COUNTY OF ROCKLAND

DEPARTMENT OF PLANNING

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August 25, 2014

Spring Valley Planning Board
200 N. Main Street
Spring Valley, NY 10977

Tax Data: 50.72-1-6.1 50.80-1-49

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date: 4/1/2014 **Date Review Received:** 7/25/2014

Item: ***LEVY TOWERS (SV-585J)***

Site plan application to allow a mixed-use development consisting of 76,000 SF of existing commercial space and the construction of a three-story addition consisting of 124 residential apartment units. The 7.89-acre site is located in a GB zoning district. There are existing cross easement agreements in place with the Village of Spring Valley for ingress, egress, parking and utilities. The municipality owns the remaining 7.93 acres of the shopping center site.

South of side of Sneden Place, 315 feet east of Route 45

Reason for Referral:

NYS Route 45, Town of Ramapo

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

***Disapprove**

The applicant controls two lots or 7.89 acres of the existing shopping center site; the Village of Spring Valley owns the remaining two lots totaling 7.93 acres which include the Route 45 access and the detention basin that serves as the stormwater management system for the entire site. As noted above, reciprocal easements are in place for ingress, egress, utilities and parking. Given the inter-relatedness of the four parcels that make up the shopping center, a site plan that includes the entire complex must be submitted for our review. The easements and shared parking must be clearly indicated.

This department is not opposed to permitting a mixed-use development at this site. However, this proposal far exceeds what is permitted under the GB bulk requirements and the special standards outlined in Section 255-28K. A three-story addition to the existing retail building requires a 60 percent variance for maximum building height, and a 33 percent increase in the maximum number of stories. A four-story building is inconsistent with the surrounding multi-family developments.

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We believe a variance is required for residential density. Section A-10.E.(2) states that the density for multifamily dwellings shall be a maximum of 18 dwelling units per acre. While this 7.89-acre site could accommodate up to 142 units if developed solely for residential use, the existing 76,000 SF of commercial space must be factored into the equation. By our calculations, 152,000 SF is required to achieve a floor area ratio of .50 for the 76,000 SF of commercial space. This leaves 192,154 SF available for the residential use. At the maximum residential density of 18 units per acre, this land area will yield 79 units. The applicant is proposing 45 additional units or almost 57 percent more than the allowed maximum.

The Village shall address how much land area must be dedicated to the commercial use in order to establish what is available for residential development. As noted above, we do not believe it is accurate to calculate the residential density based strictly on the total lot area and the proposed number of units with no allowance for the commercial space. While 15.7 units per acre appears to comply with Section A-10.E.(2), it does not account for the existing commercial use. As currently conceived, a variance is required for residential density or floor area ratio for the commercial space, or both.

The fourth story will accommodate approximately 41 of the proposed 124 residential units. Eighty-two parking spaces are required for these 41 units. Most of the parking proposed in the rear of the building would not be necessary if the fourth story was eliminated. This would allow for a larger and more safely located playground, as well as additional on-site amenities for the residents of the apartments. Section 255-28.K.(4) allows for a 25 percent increase in building height or floor area ratio if certain amenities are provided. The applicant has chosen to apply for a variances from the Zoning Board of Appeals as well as a waiver from the Village Board. Rather than seeking variances of this magnitude, the applicant shall scale back the proposal to more closely comply with the special permit standards and bulk requirements for mixed-use developments in the GB zoning district. This can be most easily accomplished by limiting the total number of stories to three. A variance for an additional floor would no longer be necessary, and the magnitude of the height variance would be reduced. The resultant number of units would be 83, or only four more than the permitted maximum. A scaled back proposal can accomplish the goal of providing rental housing options for working families while also maintaining the scale and community character of the surrounding neighborhood.

If the Village grants the special permit and allows a multi-story addition to the existing commercial building, we offer the following recommendations on the site plan.

1 A complete set of drawings that includes the entire shopping center must be submitted for our review.

2 A review shall be completed by the New York State Department of Transportation and all required permits obtained.

3 The applicant must comply with the conditions of the Rockland County Health Department's letter of June 17, 2014.

4 A review must be completed by the County of Rockland Sewer District #1 and all required permits obtained.

5 There shall be no net increase in the peak rate of discharge from the site at all design points.

6 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

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7 A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (August 2010) and local ordinances.

8 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is 415 feet east of the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The Town of Ramapo must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Town of Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

9 The proposed residential building, and the existing commercial building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

10 The fire zones must be clearly marked on the site plan. Access to the fire zones shall be unimpeded by other parking areas and maneuverability on the site feasible.

11 The fire department connections shall be designated on the site plan and kept clear for easy access by the emergency response vehicles.

12 A review must be completed by the County of Rockland Office of Fire and Emergency Services, the Village Fire Inspector and the local fire district to ensure that there is sufficient maneuverability on-site for emergency vehicles.

13 A landscaping and lighting plan shall be submitted for our review.

14 Fields of illumination from proposed on-site lighting sources shall not extend beyond the property line onto the state road.

15 All proposed signage shall be indicated on the site plan and shall conform to the municipality's sign standards.

16 Cross-sectional views of the proposed addition must be submitted for our review so that the visual impact of the proposal can be fully assessed.

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Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Demeza Delhomme, Spring Valley
New York State Department of Transportation
Rockland County Department of Health
Rockland County Sewer District #1
United Water of New York
Anthony R. Celentano P.E.
Town of Ramapo
New York State Department of State,
Division of Code Enforcement and Administration
Alan Gestetner

Rockland County Planning Board Members

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.