



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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County Executive

DOUGLAS J. SCHUETZ
Acting Commissioner

August 25, 2014

ARLENE R. MILLER
Deputy Commissioner

Spring Valley Zoning Board of Appeals
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-585K)**

Variations for front yard, maximum height, number of stories and floor area ratio to allow a mixed-use development consisting of 76,000 SF of existing commercial space and the construction of a three-story addition containing 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 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.

LEVY TOWERS (SV-585K)

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.

Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The ability of the existing infrastructure to accommodate increased residential density is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Village must consider the cumulative and regional impacts of permitting such development.

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.



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 Department of Health
Rockland County Sewer District #1
United Water of New York
Anthony R. Celentano P.E.

Rockland County Drainage Agency

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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.

