Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 2, 2018

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

Tax Data: 57.39-2-10

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 10/13/2017 **Date Review Received:** 1/16/2018

Item: ***36 MAIN STREET (SV-871)***

A site plan application to construct a five-story, mixed use building with ground floor retail and 12 residential units on 0.08 acres in the GB zoning district and Downtown Urban Renewal Overlay Zone. Variances are required for lot area, lot width, floor area ratio, and parking spaces.
The northeastern corner of North Main Street (NYS Route 45) and East Church Street.

Reason for Referral:

North Main Street (NYS Route 45)

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 subject property is located within the Downtown Urban Renewal Area Overlay Zone, which allows for additional uses and less restrictive bulk requirements than what is normally permitted within the GB zoning district. This proposal is based on those less restrictive bulk requirements. However, the overlay district is explicitly meant to apply only to lots with a minimum size of 20,000 square feet. Section A-10.F(3) says "Existing properties that do not meet the minimum lot requirements of the Downtown Urban Renewal Area overlay district are subject to existing GB zoning requirements." With only 3,428 square feet, the lot area of this property is only 17% of the overlay district standard. As a result of the inadequate size of the lot, the less restrictive bulk requirements of the overlay district create a significant overuse of the site. The GB zoning district allows a residential density of 18 units per acre. The proposed structure has a residential density of 152 units per acre, which is 744% greater than the GB zoning district standard. The application of the overlay district bulk standards to a lot that is deficient in area by 83% is not appropriate and results in an unacceptable overdevelopment of the site.

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2 The site plan provided indicates that only 12 parking spaces will be provided. The residential component of the building requires 18 parking spaces. The parking requirement of the ground floor retail use is to be determined by the Planning Board. Applying the freestanding retail parking requirement of one space per 250 square feet of floor area results in a parking requirement of 13 spaces, based on the 3,250 square foot building footprint. Using this standard, the proposed building would require 31 parking spaces, creating a parking deficiency of 19 parking spaces. This property is located along a State highway that is a heavily trafficked commercial corridor. Inadequate on-site parking will result in additional traffic congestion and force residents to park throughout the surrounding community and along Route 45. Adequate on-site parking must be provided.

3 The bulk table indicates that 12 parking spaces are provided. However, no parking plan has been provided and no outdoor parking is shown. The applicant, presumably, intends to provide underground parking. However, no curb cuts, accessway, or interior layout is shown. Moreover, the entire building footprint is only 3,250 square feet. Divided between 12 parking spaces, this results in a total area of approximately 270 square feet per space. This allows for a 9'x30' area per space. This area is barely sufficient for a 9'x20' parking space with a 20' shared backup area. It leaves no additional space for accessways, stairs, mechanical spaces or structural supports that are typically found in an underground parking area. In the absence of a parking plan that can demonstrate otherwise, this department is forced to conclude that the proposed 12 parking spaces cannot be provided in a feasible manner.

4 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 proposed lot area is deficient by 83%. The lot widths along Main Street and East Church Street are only 50% and 69% of the required minimum, respectively. The proposed FAR is 137% greater than the generous 2.0 maximum FAR limit in the Downtown Urban Renewal Area Overlay Zone. The ability of the existing infrastructure to accommodate increased residential density on undersized parcels 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 proposal must be scaled back in size and number of units reduced to more closely conform to the village regulations.

5 A portion of the northeastern corner of the property lies within the FEMA AE floodplain. The floodplain limit must be indicated on the site plan. In addition, a lot area adjustment calculation must be provided as required by Section 255.18.A of the village zoning regulations and the bulk table updated. Application of the floodplain calculation will further exacerbate the lot area deficiency and increase the percent of FAR non-conformity; all factors supporting that the proposed construction is grossly over-sized and must be significantly scaled back.

For the reasons given above, this application must be denied. The following comments address our additional concerns about this proposal.

6 The Floodplain Administrator for the Village of Spring Valley shall certify that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

7 The site plan shall contain map notes that include district information. The vicinity map is highlighting the incorrect parcel. The vicinity map must indicate the correct parcel. Section 239K of the General Municipal Law no longer exists. Map note #6 must be corrected to 239M. Lastly, map note #1 lists an incorrect parcel identification and must be corrected.

8 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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9 There shall be no net increase in the peak rate of discharge from the site at all design points.

10 The applicant must comply with all comments made by the Rockland County Sewer District #1 in their letter of March 5, 2018.

11 The applicant must comply with all comments made by the Rockland County Health Department in their letter of January 17, 2018.

12 Any public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Health Department prior to construction.

13 A review shall be completed by the New York State Department of Transportation and any required permits obtained. The structure is proposed to extend completely to the property line and may cause issues with vehicle sight-lines. The Department of Transportation must consider the design of the building and its impact on traffic safety in their review.

14 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. A letter from the public water supplier, stamped and signed by a NYS licensed professional engineer, shall be issued to the municipality, certifying that there will be a sufficient water supply during peak demand periods and in a drought situation.

15 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the water supplier must supply an engineer's report pursuant to the "Recommended Standards for Water Works, 2003 Edition," that certifies their ability to serve the proposed project while meeting the criteria contained within the Recommended Standards for Water Works. These standards are adopted in their entirety in 10 NYCRR, Subpart 5-1, the New York State regulations governing public water systems. Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.

16 The proposed building extends into and largely blocks what is currently an open sidewalk along the western portion of the site. This will hinder the mobility of pedestrians and have a detrimental effect on the development of a vibrant, active downtown neighborhood. The building must be scaled back to allow for safe, useable pedestrian access.

17 The applicant must include an educational center with computer access in the residential complex, or obtain a waiver from the Village of Spring Valley Urban Renewal Agency, as required by Section A-10.F(4)(b) of the zoning regulations.

18 All signs shall be shown on the site plan and comply with the town's sign ordinance.

19 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of $2,000 per day.

20 We request the opportunity to review any variances which may be necessary to implement the proposed site plan.

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21 The block wall features shown on the site plan will impede and create a hazard for pedestrians. A safe walkway must be provided. Any work performed within the State right-of-way will require approval from the New York State Department of Transportation.

22 The NYS Department of State has determined that the Village is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Village's administration and enforcement of the State Uniform Fire Prevention and Building Code raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

23 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.

24 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 State
New York State Department of Transportation
Rockland County Department of Health
Rockland County Sewer District #1

Anthony R. Celentano P.L.S.

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.