



Environmental, Planning, and Engineering Consultants

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Memorandum

To: Town of Washington Planning Board
From: Aaron Werner, AICP
Date: February 2, 2024
Re: 3788 Route 44 Special Permit
cc: Antonio Darriguez Group, LLC (Joel Kaplan) (property owner)
Dinha Siegel-Shea
Meghan Clemente (PB Attorney)
Alicia Moore (AKRF, Inc.)

AKRF, Inc. has reviewed the following documents and plans for the above referenced application:

- Planning Board Application dated 12/14/23.
- Owners Affidavit notarized 12/18/23.
- Resolution to Purchase, dated 12/6/22.
- Aerial Map from Dutchess County Parcel Access, dated 12/15/23.
- Short EAF, dated 12/13/23.
- Property Survey (subdivision plat) prepared by Brian W. Franks, dated 12/16/05.
- Site Plan, undated.
- Letter regarding the site plan, provided by Jeffry Shea, dated 11/20/23 (the "Site Plan Letter").
- Consent to Inspection, dated 12/18/23.
- Deed
- Owner's Endorsement, notarized 12/18/23.
- LLC Operating Agreement for ADG.
- Photo of existing signage.
- Photo of existing exterior doorway lamp.
- Photo of former signage.

PROJECT DESCRIPTION

The Applicant Dinha Siegel-Shea, on behalf of the property owner Joel Kaplan (ADG, LLC), requests approval for a "change of use" of an individual rental unit (known as Suite C) within the northwest corner of an existing commercial building. The property is located at 3788 Rt 44 (tax parcel 135889-6865-00-588448-0000), a 5-acre lot in the HM zoning district that contains two commercial structures, a parking lot,

and landscaping. A small portion of the rear/southern end of the property is within the RR-10 zoning district. The unit in question, which is within the northwest corner of the northernmost existing commercial building on the property, had previously been used as a “craft workshop,” and is now proposed as a “service business” to accommodate a new tenant who seeks to use the unit as a hardwood flooring showroom, with storage and specialty cuts in the back rooms. No millwork will be conducted on-site. The application describes the current building use as commercial rental space for craftspeople, workshops, showrooms, and storage. According to the Town’s Zoning Code, a craft workshop use is permitted by special permit in the HM zone. A service business is also permitted in the HM district with a special permit. According to the Applicant, no building expansion is proposed and no site work is proposed on the exterior of the building.

COMMENTS

Comments in *italics* below are recited from AKRF’s January 1, 2024 memo to the Planning Board. New information, deliberations by the Planning Board at the January 2, 2024 meeting and any other new comments are provided in **bold** text. As noted below, many of the previously issued comments are no longer applicable.

APPLICATION COMPLETENESS

1. *1/2/24: The property is within 500 feet of an agricultural district (AD 21). The Applicant should submit the required Agricultural Data Statement for the Town’s files.*

2/2/24: This comment remains outstanding and the required Agricultural Data Statement (and map) should be prepared by the Applicant for the Town’s files. The form and instructions are available here:

<https://washingtonny.org/wp-content/uploads/2023/07/Agricultural-Data-Statement.pdf>

Dutchess County Ag District Viewer showing parcels in AD 21:

<https://gis.dutchessny.gov/ag-districts/>

2. *1/2/24: Per Zoning Code Section 472, “[a]n application for a special permit shall be accompanied by plans and other descriptive matter sufficient to clearly portray the intentions of the applicant. Such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that may be necessary to determine whether or not the proposed special use meets the requirements of this Local Law.”*

The Applicant has provided a site plan drawing indicating the subject rental unit, as well as the location of all buildings, a striped parking area (which is currently not striped), existing traffic access, open (wooded) spaces, and landscaping, in addition to other site features. The Applicant has also submitted a Site Plan Letter to accompany the illustration; the letter describes the proposed use and provides additional information regarding existing and proposed site conditions.

2/2/24: During the January 2, 2024 meeting, the Applicant clarified that there is no work proposed in the parking lot, contrary to what was indicated on the “site plan” provided. According to the Applicant, a site plan was prepared at the recommendation of the Building Department for the purpose of being thorough on submission requirements. However, after discussing the nature of application further with the Planning Board, it was determined that the Board could waive site plan review requirements for this application, pursuant to Section 472 of the code, which states the following:

“The special permit plan shall also meet the requirements for site plans as stated in Section 483 of this Local Law unless in the discretion of the Planning Board or Zoning Board of Appeals, as the case may be, selected site plan requirements shall not be required for certain types of special permit use applications.”

According to the Applicant, the existing space will change tenants and the new use meets the definition of a service business. The new tenant seeks to use the unit as a hardwood flooring showroom, with storage and specialty cuts in the back rooms. No millwork will be conducted on-site. Most of the cutting is done on job sites where new flooring is to be installed. According to the Applicant, there are rarely more than six cars parked in the lot during working hours. The proposed new use of Suite C will add one or two cars to this total. The parking lot is without parking lines at this time but has space for 30 vehicles along with a 1,400-square-foot loading and unloading area. AKRF agrees that existing access and parking should accommodate the proposed new use, which is not considered a high traffic generating use.

3. *1/2/24: The Applicant should also provide the number of employees (in total and per shift), hours of operation, and anticipated delivery schedule/frequency.*

2/2/24: This comment remains outstanding and the Applicant should provide this information, if available, at the February 6, 2024 meeting. Information on the square footage of the space in question will also be helpful.

4. *1/2/24: While Section 472 also requires that the special permit site plan meet the requirements for site plan approval under Section 483, the Planning Board may waive selected site plan requirements for certain types of special permits. Section 483 also grants the Planning Board discretion to waive certain site plan requirements for proposals that will have a minimal impact on surrounding properties.*

2/2/24: See follow-up Comment #2 above.

5. *1/2/24: The Site Plan Letter states that the “site plan was derived from a previous survey map from 2006.” The Applicant should clarify whether this refers to the submitted “Subdivision Plat” survey dated 2005 (not 2006), or whether it refers to a different survey. If the latter, the Planning Board may request additional information, including a copy of the survey.*

2/2/24: See follow-up Comment #2 above.

6. *1/2/24: As noted in the description above, the previous use as a craft workshop would be permitted by special permit in the HM zone. It is unclear from the application how long the craft workshop use existed on-site and if a special permit from the Planning Board was obtained to operate it. The Applicant should provide the operation and permitting history of the prior use, if available.*

2/2/24: As discussed during the January 2, 2024 Planning Board meeting, it could not be determined if the former craft workshop use received a special permit from the Planning Board. Per the advice of legal counsel the Planning Board intends to treat the special permit as a request for both craft workshop (pre-existing use) and service business, so that both the historic use and proposed use of the space are permitted.

CODE COMPLIANCE

7. *1/2/24: A “service business” is permitted with a special permit in the HM district per Zoning Code Appendix A. The Zoning Code defines “service business” as:*

SERVICE BUSINESS: A business or non-profit organization that provides services to the public, either on or off the premises, including but not limited to arts instruction or studio, building, electrical, plumbing, and landscape contracting, business and educational services, catering, health club, house cleaning services, lock smith, photocopying, repair and restoration services, tailoring, typing, and word processing.

As the proposed use is a business that provides flooring services for buildings, AKRF concurs with this use classification.

2/2/24: Comment noted.

8. 1/2/24: A small portion at the rear (southern) end of the property is within the RR-10 zoning district. However, the site plan and aerial images show that this area is vacant and partially wooded, and no work is proposed there. However, the zoning districts should be added and labeled on the site plan (HM and RR-10).

2/2/24: Comment no longer applicable – refer to follow-up Comment #2 above. The Planning Board will consider the special permit request without a site plan submission or site plan approval, given the nature of the application.

9. 1/2/24: According to the Town's wetland map and Dutchess Parcel Access, the subject property does not contain any wetlands, and the planned work would fall beyond 100 feet of any mapped wetlands and areas of hydric soils. No wetland permit should be necessary in connection with this application.

2/2/24: Comment noted. No further action necessary.

10. 1/2/24: According to the Applicant and as depicted on the submitted site plan, there are designations of locations of newly proposed outdoor lighting. According to the Applicant, all of the lights are in locations where there were existing lights, and fixtures and/or the bulbs were recently upgraded to modern LED. The bulbs replaced are 60W 800 Lumen soft white (2,700K). The letter also indicates that the two poles in the parking area are owned by Central Hudson and are also downward-facing LED with a height of approximately 14.5 feet.

2/2/24: Comment noted. See follow-up Comment #2 above. No changes to the parking are lights are proposed. Replacement fixtures proposed on the outside of the building are described above, and the photo below was provided by the Applicant in the application.



11. 1/2/24: Section 313.2 of the Zoning Code limits new non-residential development in the HM district. However, the Planning Board has previously considered applications for a change in use from one non-residential use to another in the HM zone (see Kiernan special permit application from 2022) and has determined, through advice from counsel, that such a change is not considered a “new” use, even if a period of vacancy precedes the latest non-residential use. It is unclear if the space in question was vacant prior to this current application, and for how long. Regardless, Section 313.2 should not apply to this proposal.

2/2/24: Comment noted. According to the Applicant, a change from “craft workshop” to “service business” is proposed and the provisions of 313.2 should not apply.

12. 1/2/24: The submitted (proposed) site plan drawing should include an area/bulk compliance table for the property against the requirements of the HM zone. This will assist the Planning Board in determining if parking is adequate, among other requirements. The proposed parking arrangement

should be based on the code requirements for commercial use in the HM zone, and if waivers are being sought, those should be specified.

The site plan shows a large “paved area” with apparent markings for approximately 11 cars. The Site Plan Letter also states that there are rarely more than six vehicles parked during working hours, that the proposed new use would add approximately 1-2 additional vehicles (total of 7-8 vehicles), and that the paved area has space for 30 vehicles along with a 1,400-square-foot loading and unloading area. Based on this information, the existing parking area would adequately accommodate the proposed new use. However, the Applicant should provide additional information (through the requested compliance table) including how these figures were derived, particularly the 30-vehicle maximum capacity of the paved area, and the anticipated parking generation of 1-2 vehicles.

2/2/24: Comment no longer applicable – refer to follow-up Comment #2 above. The Planning Board will consider the special permit request without a site plan submission, given the nature of the application.

13. *1/2/24: Comparing the submitted site plan to the current aerial photo of the property, some site disturbance appears to be necessary to formalize the parking and loading area (as depicted on the site plan). Unless this work has already been completed, Section 335.1 of the Zoning Code would be applicable, which states that “a separate soil erosion and sediment control plan shall be submitted to the Planning Board with any application for a site plan approval when the disturbed area is cumulatively more than one-half acre, or within any application to strip topsoil, regardless of acreage.” The Planning Board has the option to approve any proposed erosion and sediment control measures as part of the overall site plan currently under consideration, rather than having the Applicant return to the Planning Board for a separate erosion/sediment control approval. The submitted application does not include a separate soil erosion and sediment control plan. However, an area of disturbance and notes on proposed erosion/sediment controls during construction (silt fences, etc.) can be added to the site plan drawing to satisfy this requirement and the Planning Board's responsibilities.*

2/2/24: Comment no longer applicable – refer to follow-up Comment #2 above. No new site work is proposed. The Planning Board will consider the special permit request without a site plan submission, given the nature of the application.

14. *1/2/24: In addition to addressing Comments 8, 12, and 13 above, the site plan should be amended to include the owner/applicant signature box and the Planning Board signature box.*

2/2/24: Comment no longer applicable – refer to follow-up Comment #2 above. The Planning Board will consider the special permit request without a site plan submission, given the nature of the application.

15. *1/2/24: A public hearing is required for special permit applications per Zoning Code Section 475.*

2/2/24: A public hearing was scheduled for the February 6, 2024 Planning Board meeting.

REFERRALS

16. *1/2/24: The subject parcel is within 500 feet of a State road (Route 44) and a farm operation in an agricultural district (AD 21). This application is therefore subject to General Municipal Law (GML) 239-m, which requires referral to Dutchess County. Under the terms of the Town’s Referral Reduction Agreement with Dutchess County, special permits for nonresidential uses are not exempt from the GML 239-m referral and review process. The County is required to respond within 30 days of receipt.*

2/2/24: The referral to the County was made after the January 2, 2024 meeting and in a response dated January 30, 2024, the County indicated the application was a “matter of local concern” with no comments.

SEQRA

17. 1/2/24: This application is considered a Type II Action under the State Environmental Quality Review Act (SEQRA), which requires no environmental review or submission of an Environmental Assessment Form. The applicable Type II citation is as follows:

“6 NYCRR 617.5(c)(18) – reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by special use permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part”

2/2/24: The Planning Board classified the application as a Type II action at the January 2, 2024 meeting.

RECOMMENDATION

At the February 6, 2024 Planning Board meeting, AKRF recommends that the Planning Board discuss the application and updated consultant comments, open the public hearing and if the hearing can be closed, consider a resolution approving the special permit request.