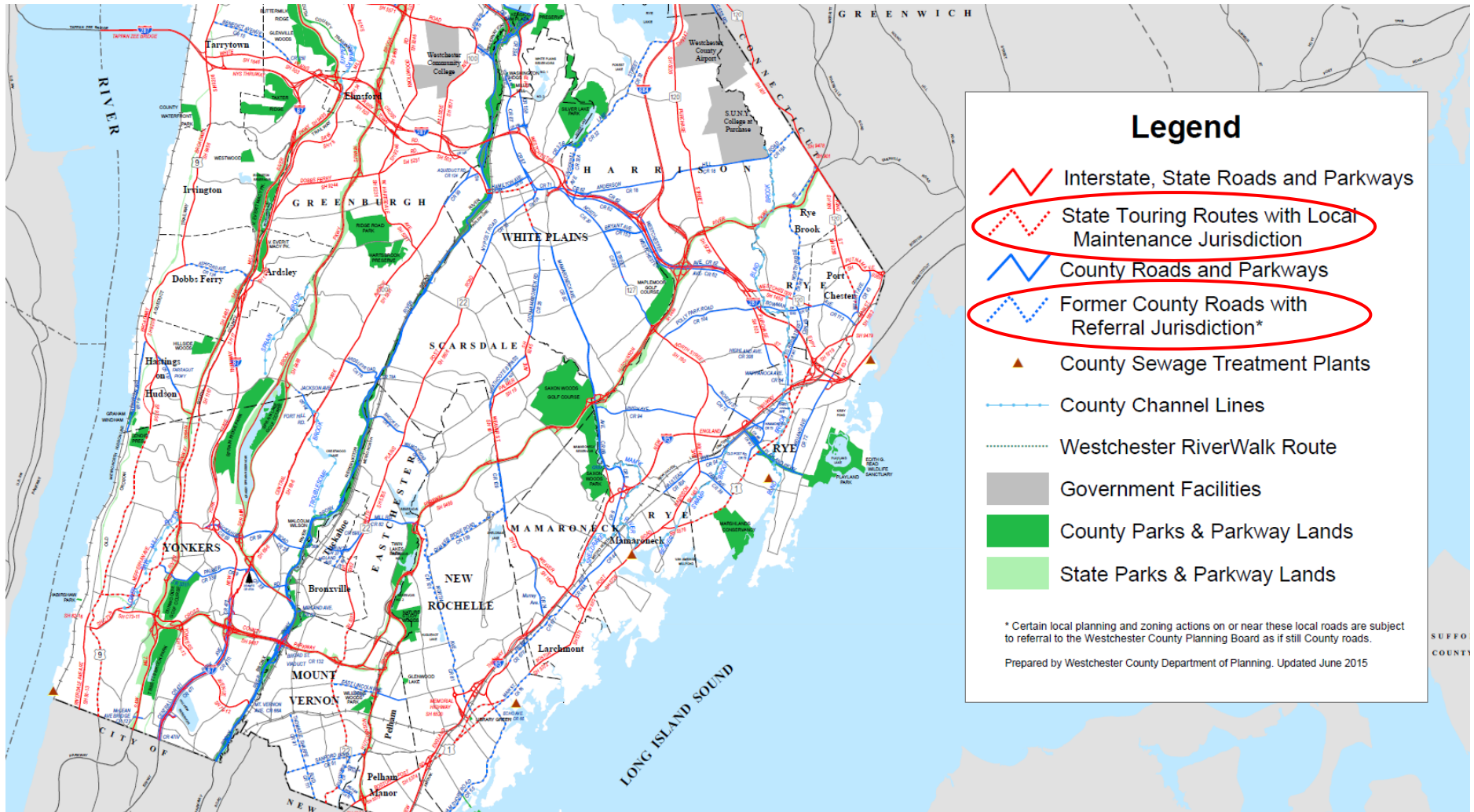
- A subdivision plat (involving a new street connecting into state or county road or drainage connecting to county stream)

- Adoption or amendment of an official map

County and State Roads and Parks



County and State Roads and Parks



Other provisions

NYS GML

- Referring body may take action after 30 days
- Extraordinary vote
 - ▣ Applies to referral responses recommending modification and disapprovals
 - ▣ The referring body shall not act contrary to such recommendation except by a vote of a majority plus one.
- Report of final action
 - ▣ Within 30 days, the referring body shall file a report of the final action with the county planning agency or regional planning council

Westchester County Code

- Requires notice of public hearing 10 days prior to hearing
- If the County Planning Board disapproves...the municipal agency having jurisdiction shall not act contrary...except by the adoption of a resolution of such agency

Other provisions

- Requires notice of public hearing 10 days prior to hearing

*****Except site plans and comprehensive plans***

- If the County Planning Board disapproves...the municipal agency having jurisdiction shall not act contrary...except by the adoption of a resolution of such agency

*****Unless local code reflects GML***

- Report of final action
 - ▣ Within 30 days, the referring body shall file a report of the final action with the county planning agency or regional planning council

Types of County Planning Board Response

- Prior to 1990, the County Planning Board authorized the Commissioner of Planning to determine that a referred action presented no County policy concerns and, therefore to classify the referred action as a matter for local determination
- In such cases, staff prepares a response letter to be reviewed by the Commissioner and sent to the municipal board
- The letter may or may not include advisory comments and recommendations

Types of County Planning Board Response

- In January 2004 the County Planning Board acted to allow certain actions to be referred with a simple notification that can be emailed (or faxed ☹)
- ▣ For development applications involving less than 5,000 square feet of new or renovated floor area and less than 10,000 square feet of site disturbance
- ▣ Automatically considered as matters of local concern only

County Planning Board Review

- For referrals that involve broad issues with potential policy concerns, staff prepares a presentation for the County Planning Board on the referred action and the suggested proposed response comments
 - ▣ Type I actions under SEQR that become the subject of an environmental impact statement
 - ▣ Major change in a comprehensive plan
 - ▣ Significant change in zoning, density or type of permitted uses
 - ▣ Significant relationship to **Westchester 2025** policies and **Patterns** strategies including scale of development, location, relationship to surrounding area, intermunicipal or regional impacts and visual impacts
 - ▣ Significant potential impacts to County facilities and services

Referral timeline

NYS GML – 30 day review period **Must refer “full statement”**

- ❑ Adoption or amendment of a comprehensive plan (affecting property within 500 feet....)
- ❑ Adoption or amendment of a zoning ordinance or local law (affecting property within 500 feet....)
- ❑ Issuance of special use permits (affecting property within 500 feet....)
- ❑ Granting of use or area variances (affecting property within 500 feet....)
- ❑ Approval of site plans (affecting property within 500 feet....)
- ❑ Other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law (affecting property within 500 feet....)
- ❑ Certain subdivision plats (affecting property within 500 feet....)

Westchester County Code - send notice of public hearing, 10 days prior

- Adoption of amendment of a zoning ordinance
- Issuance of special permit or use permit changing the use classification of property
- Proposal decreasing the front yard set back or the minimum street frontage or average width of any property (abutting state or county roads & parks)
- A subdivision plat (involving a new street connecting into state or county road or drainage connecting to county stream)
- Adoption or amendment of an official map

Referral timeline

30

- Adoption or amendment of a comprehensive plan (affecting property within 500 feet....)

10

- Adoption of amendment of a zoning ordinance

10

- Issuance of special permit or use permit changing the use classification of property

10

- Proposal decreasing the front yard set back or the minimum street frontage or average width of any property (abutting state or county roads & parks)

30

- Approval of site plans (affecting property within 500 feet....)

10

- A subdivision plat (involving a new street connecting into state or county road or drainage connecting to county stream)

10

- Adoption or amendment of an official map

Speed of response

- Automatic matters for “local determination”

- Email form

- Matters determined by the Commissioner of Planning to have no significant policy concerns where staff prepares response letter

- Letter contains comments or no comments
- Summarized in a monthly report that the County Planning Board must approve

- Matters with potential policy concerns where direct County Planning Board guidance is sought before response letter is sent

- Staff presentations at monthly County Planning Board meetings

Referral timeline and type of response

Response type	10 day notification	30 day with full application
Automatic “local determination” – email form	OK	OK
Letters generated by staff	Maybe	OK
Matters requiring presentation to board	No	OK

Other Administrative Guidelines



- Referrals should come from municipalities
 - ▣ County Planning Board does not solicit referrals
- Meetings to discuss applications can be set up on request, by either municipality or applicant
- Files are public information
- County Planning Board may invite applicants and municipalities to present applications under review
- Applicants and municipalities may request to present applications to the County Planning Board
 - ▣ Local boards are notified of applicant requests

SEQR

- Westchester County Planning Board is usually an Interested Agency
- Other County departments may also be Involved or Interested Agencies
 - ▣ General comments from WCDPWT, WCDEF and WCPRC are usually coordinated through the County Planning Board response letter
 - ▣ Some County Departments (DOH) respond directly
- County Board of Legislators may also be an Involved Agency
 - ▣ County funding for affordable housing
 - ▣ Sewer district extensions
 - ▣ Expansion of cemeteries

SEQR



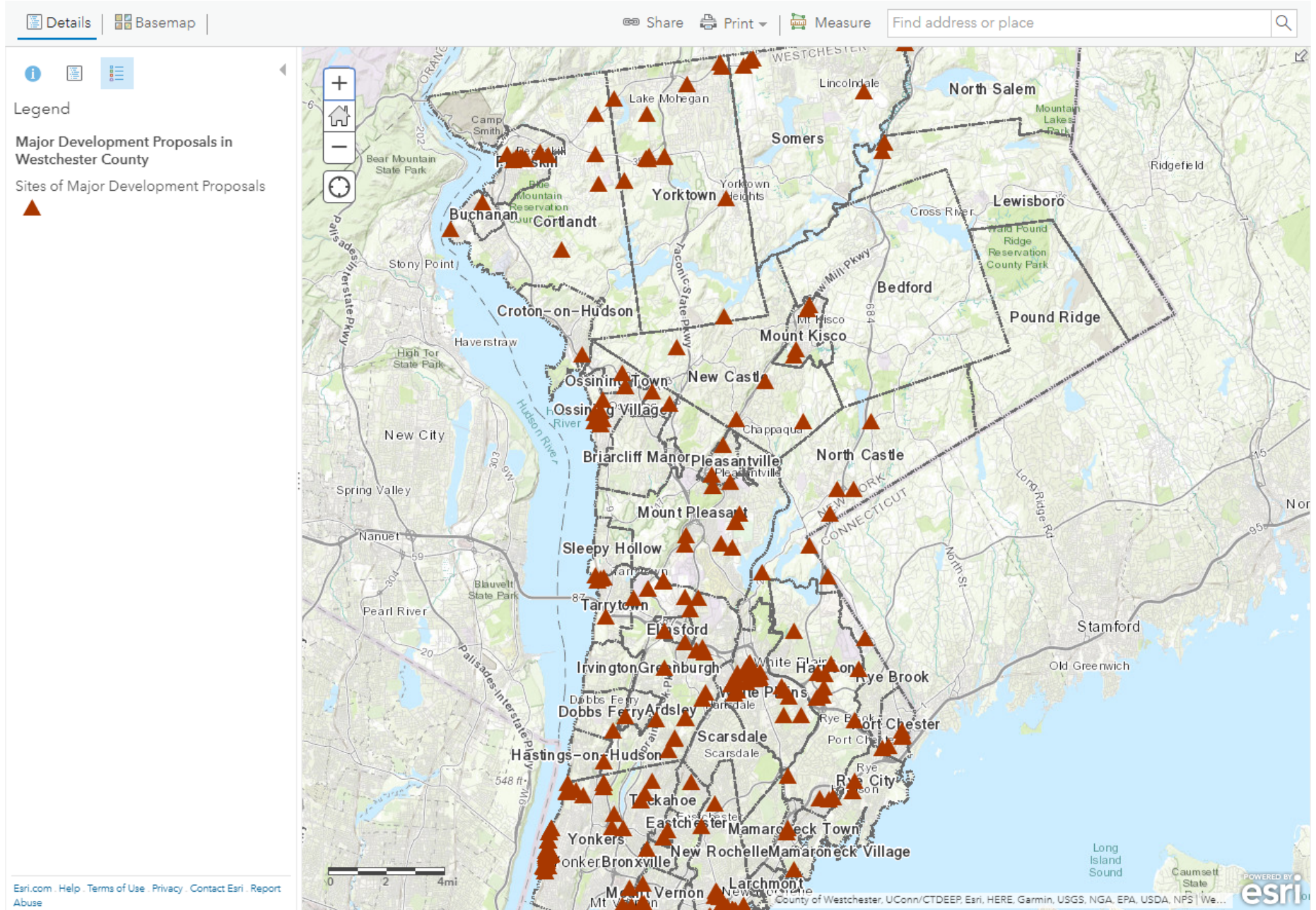
- Notifications should be sent with each phase of SEQR review
- County Planning Board will respond to Lead Agency, Scoping and Environmental Impact Statements

Report of Final Action

NYS GML


Westchester County Code

- Report of final action
 - ▣ Within 30 days, the referring body shall file a report of the final action with the county planning agency or regional planning council






<https://planning.westchestergov.com/planning-zoning-referrals>



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gov.com

George Latimer
Westchester County Executive

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Planning and Zoning Referrals



Under State and County law, municipalities are required to refer certain planning and zoning actions to the Westchester County Planning Board for review.

A referral involves the municipality either notifying or sending a copy of an application or proposed action with supporting documentation to the County Planning Board. The Planning Board, with the assistance of Planning Department staff, then conducts a review and prepares a recommendation letter response to the relevant municipality. The County Planning Board's comments and recommendations on municipal referrals are available in monthly summary reports.

To see monthly summaries of the Planning Board's responses to municipalities on referred planning and zoning actions, visit the [Planning Board](#) page.

[View the interactive map](#) of all currently proposed development projects which have received County Planning Board review.

The County Planning Board receives about 700 municipal referrals annually. These range from minor zoning variances for single-family houses to site plans for major shopping centers to new zoning codes and comprehensive plans. Referrals are assessed within the context of the County Planning Board's adopted land use policies, and for intermunicipal and countywide concerns including potential impacts on state and county roads, parks and facilities. For more details, see [Referrals Review Process](#).

To make government work smarter and to reduce burdensome and unnecessary paperwork, the County Planning Board acted in 2003 to cut down on the administrative burden that NYS General Municipal Law (GML) places on municipal boards. The board predetermined that entire categories of actions are matters of local concern only. Although GML and the County Administrative Code still require that the County Planning Board be notified of these actions (the County Planning Board cannot change the law), that notification can now be made by e-mail, or fax if e-mail is unavailable. For these "Notification Only" actions, there is no need to forward voluminous application forms, maps and supporting information. The County Planning Board will acknowledge

Referrals

- [Planning and Zoning Referrals](#)
- [Referrals Review Process](#)
- [Actions Requiring Referral](#)
- [Actions Requiring Notification](#)

1. ACTIONS THAT REQUIRE REFERRAL OF COMPLETE APPLICATIONS TO THE WESTCHESTER COUNTY PLANNING BOARD¹

Submission should include complete application material as submitted to local board or full text/map of zoning code and comprehensive plan amendments.

<u>TYPE OF PLANNING/ZONING ACTION</u>	<u>LOCATIONAL TRIGGER FOR REFERRAL</u>
COMPREHENSIVE PLAN Adoption or amendment.	Affecting land anywhere in municipality.
ZONING ORDINANCE OR MAP Adoption or amendment.	Affecting land anywhere in municipality.
SUBDIVISION PLAT	Where new street or drainage line will connect directly into state or county road or county drainage channel.
SITE PLAN² Proposing 5,000 square feet or more of new or renovated floor area or 10,000 square feet or more of land disturbance.	Affecting property within 500 feet of: <ul style="list-style-type: none"> • The boundary of a city, town or village • The boundary of an existing or proposed state or county park or any other state/county recreation area • The right-of-way of an existing or proposed state or county road • An existing or proposed county drainage channel line • The boundary of state- or county-owned land on which a public building/institution is located or • The boundary of a farm located in an agricultural district.
SPECIAL USE PERMIT/USE VARIANCE Changing use classification of property and proposing 5,000 square feet or more of new or renovated floor area or 10,000 square feet or more of land disturbance.	Affecting land anywhere in municipality.
OFFICIAL MAP Adoption or amendment.	Affecting streets or drainage lines connecting directly into state or county road or county drainage channel.

¹This table is provided for convenience. The actual language of statutes involved must be checked to determine which actions to refer.

²Additional requirement of NYS General Municipal Law; notice to be provided 30 days prior to agency action.

2. ACTIONS THAT REQUIRE NOTIFICATION ONLY TO THE WESTCHESTER COUNTY PLANNING BOARD¹

Notification should consist of e-mail to muniref@westchestergov.com stating: type of action, title of action, address and statement that action falls within County Planning Board category that requires "Notification Only." An e-mail acknowledgement will be sent at receipt. (FAX communication may be substituted.) A standard submission form is available at www.westchestergov.com/planning.

<u>TYPE OF PLANNING/ZONING ACTION</u>	<u>LOCATIONAL TRIGGER FOR REFERRAL</u>
SITE PLAN² Proposing less than 5,000 square feet of new or renovated floor area and less than 10,000 square feet of land disturbance. <i>(Exception – actions that have been given a Positive Declaration pursuant to SEQOR must be referred as complete application.)</i>	Affecting property within 500 feet of: <ul style="list-style-type: none"> • The boundary of a city, town or village • The boundary of an existing or proposed state or county park or any other state/county recreation area • The right-of-way of an existing or proposed state or county road • An existing or proposed county drainage channel line • The boundary of state- or county-owned land on which a public building/institution is located or • The boundary of a farm located in an agricultural district.
SPECIAL USE PERMIT/USE VARIANCE Changing use classification and proposing less than 5,000 square feet of new or renovated floor area and less than 10,000 square feet of land disturbance. <i>(Exception – actions that have been given a Positive Declaration pursuant to SEQOR must be referred as complete application.)</i>	Affecting land anywhere in municipality.
ZONING VARIANCE Decreasing front yard setback. Decreasing minimum street frontage. Decreasing average width.	Affecting property abutting state or county road or park.

¹This table is provided for convenience. The actual language of statutes involved must be checked to determine which actions to refer.

²Additional requirement of NYS General Municipal Law; notice to be provided 30 days prior to agency action.

Forms to use

Westchester County Planning Board Planning and Zoning Action Referral Form					
Referral Name: _____	Westchester County Planning Board comments due by: _____				
Address: _____					
Municipality: _____	Local Case Number: _____				
Zip code of location of the action: _____	Local Meeting Date: _____				
Section: _____ Block: _____ Lot: _____	Public Hearing: <input type="checkbox"/> Yes <input type="checkbox"/> No				
Referring Agency: <input type="checkbox"/> City Council <input type="checkbox"/> Town/Village Board <input type="checkbox"/> Planning Board/Commission <input type="checkbox"/> Zoning Board <input type="checkbox"/> Other: _____	General Land Use Classification: <table style="width: 100%; border: none;"> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Type of Action</th> <th style="text-align: left; border-bottom: 1px solid black;">SEQR Action</th> </tr> <tr> <td> <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification </td> <td> <input type="checkbox"/> EAF <input type="checkbox"/> Lead Agency <input type="checkbox"/> Draft Scope <input type="checkbox"/> Draft EIS <input type="checkbox"/> Final EIS <input type="checkbox"/> Findings <input type="checkbox"/> Positive Declaration <input type="checkbox"/> Negative Declaration </td> </tr> </table>	Type of Action	SEQR Action	<input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification	<input type="checkbox"/> EAF <input type="checkbox"/> Lead Agency <input type="checkbox"/> Draft Scope <input type="checkbox"/> Draft EIS <input type="checkbox"/> Final EIS <input type="checkbox"/> Findings <input type="checkbox"/> Positive Declaration <input type="checkbox"/> Negative Declaration
Type of Action	SEQR Action				
<input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification	<input type="checkbox"/> EAF <input type="checkbox"/> Lead Agency <input type="checkbox"/> Draft Scope <input type="checkbox"/> Draft EIS <input type="checkbox"/> Final EIS <input type="checkbox"/> Findings <input type="checkbox"/> Positive Declaration <input type="checkbox"/> Negative Declaration				
Referral Description: _____ _____ _____ _____ _____ _____					
Referral Trigger (Type of Action)* Please check appropriate box for actions involving <u>more</u> than 5,000 square feet of new or renovated floor area OR 10,000 square feet of total land disturbance. If this action involves less floor area or land disturbance, please use a "notification only" form to reduce paperwork/waste.					
<input type="checkbox"/> Special Use Permit or Use Variance <input type="checkbox"/> Subdivision Plat (Only when a new street will connect directly into a state or county road or a new drainage line will connect directly into a county drainage channel) <input type="checkbox"/> Zoning Ordinance or Map (Adoption or Amendment) <input type="checkbox"/> Moratoriums	<input type="checkbox"/> Comprehensive Plan (Adoption or Amendment) <input type="checkbox"/> Official Map (Adoption or Amendment) <input type="checkbox"/> Site Plan (please circle the condition) Affecting property within 500 feet of: <ul style="list-style-type: none"> A municipal boundary; The boundary of an existing or proposed state or county park or any other state/county recreation area; The right-of-way of an existing or proposed state or county road; An existing or proposed county drainage channel line; The boundary of state or county-owned land on which a public building/institution is located; The boundary of a farm located in an agricultural district. 				
Contact Information					
Local Contact Name: _____					
Department/Agency: _____					
Phone Number: _____	Email Address: _____				
Please provide notice at least 10 days prior to any hearing (30 days in advance for site plans) with supporting documentation (including an EAF) and return address to: <div style="display: flex; justify-content: space-between; font-size: small;"> <div> Municipal Referrals Westchester County Department of Planning 148 Martine Avenue, Room 432 White Plains, NY 10601-3311 </div> <div> Note: You may fax this sheet to (914) 995-3780, in order to start the referral process. Please send all supporting documentation within one business day of sending the fax. </div> </div>					

* Note: This list is provided as a convenience. Please check General Municipal Law and the Westchester County Code to be certain which actions to refer.
<http://www.co.westchester.ny.us/planning/regionalplan/Referral%20Form.pdf> Prepared by Westchester County Department of Planning—March 2008

Submission Form to the Westchester County Planning Board For Planning and Zoning Referrals REQUIRING NOTIFICATION ONLY

County Ref. No. _____

The Westchester County Planning Board has predetermined that certain categories of planning and zoning applications are matters for local determination only. For any application listed below, submission of this completed form will satisfy the requirements of NYS General Municipal Law and the Westchester County Administrative Code that the local board provided adequate notification to the County Planning Board in accordance with Planning Board procedures. No other material need be sent. Upon receipt, the County Planning Board will complete the bottom section of this form and return it to you to for your records to indicate compliance with referral requirements.

When completed save this form and e-mail to: muniref@westchestergov.com or print and fax to 914-995-3780.

Municipality: _____
 Referring Agency (check one): ☐ Planning Board or Commission
 ☐ Zoning Board of Appeals
 ☐ City or Common Council/Town Board/Village Board of Trustees

Application Name and Local Case Number: _____
 Address: _____
 Section: _____ Block: _____ Lot: _____

Submitted by (name and title): _____
 E-mail address (or fax number): _____

The above referenced application qualifies for the notification only procedure to the County Planning Board because it falls within the category of action checked below:

- ☐ **Zoning Area Variance** to decrease front yard setback, decrease minimum street frontage or decrease average lot width for property abutting a State or County road or park
- ☐ **Special Use Permit or Use Variance** to allow less than 5,000 square feet of new or renovated floor area and less than 10,000 square feet of land disturbance.
- ☐ **Site Plan** to allow less than 5,000 square feet of new or renovated floor area and less than 10,000 square feet of land disturbance on property within 500 feet of:
 - The boundary of a city town or village
 - The boundary of an existing or proposed state or county park, recreation area or road right-of-way
 - An existing or proposed county drainage channel line
 - The boundary of state- or county-owned land on which a public building/institution is located or
 - The boundary of a farm located in an agricultural district

(Please note: All applications given a Positive Declaration pursuant to SEQR must be referred as a complete application. Do not use this form.)

Do not write below this line.

Date received by the Westchester County Planning Board: _____
 Notification acknowledged by (name and title): _____

Questions?



- <https://planning.westchestergov.com/planning-zoning-referrals> is a resource available to you

Lukas Herbert
Westchester County Planning Department
(914) 995-2085
LAH5@westchestergov.com