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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: March 14, 2022 (resubmittal)

Referral ID #: CHT 01-22M

Tax Map #: 13-3-2

Local File #: none provided

Comments: On August 17, 2022, I attended a site visit to the subject site with the applicant's engineer, members of the Town of Chester Planning Board and neighboring property owners. The site visit helped me to better understand the project in the context of Creamery Pond, adjacent residences, and the Sugar Loaf Business District. I have since had more time to review the proposed *Site Plan Set* dated January 18, 2022. *Based upon my review, this office has found no evidence that significant inter-municipal or countywide impacts would result from its approval. However, the project (as designed) poses potentially moderate to large local environmental impacts related to Land, Surface Water (i.e., Creamery Pond), Aesthetic Resources, Historic Resources, Noise, and Community Character that must be addressed by the Planning Board in its environmental review of the Proposed Action. It is my opinion that the potential moderate to large impacts of the project, as planned, could be mitigated by changing the Site Plan layout and reducing the scope of the project to limit site disturbance.*

Therefore, the following required modification 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. Site Layout. The applicant's proposed Site Plan involves substantial site disturbance and grading that requires several hundred feet of retaining walls (some exceeding 14-feet in height) that are very close to the edge of Creamery Pond. Significant cut and fill also is required to accommodate a 23-space parking lot that is proposed to be situated within a few feet of an adjoining residence. Retaining walls are also proposed behind the restaurant, tasting area & distillery, bridal suite & catering area and residence. The subject site is attractive for a catering venue due to its location within the Sugar Loaf Business District and its setting on Creamery Pond. However, the Site Plan fails to take full advantage of the project location or setting and would adversely impact the views from the existing residences surrounding Creamery Pond and miss an opportunity make the business district more cohesive.

Required Modification. *The Planning Board should require the applicant to devise an alternative Site Plan layout that reduces site disturbance and the need for an extensive system of retaining walls. This office believes this can be achieved by placing the proposed 7,800 square-foot commercial building to the front of the site along Kings Highway, reducing the number of on-site parking spaces and providing some of the required parking spaces off-site to reduce the amount of site disturbance and avoid the need for several hundred feet of retaining walls facing Creamery Pond (see illustration on Page 5 herein).*

See reverse side

These changes to the site layout would strengthen the cohesiveness of the Sugar Loaf Business District, afford the developer an opportunity to establish a distillery & tasting room storefront on Main Street while leaving a beautiful lawn near the restaurant overlooking the lake that could be utilized for out-of-doors ceremonies. This change in the site layout would also leave an opportunity for the residence to remain in the back yard of the subject site [see illustration page 5].



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 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 the County of Orange owns the former Scotts Meadow property across the street from the subject site. There is currently some public parking provided on site that could be expanded. The Town/Applicant is encouraged to reach out to the County Real Property Tax Office to explore the feasibility of leasing space on the site to accommodate some of the parking needs for the project.



Potentially moderate to large environmental impacts related to Land, Surface Water (i.e., Creamery Pond), Aesthetic Resources, Historic Resources, and Community Character are described below:

Land: The Proposed Action may involve construction on land where depth to water table is less than 3 feet (e.g., retaining walls situated close to the edge of creamery pond).

Surface Water: The Proposed Action may involve the application of pesticides or herbicides in or around any water body. The creation of catering hall, wedding venue and distillery will undoubtedly require pest control and vegetation control. The applicant's intended methods for addressing these issues should be known so as not to threaten the water quality of Creamery Pond. Additionally, the proposed surface parking areas that are proposed in the rear yard could adversely affect the quality of Creamery Pond through the application of salt or other deicing agents to remove ice in the winter. Relocating these facilities away from the pond so that runoff is not directed to the pond would mitigate these concerns.

Aesthetic Resources: The land use of the Proposed Action is obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. The building and parking areas are proposed at the top of the small ridge separating Creamery Pond from the Sugar Loaf Business District. The 7,800 square-foot building is larger than other buildings in the business district and proposed to be situated well off the Main Street. The building is also proposed to be situated close to existing residences and would be in sharp contrast to these homes. Moving the building to the front of the site, could mitigate potentially large impacts and result in a more attractive and cohesive business district.

Historic Resources: The Proposed Action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places. There are many buildings in the Sugar Loaf hamlet that are eligible for listing on the State Register of Historic Places. Placing the new building along Main Street could help to strengthen the historic character of the hamlet.

Noise, Odor and Light: The proposed action may produce sound above noise levels established by local regulation. The proposed action may result in light shining onto adjoining properties. The proposed action may result in lighting creating sky-glow brighter than existing area conditions. Moving the building along Main Street would not only place the building further from adjoining residents, but also attenuate noise from the venue by placing the building on the other side of the small ridge that separate Creamery Pond from Main Street. Moving the 23-space parking lot out of the rear yard would mitigate adverse impacts related to lights shining on adjoining properties and lessen impacts to night sky since the parking lots in the rear yard would have to be lit.

Community Character: The proposed action may create a demand for additional community services (e.g. schools, police and fire). The proposed action is inconsistent with the predominant architectural scale and character. As the Site Plan is laid out, the Proposed Action is inconsistent with the predominant architectural scale and character of the surrounding residences and the Sugar Loaf Business District. Placing the building along Main Street could result in a building and venue that is more in keeping with the community character.

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

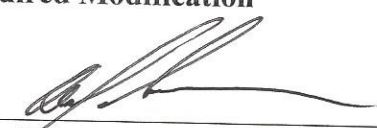
2. Stormwater Management: The site plan as submitted shows that there are two stormwater management ponds onsite. While this will help to some extent, the scale of this development means that much of the stormwater resulting from the proposed development will enter Creamery Pond either through direct surface runoff or through groundwater feeding. 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. *To protect the remaining wildlife and properly manage the stormwater runoff, the Town should explore opportunities to reduce the impervious surfacing on the project site and thus the amount of resulting runoff.*
3. Noise: The Town of Chester should ensure that the noise generated by the proposed project does not cause an undue adverse impact on the nearby residences and other businesses. The landscaping buffer of 15' required at the side and rear yards for nonresidential uses in the LB-SL district is unlikely to effectively mitigate noise generated from the venue. *Look for ways to create a greater separation between the commercial building and parking lots and the adjoining residence. Additionally, trees and woody-stemmed dense foliage should be planted in the buffer between the subject site and adjoining residences.*
4. Tree Preservation: Due to increased flooding events in recent years in Orange County and throughout New York State, many municipalities have grown increasingly concerned about their resilience and ability to recover from such events. One of the most effective ways to prevent damage due to flooding to have deep-rooted trees planted to maintain hillsides and shorelines. Although most of the trees that were originally present on the project site have been removed, five mature trees remain onsite, close to the bank of Creamery Pond. *The Town should ensure that those trees are not removed, as mature trees provide many other ecological benefits. Additionally, trees should be planted throughout the site to make up for some of the trees that were previously removed.*
5. 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 to the existing water line along Creamery Pond Road. *We advise the Town to pursue the water line connection; 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.*
6. Safety: The American Distilling Institute notes that the primary hazards in craft distilling are fire and explosion. There was a fire on the project site in 2019 as this project was first proposed, 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. Again, moving the building on the other side of the ridge that separate Creamery Pond from Main Street could help.
7. 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. However, as noted above, the Town and Applicant should explore the feasibility of situating some of the required parking off-site and, if necessary, reducing the building size to comply with the parking requirements.

County Recommendation:

Date: September 13, 2022

Prepared by: Megan Tennermann, AICP, Planner

Required Modification


Alan J. Sorensen, 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.orangetygov.com/planning.

