



***Environmental, Planning, and Engineering Consultants***

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## Memorandum

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**To:** Town of Washington Planning Board  
**From:** AKRF, Inc. (A. Werner, AICP; A. Moore)  
**Date:** August 30, 2024  
**Re:** Hammond – Special Permit (3815 Route 44)  
**cc:** Holly Hammond / Cape’s Gemini LLC (property owner)  
Joseph P. Eriole (PB Attorney)  
Jonathan Ialongo (Town Building Inspector)

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

- Existing Conditions Survey (site plan) (1 sheet) prepared by LRC Group and dated 6/18/24.

### PROJECT DESCRIPTION

The Applicant proposes to open a retail business located at 3815 Route 44 (tax parcel 135889-6865-00-661530), a 4.6-acre lot in the HM zoning district. The subject property is currently improved with an approximately 8,200 SF commercial building, driveway/parking area, and accessory structures. The Applicant proposes to sell local produce. No exterior construction is proposed in the application. A special permit is required for retail uses in the HM district.

### COMMENTS

Previous comments from the memorandum dated August 2, 2024 are shown in *italics*, new and follow-up comments are shown in **bold**.

**8/30/24 Note: The survey/site plan (LRC Group, 6/18/24) presented at the 8/6/24 Planning Board meeting was received by AKRF subsequent to our 8/2/24 memorandum. This revised 8/30/24 memorandum incorporates information provided in the survey/site plan, as well as information provided by the Applicant at the 8/6/24 Planning Board meeting and confirmed via email correspondence with AKRF after the 8/6/24 meeting.**

### APPLICATION COMPLETENESS

1. 8/2/24: *As provided in the application, the property currently contains a vacant commercial building. Per Parcel Access, the building is 8,200± SF, and the lot also contains an accessory shed. However, the Applicant should provide complete information regarding existing conditions, including onsite structures and their descriptions. The Planning Board may request further information about the existing building, including the building footprint and stories. The Applicant should confirm that the building is vacant, or if not, its current use (including any existing residential apartment that may be in the building). If vacant, the Planning Board may request the most recent use and for approximately how long the building has been vacant.*

**8/30/24: The site plan shows that the property contains a one-story principal building, small shed, gravel parking, a gravel and dirt drive, and various trees and shrubs. A portion of the rear of the existing building is used as a residential apartment, which is proposed to continue.**

2. 8/2/24: *In addition to existing conditions, the Applicant should clarify whether the project proposes to utilize the entire building for the retail sale of produce, or if not, the area of the building (gross square feet) proposed for such use, as well as the proposed use(s) for the rest of the building. If outdoor storage or other exterior uses are contemplated, a description should also be provided, including the uses and location. Additional review/approvals may be required depending on the proposed use(s).*

**8/30/24: The Applicant has stated that only a portion of the overall building's floor area will be used for the proposed retail space. The Applicant provided that the approximate gross floor area (GFA) for the proposed use is 1,500 SF, which may increase to 2,671 or 3,210 SF depending on business growth. The portion of the building used as a residence would not be affected. No outdoor storage is proposed. The Applicant intends to add 4-5 picnic tables for outdoor seating on the northeastern side of the building, which would be in addition to the two existing benches in front of the building.**

3. 8/2/24: *The description of the proposed retail use should include probable inventory, operating hours, whether the use would be seasonal or year-round, number of employees, anticipated delivery schedule, and other information deemed relevant.*

**8/30/24: The inventory description provided by the Applicant includes a range of meat, dairy products, produce, fruit preserves, baked goods, flowers, yarn, and sundries.<sup>1</sup> The use would be year-round though products may vary seasonally. Operating hours in the off-season (presumably, winter) are proposed as Friday-Monday 9am-7pm; in the spring and fall, proposed hours are Thursday-Monday 9am-7pm; and in the summer, the store may be open 7 days, presumably 9am-7pm (to be confirmed by Applicant). Deliveries would be primarily by SUV or pickup truck with timing varying depending on the product; given the relatively small scale of deliveries, it is unlikely to affect parking or traffic circulation. The Planning Board may request clarification on the anticipated number of employees – the Applicant has indicated that there may be a supporting farmer on-site as well as a person helping with store responsibilities.**

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<sup>1</sup> The full inventory list is described as: Inventory will include: beef, pork, lamb, chicken, rabbit, duck, turkey, various kinds of eggs, vegetables, herbs, mushrooms, fruits, milk, butters, yogurts, creme fraiche, sour cream, heavy cream, half and half, ice creams, cheeses (cow, sheep, goat), honey, pollen, beeswax, propolis, beeswax candles, jams, jellies, preserves, balms, oils, maple syrup, maple sugar, maple candies, baked goods, bread, granola, hemp, grains, flowers, yarns (angora, cashmere, wool, fibers), milk soaps, wood bundles, hand crafted wood and metal products. Certain quantities will be seasonal and fluctuate based on demand and seasonal availability.

4. 8/2/24: *The project does not appear to include any proposed exterior construction. The Applicant should confirm.*

**8/30/24: The Applicant has confirmed that no exterior construction is proposed.**

5. 8/2/24: *The application is missing a survey and site plan, required for special permits per Zoning Code Section 472. The survey may be adapted to serve as the site plan provided it includes the requisite information (see Comments below) and signature blocks for the Applicant and Planning Board Chair.*

**8/30/24: The Applicant has submitted a survey (LRC Group, 6/18/24), which the Planning Board should evaluate against the criteria for a “special permit plan” described in Zoning Code Section 472 and summarized in Comment 7, below. The required signature blocks should be provided on a final version of the site plan to be signed by the Applicant and the Planning Board Chair.**

<p style="text-align: center; font-size: small;">TOWN OF WASHINGTON PLANNING BOARD OWNER / APPLICANT SIGNATURES</p> <p style="font-size: x-small;">The undersigned applicant(s) for the property and the undersigned owner(s) of the property shown herein certify that they are familiar with this map and its notes and its contents as stated hereon including all conditions of approval. The applicant and the owner understand their obligations to the Town to keep the premises as per plan approval by the planning board until a new or revised plan for development or use of the site is approved by the Planning Board. The applicant and the owner understand their obligation to the Town not to occupy the premises before a Certificate of Occupancy is issued by the Town for the occupancy as approved herein. Dutchess county clerk.</p> <p>Owner _____</p> <p>Date _____</p> <p>Applicant _____</p> <p>Date _____</p>	<p style="text-align: center; font-size: small;">TOWN OF WASHINGTON PLANNING BOARD PLAN APPROVAL</p> <p style="font-size: x-small;">The plan of development for the property as depicted hereon was approved by a majority of the members of the Town of Washington Planning Board at a meeting held on _____, and the conditions of Site Plan Approval have been satisfied or arrangements have been made to ensure the completion of any outstanding or incomplete conditions.</p> <p>Chair _____</p> <p>Date _____</p>
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**CODE COMPLIANCE**

6. 8/2/24: *A retail business is permitted with a special permit in the HM district per Zoning Code Section 470 and Appendix A. Standards for special permits are provided in Section 473.*

**8/30/24: No further comment.**

7. 8/2/24: *A special permit application must include a site plan and other descriptive materials as necessary. 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.”*

*Section 472 further states that the special permit plan must meet the site plan requirements under Section 483 but that the Planning Board has discretion to waive certain of those requirements. Section 483 reiterates the Planning Board’s discretion to waive certain site plan requirements for proposals that will have a minimal impact on surrounding properties. Pending a complete description of the proposed project and that no exterior construction is contemplated, the Planning Board may consider waiving selected site plan requirements.*

*At a minimum, the site plan should include all buildings and their dimensions, paved/impervious areas, building setbacks, parking area(s) and layout, traffic access/circulation, and landscaping. The Board may also request a Zoning Compliance Table. The Planning Board should discuss the applicability of site plan requirements to this application.*

**8/30/24: The submitted survey/ site plan shows the existing buildings, parking areas, existing trees, wetlands, and utilities. While more detailed information, including building dimensions, setbacks, and parking layout are not provided, the Planning Board may waive site plan requirements for proposals that will have a minimum impact on surrounding properties. Given the scope of the proposed project and that no new exterior construction is proposed, such waivers appear appropriate.**

8. *8/2/24: Per Zoning Code Appendix C, the minimum off-street parking for retail uses is one space per 100 SF of floor area plus one for each employee. Therefore, the required number of spaces will depend on the floor area to be used for retail, which the Applicant should provide. Note that, under Appendix C, if the entire 8,200± SF is to be used for retail space, the minimum off-street parking would be 82 spaces plus one for each employee. However, Section 473.10, which provides the special permit standards, states that the parking area must be “of adequate size for the particular use” without reference to the parking schedule (Appendix C), which indicates that the Planning Board has discretion as to the number of required spaces and may not be bound by the minimum under Appendix C. The Applicant should describe the anticipated parking needs and the basis for the calculation. The Planning Board should assess the parking needs of the proposed use. If the existing parking area is to be used for the proposed use, the Applicant should confirm if parking will be adequate based on the size of the retail space proposed. If parking will need to be added or reconfigured, it should be clearly shown on the site plan.*

**8/30/24: Based on the maximum floor area described for the use (3,210 sf), parking for a maximum of approximately 32 vehicles would be required for customers per the Code. The Code also requires 1 space per employee. According to the Applicant, employee parking needs are approximately 5 spaces, based on three spaces for the Applicant, a space for a supporting farmer, and a space for a person helping with store responsibilities. The Applicant describes the front parking area as approximately 370 feet in length and describes additional parking area along the sides and rear of the building, if needed. Per the Applicant, the intent is for farmers and local producers to have a presence for the education of and questions regarding their products. The existing parking areas on the site appear sufficient to meet the described parking needs.**

**Regarding parking for the residential tenant, the Zoning Code requires a minimum of two parking spaces per dwelling unit. Per the Applicant, past plans have shown residential parking near the eastern rear of the building. The Applicant should confirm that sufficient space for the tenant will be provided in an appropriate area; a sign indicating the space reserved for the tenant may be appropriate as a condition of approval.**

9. *8/2/24: The parking plan should include the number of parking spaces needed (see Comment 8), the number of spaces and layout that the existing parking area can accommodate, the entrance/exit drives, parking surface material, and landscaping. Per Zoning Code Section 473.10, parking area screening is required where there are adjoining residential uses. It appears that there is sufficient distance and natural growth between the subject property and the east-adjointing residence, based on Parcel Access. However, the Applicant should confirm whether there are adjoining residences that would require additional screening from the parking area.*

**8/30/24: The survey/ site plan identifies the parking areas as gravel. (See Comment 8 for parking analysis.) Based on review of Google “street-view” and aerial imagery of the property, all adjacent uses are businesses and additional landscaping for purposes of screening should not be necessary.**

10. 8/2/24: *Per the Town Wetland Map (NRI Map #12), wetlands and “probable wetlands” (shown as dotted area) cover most of the property (outlined in red). The building in question is located near the southwest corner of the parcel. Provided that no new construction, building expansion, or ground disturbance is proposed, a wetland permit and CAC referral would not be required. More information is required before a determination on wetland permit applicability can be made.*



**8/30/24: The wetlands and buffer areas are identified in the survey/ site plan. While most of the project site and already built improvements are within the wetland buffer, no new construction or soil disturbance is proposed. Therefore, a wetland permit and CAC referral should not be required.**

11. 8/2/24: *In the HM district, Zoning Code § 313.3 imposes a consistency requirement as follows: “Before approving any use subject to a Special Permit or Site Plan, the Planning Board must make a written finding that the proposed use, layout, and design will enhance the historic architectural fabric of Mabbettsville, and that it is consistent with the purposes and limitations stated in Subsections (1) and (2) above.”*

*In turn, Subsection (1) provides:*

*Purpose. The Town of Washington values the historic architectural character of its largest settlement, the hamlet of Mabbettsville, and wishes to encourage continued residential and commercial growth in this area while maintaining the historic architectural fabric that exists. It is the goal of the Town of Washington that development of the Mabbettsville hamlet should occur in a manner that follows the principles of traditional village planning, exemplified by the pattern of development found in the Village of Millbrook. To that end, the Hamlet Mixed-Use (HM) District is intended to be an area of mixed residential and non-residential uses in which historic and residential character predominates, pedestrian activity is encouraged, and suburban “strip” shopping center development is discouraged.*

*The application as submitted would reactivate a vacant commercial building, thereby encouraging activity and growth consistent with the surrounding character. Therefore, pending further information, the application would be consistent with Subsection (1).*

*Subsection (2) relates to “new” nonresidential development. As the application as submitted would reuse an existing commercial structure and not create new nonresidential development, Subsection (2)*

would not apply, pending clarification on the existing/proposed use(s), including if there are any residential uses currently in the building that would be removed with the project.

The consistency requirement should be revisited at such time as the Planning Board may consider approval of the proposed project.

**8/30/24: No further comment. The submitted survey/ site plan and project details are consistent with the above assessment. The existing residential use at the site will remain with the project.**

12. 8/2/24: A public hearing is required for special permits per Zoning Code Section 475. The hearing may be set once the site plan has been submitted and accepted by the Planning Board as sufficiently complete.

**8/30/24: Based on the site plan and information provided at the 8/6/24 meeting (summarized as new information herein), the Planning Board set the public hearing for 9/3/24.**

#### REFERRALS

13. 8/2/24: The subject parcel is within 500 feet of a State road (Route 44). This application is therefore subject to General Municipal Law (GML) 239-m, which requires referral to Dutchess County Planning. Under the terms of the Town's Referral Reduction Agreement with Dutchess County, special permits are not exempt from the GML 239-m referral and review process. Therefore, referral is required. However, a site plan must be included in the County referral; therefore, once the site plan and other requested information has been submitted and accepted by the Planning Board, the application should be referred to the County.

**8/30/24: Referral was made to the County that included the application and site plan. The County reply dated 8/26/24 declined comment and deemed the application a "matter of local concern." No further action is required.**

#### SEQRA

14. 8/2/24: Based on the submitted information, this application appears to be a Type II Action under the State Environmental Quality Review Act (SEQRA), Section 617.5(c)(18), which requires no environmental review. However, this classification cannot be made until a site plan is submitted and the scope of the project clarified.

**8/30/24: As the site plan and additional information provided at the 8/6/24 meeting were sufficient to clarify the project scope, the Planning Board classified the application as a Type II project under SEQRA, pursuant to 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;"***

**RECOMMENDATION**

At the September 3, 2024 Planning Board meeting, AKRF recommends that the Planning Board discuss the application and consultant comments, including the sufficiency of the submitted survey and parking plan, open the public hearing, and if the hearing can be closed, consider granting the requested special permit.