Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
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December 4, 2018

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

Tax Data: 50.72-1-6.1 50.79-2-19.2 50.80-1-48
50.80-1-49

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

Date Review Received: 10/17/2018

Item: ***208-240 NORTH MAIN STREET - ZONE CHANGE (SV-585L)***

A petition to establish a new zoning district to be known as "Mixed Use - MU" and reclassify a four-lot parcel, with a total of 13.95 acres, currently within the GB zoning district. Proposed uses and bulk requirements of the MU zoning district are similar to those of the GB zoning district, with the addition of Mixed Uses as a use permitted by right.

The southeastern corner of Sneden Place and North Main Street (NYS Route 45).

Reason for Referral:

North Main Street (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**

1 The establishment of separate zoning districts for a relatively small area amounts to spot zoning. The action under consideration is not being made to further a stated objective of a comprehensive plan but rather, is being proposed for the benefit of a developer. Prior to undertaking such an action, the Village must do a comprehensive analysis of the potential impact on the surrounding area, as well as the needs of other similar commercial areas in the Village. The proposed zoning district allows for a significant increase in residential density and a subsequent increased demand on local infrastructure. The analysis of potential impacts must examine the effects of a full build-out of the parcel on traffic generation, drainage, and water and sewer capacity. Similarly, there may be other commercial areas in the Village that could potentially benefit from changes to the zoning regulations. The Village must take a more comprehensive approach to updating its land use regulations, rather than engage in spot zoning.

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2 The GB zoning district currently allows mixed-use developments as a use permitted by Special Permit. This department believes the creation of a new zoning district is unnecessary and inappropriate. If there are elements to the proposed new zoning district that the Village deems desirable, then adjusting the existing requirements of the GB zoning district is a more appropriate course of action. Additionally, the Village could consider the establishment of an overlay zone, similar to the Downtown Urban Renewal Area Overlay Zone, in which additional uses or alternative requirements can be utilized, if specific criteria are met. Alternative methods of achieving mixed-use developments must first be explored throughout the Village.

3 The County objects to the proposal to establish Mixed Uses as a use permitted by right. As mentioned above, the GB zoning district currently allows mixed-use developments by Special Permit. The Special Permit application allows for a higher level of scrutiny and oversight that is appropriate for projects with the potential for significant impacts to the surrounding area. Mixed Uses must be allowed by a Special Permit only.

The following comments address our additional concerns about this proposal.

4 A review shall be completed by the New York State Department of Transportation and any comments or concerns addressed.

5 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 410 feet east of the parcel. 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.

6 A review must be completed by the County of Rockland Department of Health and all required permits obtained from them.

7 The Village must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of November 26, 2018.

8 While many of the uses allowed in the GB zoning district, and their respective bulk requirements, are to remain the same in the MU zoning district, the proposed bulk requirements for Mixed Uses are significantly greater than those of similar uses allowed within the GB zoning district. The proposed residential density of 25 units per acre is 39% greater than the GB standard of 18 units per acre. The proposed maximum floor area ratio (FAR) of 1.5 is 150% greater than the 0.6 FAR for multifamily residences and 50% greater than use group E, which has the highest FAR of 1.0. Mixed Uses are proposed to have significantly smaller yard requirements and a maximum building height of 80 feet and six stories. The GB zoning district's maximum height is 65 feet and six stories, again for use group E. The proposed bulk requirements represent a significant increase over the current requirements, and are not necessary for the establishment of mixed use projects. The bulk requirements must be reduced to more closely conform to the existing bulk requirements of the area.

9 The Environmental Assessment Form provided is mostly blank. A completed EAF must be provided.

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10 The proposed parking requirement for residential units in a Mixed Use project is 1.5 spaces per market rate apartment and 0.75 spaces per affordable apartment. The term "affordable" must be clearly defined in the zoning regulations.

11 Reduction in parking requirements for mixed-use projects is a recognized practice that reflects differences in the peak demand times of various uses. However, the proposed requirements for mixed uses proposed a blanket reduction of required parking. One space is required for every 300 square feet of commercial floor area, as compared to one space per 250 square feet of floor area for retail sales, laundries, and banks; or one space per 100 square feet of floor area of fast food restaurants. This approach does not take into consideration the extent, or lack thereof, of staggered peak demands. For example, a largely commercial project could potentially include a small residential component to establish its status as a mixed use and, therefore, be subject to a reduced parking requirement. As a result, such a project could be deficient in providing adequate parking. The Village must ensure that mixed use parking reductions are appropriate to the composition of uses. The Village can accomplish this by establishing minimum thresholds for various uses in order for a project to qualify for the reduced parking requirements, or by allowing a percentage of spaces for a specific use to be allocated toward the requirements of another use.

12 Section A-15.E(5) of the proposed Use Table is blank. The Use Table must be corrected.

13 A traffic study and analysis based on a full build-out must be completed in order to determine the traffic impacts of the proposed zoning district.

14 An analysis of the impacts to sewer, water, and stormwater systems must be completed in order to ensure that there is adequate infrastructure capacity to accommodate a full build-out of the zoning district.

15 A landscaped buffer, with a minimum width of thirty feet, must be required for mixed use developments along all property lines that are adjacent to residential areas.

16 A review must be completed by the County of Rockland Office of Fire and Emergency Services and any comments or concerns addressed.

17 The application form only lists two parcels. All lots must be listed in all materials. The Village must confirm that the public hearing notice correctly lists all parcels.

18 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

19 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Alan Simon, Spring Valley
New York State Department of Transportation
New York State Department of State

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Rockland County Department of Health

Rockland County Sewer District #1

Rockland County Office of Fire and Emergency Services

Town of Ramapo Planning Board

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.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.