

PHONE: 810-231-1000  
FAX: 810-231-4295



P.O. Box 157  
10405 Merrill Road  
Hamburg, Michigan 48139-0157

---

**To:** Planning Commissioners  
**From:** Amy Steffens, AICP  
Planning and Zoning Director  
**Date:** March 15, 2023  
**Agenda Item:** 6a  
**Project address and Description:** **Special Use Permit (SUP 22-003)** to consider a request to construct two residential units in a proposed second-story addition at 9704 Kress Road (15-21-405-016).  
**Owner:** David Woolley



## PROJECT HISTORY

On January 18, 2023, the Planning Commission held a public hearing to consider a special use permit application to construct two residential units in a proposed second-story addition at 9704 Kress Road. Seven residents spoke during the public hearing and their comments are below, excerpted from the January meeting minutes.

- Brad Flinger (lives in the Shan-Gri-La subdivision) asked what business was going to be placed below in the retail space. Will it become another party store or what type of business will it be? Where is D & G Real Estate located?
- Gerald Lilly (4476 Shan-Gri-La Dr) has lived in area for 25 years, as a cottage, full-time. A party store gets money from the marina, and that hasn't been a reliable business that does well in this area. Gerald is opposed due to his concerned about adding a parking lot and a detention pond, because after the sewers were put in there was a loss of aquatic life. A U of M Survey documented frogs, turtles, 15 different kinds of fish, and five different kinds of water birds. Resident is worried about any physical changes to the area will impact the environment. New families with children are moving into the neighborhood, and he is concerned about the engineering calculations of the detention pond could impact the recreation living of the subdivision. Business is important, but we need to be careful of what we do to our environment. Spoke on behalf of Scott Claimer- 4491 Shan-Gri-La Dr, in opposition to the redevelopment of the Bluewater Party Store renovation, if it requires additional stormwater detention and parking.
- Loren Steff (9778 Fireside Ct) is concerned that this might be rented for low-income housing. It would invite an element that we do not want in our neighborhoods. Residents in the downtown area do not understand the quality of life we have in this area. The number of parking spaces is a concern due to the number of transient people who will come and go in the community, especially if it becomes an Airbnb. Loren also asked for clarification on the size of each residential unit.
- Brad Flinger (lives in the Shan-Gri-La subdivision) Lake Shan-Gri-La runs into the Chain of Lakes down river. The vacant Bluewater building exists where a creek used to run to Zukey Lake in 1903. He asked that development pays attention to a possible drain that exists there, that if closed might cause flooding in the community if water doesn't continue to drain to the lake. His water table on his parcel is 17" below the surface.
- Dennis Down (4710 Shan-Gri-La Dr) homeowner west of this development. Dennis heard the staff's report and wanted to tell the commission that he supports the recommendations.
- Ronnie Marlow (9732 Kress Rd) homeowner to the south of this development. Ronnie supports and suggest requirement of a fence barrier between this development and his parcel, for noise, lighting and dumpster stall issues. He stated he does not support any waiver of not requiring fencing between the properties.
- Julie Durkin (4665 Downing Dr) Concerned with zero landscaping will be required for this site plan between this development and the surrounding homes. She is concerned with the amount of parking space for the development. She feels

that there should be less parking space than is being proposed in the site plan, and that the parking lot should be paved rather than left as gravel.

- Jill Love (9732 Kress Road) Supportive of the project because currently is vacant and is disrepair. She asked the applicant who was sitting in the crowd, if these units will be condos that will be sold and not apartments that will be rented. Supports the idea of having residential units that will be owned, with owners that would take a vested interest in taking care of the property. She asked the applicant if the detention pond would have standing water. He shook his head no and explained quietly from the audience. Then Jill followed up with him by stating she thought that the reason that half of the parking lot was going to remain gravel was to allow the water to infiltrate into the ground, instead of running offsite due to pavement.

After closing the public hearing, the Commissioners discussed the project and asked questions of both staff and the applicant. Full meeting minutes are attached as Exhibit D.

Since the January 18, 2023 hearing, the applicant has submitted revised interior floor plans that show the first floor commercial being subdivided into two separate tenant spaces, a revised site plan addressing township engineer's comments, and revised elevations showing additional lighting on the second-story residential units.

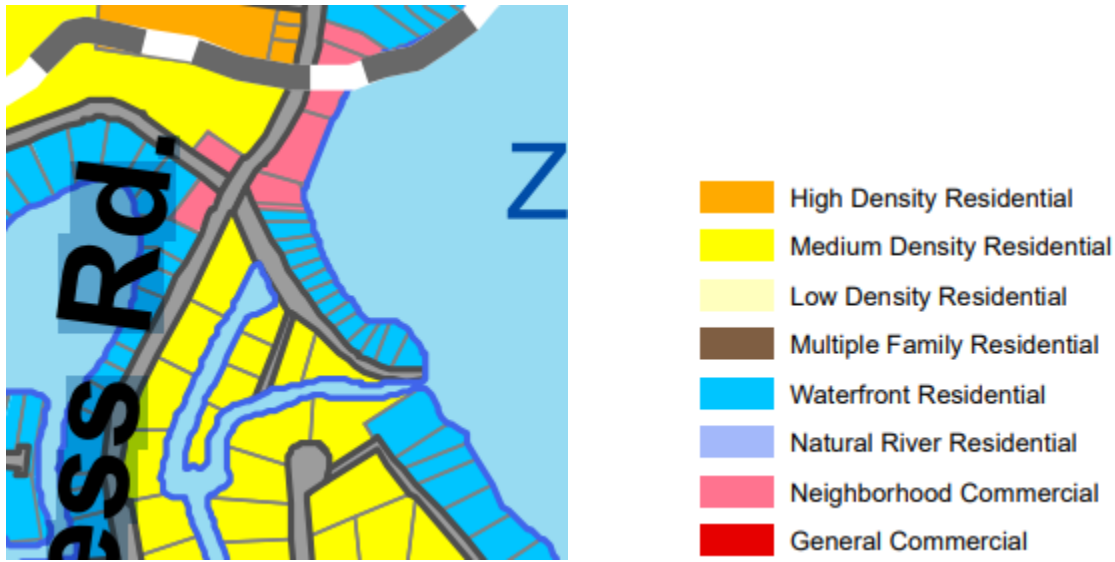
The submitted revised plans do not alter staff's recommendations and suggested conditions of project approval as presented in the January 18 staff report, updated with file dated plans, that follows. Recommendations and suggestion conditions are on pages 9 and 10.

**PROJECT DESCRIPTION**

The subject site (15-21-405-016) is a 0.44-acre site located at the corner of Kress Road to the easts and Shan-Gri-La Drive to the north. The subject property is zoned Neighborhood Service (NS) and has most recently been used as a convenience and liquor store. In the 2020 Master Plan the subject site has a Future Land Use Designation of Neighborhood Commercial.

	<b>Current Zoning Classification</b>	<b>Current Use of Property</b>	<b>Future Land Use Designation</b>
Subject Site	Neighborhood Service	Vacant retail	Neighborhood Commercial
North	Neighborhood Service	Post office	Neighborhood Commercial
South	Waterfront Residential	single-family residential	Waterfront Residential
East	Waterfront Residential	single-family residential	Medium Density Residential
West	Waterfront Residential	single-family residential	Waterfront Residential

## Future Land Use Map



The submitted plans, file dated- January 27, 2023, indicate that interior renovations will be made to the existing single-story retail space, with the addition of two (2) 1,152-square foot, two-bedroom residential units, each with an exterior-only entrance and a roof-top deck, on a proposed second-story of the existing vacant retail store.

Apartments in the NS district are permitted with approval of a special use permit and the following conditions from Section 36-235 that are discussed in-depth under special use review standard number seven.

On December 14, 2022, the Zoning Board of Appeals granted two dimensional variances for construction of the second story: addition and deck will be 17 feet, 4 inches from the front (east) property line, where 25 feet is required. The roof top deck will be 18 feet, 5 inches from the side (north) property line, where 19 feet is required (Section 36-187 and 36-230).

### **DISCRETIONARY REVIEW STANDARDS**

Below are the Special Use Permit Standards from Section 36-36 of the Zoning Ordinance in **Bold** followed by staff analysis.

#### **Special Use Permit Review, Basis of Determinations (Section 36-36(C)):**

The Township Planning Commission shall review the proposed special land use in terms of the standards stated within this Ordinance and shall establish that such use and the proposed location:

- 1. Compatibility with the Master Plan: Will be harmonious and in accordance with the general objectives or any specific objectives of the Hamburg Township Master Plan.**

The following are some excerpts from the 2020 Hamburg Township Master Plan that apply to this site and the proposed project followed by Staff Analysis.

Hamburg Township Master Plan:

Land Use

*Goal 3: Promote a mix of development types to manage sustainable growth.*

*Objective A: Provide an avenue to allow for a diversity in housing types to support the changing demographics, such as young professionals, empty nesters and the increasing elderly population.*

*Objective B: Encourage development that supports the aging population of the community, including aging in place, access to core services, and the expansion of necessary medical services.*

*Objective C: Provide an avenue for attainable housing.*

**Staff Analysis:** Providing dwelling units over a retail or office space is not a new mixed-use concept. Hamburg Township is lacking in apartment units and the proposed project, while providing just two dwelling units, would likely be an attractive option to people who are looking for housing that is not typical detached single-family residential.

- 2. Compatibility with Surrounding Area: Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will not change the essential character of the area, and will not be hazardous or disturbing to existing or future nearby uses. In determining whether a special land use will be compatible and not create a significant detrimental impact, as compared to the impacts of permitted uses, consideration shall be given to the degree of impact the special land use may have on adjacent property, as compared with the expected value to the community. The following types of impacts shall be considered:**
  - 1. Use activities, processes, materials, equipment or conditions of operation;**
  - 2. vehicular circulation and parking areas;**
  - 3. outdoor activity, storage and work areas;**
  - 4. hours of operation;**
  - 5. production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light;**
  - 6. impacts on adjacent property values; and**
  - 7. the relative ease by which the impacts above will be mitigated.**
  
- 3. Improvement to the Immediate Vicinity: Will be an improvement in relation to property in the immediate vicinity and to the Township as a whole.**

**Staff analysis:** The subject site has been used for years as convenience store and it continues to be zoned for such uses. The site has been vacant for many years, however, and the building has fallen into disrepair, which has been partly remediated at various points. However, having a viable retail use at this location that is designated in Master Plan for such uses would be an improvements to the immediate vicinity, and providing a low-impact additional residential use will help keep the retail use viable.

4. **Impact of Traffic on the Street System:** The location and design of the proposed special land use shall minimize the negative impact on the street system in consideration of items such as vehicle trip generation (i.e. volumes), types of traffic, access location and design, circulation and parking design, street and bridge capacity, traffic operations at proposed access points, and traffic operations at nearby intersections and access points. The Township may require submittal of a traffic impact study to ensure compliance with this standard. Such a traffic study shall be in accordance with standard practices and procedures, and prepared by a qualified traffic professional. The Township may require mitigation to maintain traffic operations at a level that is consistent with other types of permitted uses in the district. Route and operational restrictions (such as hours, cleaning of dust, or debris) may be established for construction traffic to minimize negative impacts.

**Staff analysis:** Because this is an existing small site, no traffic impact study is warranted for the addition of two residential units as staff expects the impact of two units to be negligible. Staff expects no negative impact on the street system due to the addition of two residential units.

Livingston County Road Commission has provided comment on the proposed project and has issued a sight distance review that indicates no commercial approach could be approved off of Shan-Gri-La Drive but a commercial approach could be approved 40 feet north of the south property boundary (along Kress Road). A commercial approach permit and plans will be required for the approach off of Kress Road.

**Staff Suggested Condition:** Prior to issuance of a land use permit the LCRC approval will be required.

5. **Impact on the Overall Environment:** The proposed special land use shall not have an unacceptable significant adverse effect on the quality of the natural environment in comparison to the impacts associated with typical permitted uses. The Planning Commission may require a quantitative comparison of the impacts of typical permitted uses and the special land use to assist in making this determination (such as an overlay of conceptual development plans, on a natural features map, illustrating other site development options to demonstrate the impacts have been minimized to the extent practical). If the cumulative impact creates or contributes to a significant environmental problem, mitigation shall be provided to alleviate the impacts associated with the environmental problem, mitigations shall be provided to alleviate the impacts associated with the requested use.

**Staff analysis:** The subject site is an existing commercial building and associated parking lot. The proposed residential units will be a vertical addition and will not increase the amount of impervious surface area. Site improvements to the property will be further discussed under the site plan review, but in terms of the present special use request for two units, there would be no adverse effect on the environment.

6. **Public Services Impact:** Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will

**provide adequately any such service or facility, will not create excessive additional public costs and will not be detrimental to the economic welfare of the Township. Public facilities shall include, but not be limited to: streets, pedestrian or bicycle facilities, police and fire protection, drainage systems, water and sewage facilities, and schools.**

**Staff analysis:** The township has adequate public services and facilities capacity to serve two apartment units and the residential portion will not have an adverse impact on streets, public safety protection, utility systems, schools, or pedestrian or bicycle facilities.

**7. Compliance with Zoning Ordinance Standards: Will be consistent with the intent and purposes of this Ordinance and be designed, constructed, operated, and maintained to meet the stated intent of the zoning district.**

**Staff analysis:** The site is zoned Neighborhood Services, the intent of which is to *provide for convenient retail and personal service establishments which cater to the day-to-day needs of families residing within immediately accessible neighborhoods. The requirements of this district are designed to accommodate a major portion of existing neighborhood commercial development, but at the same time to limit future commercial development to centers which can be economically supported by adjacent neighborhoods, and which have a minimum impact upon the residential character of surrounding development. It is the basic intent of this district to encourage future commercial development within planned centers and community service districts rather than in scattered locations through the residential area, but also to provide for those necessary services which are most appropriately and conveniently located in close proximity to residential neighborhoods.*

While the intent of the NS district envisions commercial development, for which the site is zoned and developed, the addition of the residential dwelling units would support the long-term financial viability of this small commercial site. Additionally, there is no path forward under the current zoning ordinance that would permit this site to be used solely for residential purposes.

The following are conditions for apartments in the Neighborhood Service district under Section 36-235.

***The following conditions shall apply to all buildings containing residential uses in the NS, CS, and OH districts:***

- (1) One-family dwellings, two-family dwellings, and buildings consisting solely of multiple-family dwellings are prohibited.*

Staff comment: This condition is met. The building will be mixed use with retail on the first floor and two units on the second floor.

- (2) The gross square footage available for apartments within a building or structure shall not exceed the gross square footage available for business occupancy within the building.*



Staff comment: This condition is met. The square footage of the retail component is 2,911, with 2,304 square feet of proposed residential space.

- (3) *All construction within the building shall comply with adopted building and fire codes for mixed use buildings.*

Staff comment: Livingston County Building Department and the Hamburg Township fire department will work to ensure this condition is met prior to issuance of building permits.

- (4) *When a building is used for both business and residential occupancy, the uses shall be located as follows:*

- a. Apartments may only occupy areas above the first story and shall not be located on the same story as a business, office or parking use.*
- b. No business, office or parking use shall be located on the same story or above any story that contains a residential use.*

Staff comment: This condition is met. Apartments are proposed only on the second story and retail only on the first story.

- (4) *Each building that contains a business and a residential use shall provide and maintain an enclosed entrance to the interior for the exclusive use of the occupants of the residential portion of the building that is separate from the access commonly used for business activity.*

Staff comment: This building design is typically seen in urban areas for much larger apartment projects above ground floor office and retail. The intent of this condition is met by providing exterior entrances to each dwelling unit.

- (5) *All accessory structures, such as garages or storage sheds, related to the apartments shall be so designated on the site plan and subject to approval by the planning commission.*

Staff comment: No accessory structures are proposed. In the future, if any accessory structures are proposed, Planning Commission approval would be required.

- (6) *A parking area shall be reserved on the same lot or parcel as the principal building and designated for the exclusive use of the apartment occupants. Two parking spaces shall be required for each apartment.*

Staff comment: This condition is met, as all parking is on-site. Staff could recommend a condition that the required four parking spaces (two spaces for each unit) for the residential use be delineated by permanent signage on the site plan.



(7) *Modifications to a building or a site that includes residential uses are subject to the requirements for site plan review as stated in article III of this chapter.*

Staff comment: If future alterations are proposed to the site, site plan approval would be required.

(8) *The conversion of an approved apartment to a use permitted for the zoning district in [section 36-36](#) shall not require special use approval. The conversion of an approved apartment to another use shall be considered an immediate and a complete abandonment of the residential use. No residential occupancy shall be allowed following such a conversion unless a special use approval is approved by the Township.*

The Zoning Board of Appeals, at its December 14, 2022 meeting, approved dimensional variance requests for the second story addition that will accommodate the two residential units. The proposed second story setbacks will be 17 feet, 4 inches on the front property line and 18 feet, 5 inches on the north side. To the east are properties zoned and used for single-family residential but the subject site's façade does not immediately face any dwelling but rather the intersection of Kress and Fireside. The property to the north is zoned and developed for neighborhood services. The remainder of the bulk and dimensional requirements of the NS zoning are met.

## **RECOMMENDATIONS**

Staff recommend the Planning Commission review, discuss and make a determination on the Special Use Permit (SUP22-003) to allow the Storage facility use on the portion of the site (parcel number 15-25-400-014) at 10776 Hall Road as shown in the conceptual plan.

### **Example Denial Motion:**

The Planning Commission denies the Special Use Permit 22-003 to allow the storage facility use as presented on parcel 15-21-405-016 AT 9704 Kress Road. Due to the location of the site; this project would not be harmonious and in accordance with the general objectives or any specific objectives of the Master Plan and would therefore not meet the Special Land Use standards in section 36-36 (c) (1 and 2) as discussed at the January 18 and March 15, 2023 Planning Commission meetings and as presented in the staff report.

### **Example Approval Motions:**

The Planning Commission approves the Special Use Permit 22-003 to permit the construction of two residential units in a proposed second-story addition at 9704 Kress Road (15-21-405-016) as presented because the proposed project will meet the zoning regulations and the special use permit standards under section 36-36 (c)(1-8) as discussed at the January 18 and March 15, 2023 Planning Commission meeting and with the following conditions:

**Condition 1:** The Special Use Permit for the apartment use is only valid with approval of a final site plan from Hamburg Township. The site plan submitted for the project on this site shall not increase the size or significantly change the location of the proposed use on the subject site.

**Condition 2:** The second story decks are for private residential use only and shall not be used in conjunction with a commercial use of the site unless granted Township approval.

**Condition 3:** Prior to issuance of a land use permit the LCRC approval will be required.

**Condition 4:** The four required residential parking spaces shall be delineated on the site plan and permanent signage be provided prior to certificate of occupancy for the residential use.

**Condition 5:** The special land use permit for the residential use shall be null and void unless a land use permit for the second-story residential dwellings is granted within one year from the date of this approval.

**EXHIBITS:**

Exhibit A: Site plan file dated March 1, 2023

Exhibit B: Project plans file dated January 27, 2023

Exhibit C: January 18, 2023 Planning Commission draft minutes