



Environmental and Planning Consultants

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Memorandum

To: Town of Southeast Planning Board
From: Ashley Ley, AICP
Date: September 4, 2009 (revised September 21, 2009)
Re: Brewster Honda
cc: Richard L. O'Rourke

AKRF, Inc. has reviewed the proposed Amended Zone Change Petition, dated 5/25/09, submitted on behalf of Brewster Honda and makes the following recommendations.

PROJECT SITE AND PROPOSED ACTIVITIES

The proposed project site, formerly the Dills Best Lumber yard, is bounded by I-84 to the east, Allview Avenue and residences to the west, residences to the south, and an abandoned railway line to the north. This site has historically been used for commercial purposes, most recently as a lumber yard. The northern portion of the site is developed with buildings associated with prior uses. Given the condition of the northern portion of the site, its access from Route 6 (although not directly from Route 6), and the project site's prior use as a commercial business within the Village of Brewster and the Town of Southeast, it is appropriate that this portion of the site continue as a commercial use.

The applicant is proposing a vehicle preparation and service center. While the proposed use would generate vehicle and truck traffic, it is not anticipated to be greater than what had previously occurred on the site when it was a lumber yard. All activities, with the exception of the outdoor storage of cars and the unloading of vehicles, would occur indoors. Provided that the location on the site where trucks are unloaded, and the hours when they may be unloaded, is regulated by a Special Permit, AKRF does not object to the proposed use at this location.

CLASSIFICATION OF THE PROPOSED USE

It is important that the proposed use is properly classified under the zoning. As discussed in AKRF's memorandum dated August 6, 2009, the applicant has defined the proposed use as "light manufacturing" which is a Permitted Principal Use in the OP-2 Zoning District. However, the concern was raised by the Town and its consultants that while "light manufacturing" would be appropriate if the site were strictly used for the preparation of vehicles for sale, if vehicle service were also provided, then this definition may not be appropriate. The applicant now proposes to relocate its service portion of the business to the Allview Avenue site as well. Therefore, we discussed whether the service portion of the business would be better classified as a "motor vehicle service station." After a thorough discussion of the types of

activities that would be performed at the site, it was determined that since the proposed service portion of the business would be entirely indoors, would not involve body work, and would not provide towing services, it more closely resembled "general business." In order to clarify the connection between the service portion of the business, AKRF recommends the following amendment to the definition of general business:

GENERAL BUSINESS -- Trade shops, including maintenance and preparation of automobiles in connection with the operation of a customer service center of an automobile dealership provided no body work or towing service is performed, painting, plumbing, carpentry, woodworking, printing and copying machine printing and general repair shops under 10,000 square feet. The maximum size of a general business may be expanded to 50,000 square feet by Conditional Use Permit issued by the Planning Board.

With the above amendment, the entire vehicle preparation and service center would be considered "General Business."

PROPOSED ZONING DISTRICT

The applicant proposes to rezone the entire GC-2, and portion of the R-60 zoned portion of the property to OP-2. This rezoning would make the proposed project a Permitted Principal Use. AKRF has considered this proposal and finds that NB-1 is a more appropriate zone for this site for the following reasons:

- 1) The project site is adjacent to an existing NB-1 Zoning District. By rezoning this site to NB-1, it would create a contiguous zoning district as opposed to an isolated OP-2 zone;
- 2) The existing NB-1 Zoning District currently encompasses a number of automotive related businesses.
- 3) The proposed use should be a "Special Permit Use," not a "Permitted Principal Use." With the proposed amendments to the definition of general business described above, the proposed use would be a Special Permit Use in the NB-1 Zoning District. Requiring a special permit allows the Town to create and enforce performance standards that can protect adjacent residences.
- 4) The proposed project is generally consistent with the dimensional requirements of the NB-1 Zoning District. The greatest barrier is that outdoor storage is not currently permitted in this zone. However, outside storage could be added to the NB-1 district as a Conditional Use accessory to a general business. Alternatively, a use variance for outside storage would be required.
- 5) Although the Comprehensive Plan describes the NB-1 Zoning District as a district that "allows all types of commercial, service retail, office, and auto-related uses with a minimum lot area of 10,000 square feet." AKRF recognizes that at the time the Comprehensive Plan was adopted there was a general discouragement of automotive related uses, and that the continuation of automobile dealerships as important businesses for the local tax base was never fully resolved in the Comprehensive Plan or Zoning Code. Therefore, should this project and zoning amendments move forward, AKRF recommends that the Comprehensive Plan be amended to identify automobile dealerships and their support activities. The Comprehensive Plan should recognize appropriate locations for these types of businesses, as well as appropriate performance standards.

RECOMMENDED ACTIONS

At the September 14, 2009, meeting, the Planning Board reviewed a draft resolution for a report and recommendation to the Town Board. That resolution has been revised base on comments from members of the Planning Board, and in response to public comments. Therefore, at the September 28, 2009, AKRF recommends that the Planning Board review the revised resolution, and submit a report and recommendation to the Town Board. AKRF recognizes that the decision to move forward with this application is a policy decision to be made by the Town Board. However, AKRF finds that the proposed use is appropriate for the site, and with sufficient environmental review and performance standards in place, could be a benefit to the Town's commercial base.

**TOWN OF SOUTHEAST, NY
PLANNING BOARD RECOMMENDATION AND REPORT
ON BREWSTER HONDA ZONING PETITION**

INTRODUCED BY: _____

DATE: September 28, 2009

SECONDED BY: _____

WHEREAS, the Planning Board is in receipt of a referral from the Town Board of the Town of Southeast for review and recommendation on a zoning petition submitted to the Town Board on behalf of Brewster Honda;

WHEREAS, the property is currently zoned R-60 and GC-2 in the Town of Southeast;

WHEREAS, as part of the proposed action, the applicant proposes to rezone the entirety of the GC-2 zoned property, and a portion of the R-60 zoned property, to OP-2 to accommodate the proposed use;

WHEREAS, the applicant proposes to construct a vehicle preparation and service building for Brewster Honda on the 13.9 acre former Dills Best Lumber yard, located primarily in the Town of Southeast, with a small portion in the Village of Brewster;

WHEREAS, the Planning Board held publically noticed meetings on August 10, 2009 and September 14, 2009, at which time members of the public were given the opportunity to comment on the proposed project and zoning petition;

WHEREAS, representatives from the Allview Avenue neighborhood presented written and oral comments in opposition to the proposed project;

WHEREAS, the Planning Board has considered comments from the public with regards to this application;

WHEREAS, the Planning Board has considered the goals and objectives of the Town of Southeast Comprehensive Plan;

WHEREAS, the Planning Board has considered the surrounding land uses, both adjacent to, and in close proximity to the site;

WHEREAS, the project site, formerly the Dills Best Lumber yard, is bounded by I-84 to the east, Allview Avenue and residences to the west, residences to the south, and an abandoned railway line to the north;

WHEREAS, this site has historically been used for commercial purposes, most recently as a lumber yard and the northern portion of the site is developed with buildings associated with prior uses;

WHEREAS, given the condition of the northern portion of the site as a previously developed site, its access from Route 6 (although not directly from Route 6), and the project site's prior use as a commercial

business with access from the Village of Brewster and primarily located in the Town of Southeast, the Planning Board finds that it is appropriate that this portion of the site continue as a commercial use;

WHEREAS, a traffic study has been prepared and is under review by the Planning Board and its consultants;

WHEREAS, while the proposed use would generate vehicle and truck traffic, it is not anticipated to be greater than what had previously occurred on the site when it was a lumber yard;

WHEREAS, should this project move forward, the Planning Board will require traffic improvements, as deemed necessary and appropriate, during site plan approval;

WHEREAS, all activities, with the exception of the outdoor storage of cars and the unloading of vehicles, would occur indoors;

WHEREAS, provided that the location on the site where trucks are unloaded, and the hours when they may be unloaded, are regulated by a Special Permit, the Planning Board does not object to the proposed use at this location;

WHEREAS, the applicant has defined the proposed use as "light manufacturing," and the Planning Board has received comments from the public that it should be considered a "motor vehicle services station;"

WHEREAS, after considering the definitions contained in the Code, and the activities that would be performed onsite, the Planning Board finds that the proposed use most closely resembles "general business" since the proposed service portion of the business would be entirely indoors, would not involve body work, and would not provide towing services;

WHEREAS, the applicant proposes to rezone the entire GC-2, and a portion of the R-60 zoned portion of the property to OP-2 which would make the proposed project a Permitted Principal Use;

WHEREAS, the Planning Board has considered this proposal and finds that NB-1 is a more appropriate zone for this site for the following reasons:

- 1) The project site is adjacent to an existing NB-1 Zoning District. By rezoning this site to NB-1, it would create a contiguous zoning district as opposed to an isolated OP-2 zone;
- 2) The existing NB-1 Zoning District currently encompasses a number of automotive related businesses;
- 3) The proposed use should be a "Special Permit Use," not a "Permitted Principal Use." With the proposed amendments to the definition of general business described below, the proposed use would be a Special Permit Use in the NB-1 Zoning District. Requiring a special permit allows the Town to create and enforce performance standards that can protect adjacent residences;
- 4) The proposed project is generally consistent with the dimensional requirements of the NB-1 Zoning District. The greatest barrier is that outdoor storage is not currently permitted in this zone. However, outside storage could be added to the NB-1 district as a Conditional Use accessory to a general business; and

- 5) Although the Comprehensive Plan describes the NB-1 Zoning District as a district that “allows all types of commercial, service retail, office, and auto-related uses with a minimum lot area of 10,000 square feet.” The Planning Board recognizes that at the time the Comprehensive Plan was adopted there was a general discouragement of automotive related uses, and that the continuation of automobile dealerships as important businesses for the local tax base was never fully resolved in the Comprehensive Plan or Zoning Code. Therefore, the Planning Board also recommends that the Comprehensive Plan be amended to identify automobile dealerships and their support activities. The Comprehensive Plan should recognize appropriate locations for these types of businesses, as well as appropriate performance standards or supplementary regulations.

WHEREAS, the Planning Board has the following concerns regarding the proposed project which will be handled as part of site plan review;

- 1) The outdoor storage of vehicles should be delineated on the site plan and bounded by a fence or appropriate screening so that the storage area does not expand over time.
- 2) A large vegetated buffer between the proposed use and the adjacent residences should be maintained.
- 3) Delivery hours should be strictly regulated so that no deliveries take place outside of regular business hours. All deliveries should take place as far from the residences as possible.
- 4) The vehicle storage area should primarily be for the storage of new cars. The vehicle storage area should not be used for the showing or sales of new or used cars.
- 5) To the greatest extent practicable, the existing residentially zoned area should be maintained as open or undeveloped green space. Intrusion into this area should be limited to the septic system expansion area, stormwater management areas, or similar facilities. No commercial buildings or vehicle storage should be located in this area.

WHEREAS, in consideration of the above concerns, as well as other commercial operations in the Town of Southeast, the Planning Board recommends that the following conditions be added to the Supplementary Regulations for Special Permit and Conditional Uses defined in §138-60 of the Code:

Commercial buildings to be used for the purpose of general business, light manufacturing or storage/warehouse are subject to the following supplementary requirements:

- 1) All outdoor storage areas shall be delineated on the site plan and enforced by the Town of Southeast Code Enforcement Officer. Fencing, hedgerows, and pavement delineations shall be used as appropriate to identify these areas.
- 2) Delivery hours shall be regulated by the special and/or conditional use permit and noted on the site plan.
- 3) Appropriate buffers between any component of the proposed use and adjoining properties given the proposed use, the use of adjoining parcels, and the natural topography and vegetative cover shall be established by the special and/or conditional use permit and identified on the site plan.
- 4) The Planning Board may increase the maximum footprint of a general business structure up to 50,000 square feet provided that the following conditions are met:
 - (a) The structure is not located on a ridgeline; and

- (b) The building is appropriately located on the site and landscaping is utilized to minimize its visibility from adjacent residences and public roadways; and
- (c) The structure is subject to review by the Town of Southeast Architectural Review Board.

NOW, THEREFORE, BE IT RESOLVED, the Planning Board recommends that the portions of the properties subject to this petition, and known and designated on the Tax Assessment Map of the Town of Southeast as SBL 68-1-4, 68-1-5 and 68.5-1-2, be rezoned to NB-1.

BE IT FURTHER RESOLVED, that the Planning Board recommends that the Town Board consider the following actions in conjunction with the proposed zoning petition:

- 1) Amend the Comprehensive Plan to identify automobile dealerships and their support activities. The Comprehensive Plan should recognize appropriate locations for these types of businesses, as well as appropriate performance standards or supplementary regulations;

- 2) Amend the definition of “general business” as follows:

GENERAL BUSINESS -- Trade shops, including maintenance and preparation of automobiles in connection with the operation of a customer service center of an automobile dealership provided no body work or towing service is performed, painting, plumbing, carpentry, woodworking, printing and copying machine printing and general repair shops under 10,000 square feet. The maximum size of a general business may be expanded to 50,000 square feet by Conditional Use Permit issued by the Planning Board.

- 3) Amend the Commercial Zoning Schedule to allow outside storage as a Conditional Use accessory to a general business in the NB-1 Zoning District.

- 4) Add the following supplementary regulations to §138-60 of the Code:

- a. All outdoor storage areas shall be delineated on the site plan and enforced by the Town of Southeast Code Enforcement Officer. Fencing, hedgerows, and pavement delineations shall be used as appropriate to identify these areas.
- b. Delivery hours shall be regulated by the special and/or conditional use permit and noted on the site plan.
- c. Appropriate buffers between any component of the proposed use and adjoining properties given the proposed use, the use of adjoining parcels, and the natural topography and vegetative cover shall be established by the special and/or conditional use permit and identified on the site plan.
- d. The Planning Board may increase the maximum footprint of a general business structure up to 50,000 square feet provided that the following conditions are met:
 - i. The structure is not located on a ridgeline; and
 - ii. The building is appropriately located on the site and landscaping is utilized to minimize its visibility from adjacent residences and public roadways; and
 - iii. The structure is subject to review by the Town of Southeast Architectural Review Board.

UPON ROLL CALL VOTE:

T. LaPerch, Chairman	_____	D. Rush, Vice Chairman	_____
D. Sullivan, Boardmember	_____	D. Armstrong, Boardmember	_____
P. Wissel, Boardmember	_____	E. Alvarez, Boardmember	_____
J. DiBella, Boardmember	_____		_____

The resolution was _____ by a vote of ____ to ____, with ____ abstentions.

T. LaPerch, Chairman
Southeast Planning Board

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