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## Orange County Department of Planning

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### County Reply – Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l, m, & n

**Local Referring Board:** Town of Chester Planning Board

**Applicant:** Broccoli Patch, Inc.

**Project Name:** Broccoli Patch

**Proposed Action:** Site Plan for new construction of 7,800 sq. ft. catering facility with attached residence, redevelopment of existing frame structure with additions as a distillery, and new construction of 25' by 36' storage barn with appurtenant parking and other site developments

**Reason for County Review:** Within 500 feet of County Route 13 (Kings Highway)

**Date of Full Statement:** December 18, 2019 (resubmittal)

**Referral ID #:** CHT 09-19M

**Tax Map #:** 13-3-2

**Local File #:** none provided

#### Comments:

The Department has received the above referenced site plan and has determined that the intended land use has the potential to cause inter-municipal and countywide impacts. Therefore, the following binding comments should be addressed and may not be acted contrary upon except by a majority plus one vote of the members of the Town of Chester Planning Board or by disapproving the action.

1. Stormwater Management: The site plan as submitted shows that there are two small stormwater management ponds onsite. While this will help somewhat, the scale of this development means that most of the stormwater resulting from the proposed development will flow directly into Creamery Pond. Creamery Pond is recognized in the Southern Wallkill Biodiversity Plan as part of the wetlands of central Chester, noted in that 2005 plan as a priority for conservation due to the observations of decline in populations of plant and animal species listed as rare, threatened, endangered, or species of special concern. Although the building coverage of the lot is within the LB-SL district guidelines of 50%, approximately 70% of the lot is covered by impervious surfaces in rooftops and parking. In order to protect the remaining wildlife and properly manage the stormwater runoff, the Town should:
  - a. Require that this development be reduced in size so that no more than 50% of the lot is covered by buildings and parking combined. Reducing the size of the development, and the associated parking, will reduce the impervious surfacing on the project site and thus the amount of resulting runoff.
  - b. Ensure that any fire suppressant equipment onsite uses only water or chemical suppressants that are safe to be in contact with wildlife.
2. Noise: The Town of Chester is currently considering a noise ordinance. While the ordinance is not currently set, the Town should ensure that when the ordinance is passed, the burden of the noise generated by the proposed project is not borne by the nearby residences and other businesses.
  - a. All buildings should be thoroughly soundproofed prior to receiving their final Certificate of Occupancy.



- b. The landscaping buffer of 15' required at the side and rear yards for nonresidential uses in the LB-SL district should be implemented with woody-stemmed conifers at the edge of Creamery Pond in order to absorb some of the noise generated by use of the outdoor space shown in the renderings of the proposed building. This will have the added benefits of blocking some of the light from the building, as well as absorbing additional stormwater runoff.
  - c. Other measures may be necessary in order to ensure that noise pollution does not occur in the vicinity of the project site or elsewhere in the Town. The Town should consider measures such as limiting the number of or requiring special permits for outdoor events, imposing a townwide curfew, or other measures.
3. Tree Preservation: Although most of the trees that were originally present on the project site have been removed, five mature trees remain. We advise the Town to ensure that those trees are not removed, as mature trees provide many ecological benefits.

Additionally, this Department offers the following **advisory comments** for your consideration.

Water Supply: The applicant has stated that although the proposed water source for this project will be an onsite well, they would be open to creating a water line connection along Kings Highway through the hamlet of Sugar Loaf. We advise the Town to pursue the water line connection with County DPW; if the water line connection is found to be nonviable, we advise the Town to ensure that a well test is conducted for the project site to ensure sufficient water supply.

Safety: The American Distilling Institute notes that the primary hazards in craft distilling are fire and explosion. Earlier this year there was a fire on the project site, causing cosmetic damage to the existing building; four different fire departments responded, and access to the site was only able to be gained over the neighboring property. We advise the Town to require that chemical suppressants appropriate for alcohol fires should be kept onsite, together with a containment method to ensure that these suppressants do not leach into the groundwater or into Creamery Pond.

Black Fungus: The applicant intends to use a portion of the property for distilling and storing alcohol. The fungus *Baudoinia compniacensis* is a sac fungus that feeds on ethanol vapor and is known to inhabit the vicinity of distilleries, spirits maturation facilities, bonded warehouses and large bakeries. While the impacts of the fungus are primarily cosmetic, leaving a thick black coating on buildings, trees and other objects, those impacts will most likely not be limited to the project site. We advise the Town to ensure that the applicant is aware of the formation of *B. compniacensis* and is vigilant about its removal, both onsite and off, during operation of this project.

Cemetery: There is reportedly a cemetery on or adjacent to the project site. The cemetery is sufficiently old that the purported boundaries may or may not encompass all the burials. We advise the Town that the area of the cemetery should be surveyed, including ground-penetrating radar to identify the limits of the human remains, and if any portion of the cemetery is on the project site, the New York State Office of Parks, Recreation and Historic Preservation should be consulted as to necessary buffers and other measures intended to preserve the cemetery.


Parking: Without a final proposal showing the exact number of proposed parking spaces and without knowing the proposed uses for certain, we are unable to calculate the required parking. The parcels in Sugar Loaf, including the subject property, are generally too small to include all required parking on the project site, and so §98-22.C(2)(a) allows for parking to be offsite, provided that it is located in the LB-SL zone and

is no more than 500 feet from the entrance of the proposed project. We advise the Town that shared parking agreements may be necessary among property owners in Sugar Loaf in order to provide adequate parking for this and other projects.

**County Recommendation:** Approval subject to modification as per comments # 1a, 1b, 2a, 2b, 2c, and 3

**Date:** February 24, 2020

**Prepared by:** Megan Tennermann, AICP, Planner



**David Church, AICP**  
**Commissioner of Planning**

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available on-line at [www.orangecountygov.com/planning](http://www.orangecountygov.com/planning).