

Westchester County Planning Board Planning and Zoning Action Referral Form

Referral Name: Artist Community Special Permit Use

Address: N/A

Westchester County Planning
Board comments due by:
October 14, 2022

Municipality: Town of Ossining (unincorporated)

Local Case Number: Proposed LL #6

Zip code of location of the action: 10562

Local Meeting Date: October 11, 2022

Section: N/A Block: _____ Lot: _____

Public Hearing: ☒ Yes ☐ No

Referring Agency:

- ☐ City Council
☒ Town/Village Board
☐ Planning Board/Commission
☐ Zoning Board
☐ Other: _____

General Land Use Classification: Residential zoning districts

Type of Action

- ☐ New
☐ Expansion
☒ Modification

SEQR Action

- | | | |
|---|------------------------------------|---|
| ☒ EAF | ☐ Draft EIS | ☐ Positive Declaration |
| ☐ Lead Agency | ☐ Final EIS | ☐ Negative Declaration |
| ☐ Draft Scope | ☐ Findings | |

Referral Description: Creating a special permit use for artist communities. The Town already permits these uses under the special permit use "not-for profit, philanthropic, eleemosynary." This legislation would add additional regulations more specifically suited to artist community uses and also restrict the use to parcels that are a minimum of five acres, which restriction does not currently exist.

The Town Board will not close the public hearing until the 30-day period for GML responses has elapsed.

Referral Trigger (Type of Action)*

*Please check appropriate box for actions involving **more than 5,000 square feet of new or renovated floor area OR 10,000 square feet of total land disturbance**. If this action involves less floor area or land disturbance, please use a "notification only" form to reduce paperwork/waste.*

- ☐ Special Use Permit or Use Variance
☐ Subdivision Plat (Only when a new street will connect directly into a **state or county** road or a new drainage line will connect directly into a **county** drainage channel)
☒ Zoning Ordinance or Map (Adoption or Amendment)
☐ Moratoriums

- ☐ Comprehensive Plan (Adoption or Amendment)
☐ Official Map (Adoption or Amendment)
☐ Site Plan (please circle the condition)

Affecting property within 500 feet of:

- A municipal boundary;
- The boundary of an existing or proposed **state or county** park or any other **state/county** recreation area;
- The right-of-way of an existing or proposed **state or county** road;
- An existing or proposed **county** drainage channel line;
- The boundary of **state or county**-owned land on which a public building/ institution is located;
- The boundary of a farm located in an agricultural district.

Contact Information

Local Contact Name: Dana Levenberg, Supervisor

Department/Agency: Town of Ossining Town Board

Phone Number: 914-762-6001

Email Address: DLevenberg@townofossining.com

Minimum notification time is **10 days** prior to any hearing (**30 days** in advance for site plans). However, 30 day notice is recommended to ensure proper review. Send this form with supporting documentation (including an EAF) and return address to:

Municipal Referrals
Westchester County Department of Planning
148 Martine Avenue, Room 432
White Plains, NY 10601-3311

Note: You may email this sheet to muniref@westchestergov.com, in order to start the referral process. Please mail hard copies of all supporting documentation within one business day of sending the email. You may also attach the documentation to your email.

* Note: This list is provided as a convenience. Please check General Municipal Law and the Westchester County Code to be certain which actions to refer.
<http://www.co.westchester.ny.us/planning/regionalplan/Referral%20Form.pdf> Prepared by Westchester County Department of Planning—October 2018

Artist Community – Draft Zoning Text Amendment

Add the following definitions to Subsection (A) of Section 220-53 (Definitions):

Artist Community - Land and structures used as a meeting place, retreat, educational center, and/or exhibition center for the exchange of ideas between artists, members of the professional art community, and the general public, which may provide exhibition space, work space, meeting space, lecture halls, performance and rehearsal space, and sculpture parks, as well as temporary living and dining facilities for the staff, artists, and other programming participants.

Art-Related Activities – Programming, events, classes, exhibits, creating art, and other activities intended to promote the arts and arts-based education including visual arts, performance arts, and culinary arts.

Add a new Subsection (B)(7) to Section 220-7 (Uses permitted by special permit upon approval by Board of Appeals in R-40 Zoning District):

§ 220-7(B)

(7) Artist Communities.

- a) Artist Communities shall be permitted to conduct any or all Art-Related Activities, which may include:
 - i. Artist studios and workshops;
 - ii. Theaters, dance studios, art galleries, classrooms, sculpture parks, and other indoor and outdoor performance and exhibition spaces;
 - iii. Public art presentations and performances;
 - iv. Art-Related Educational Programming. Programming and related activities for children, adults, and/or families, including summer day camps, outdoor classrooms, school day programming in coordination with local schools and other organizations (e.g., field trips, workshops), pre-school programs, and after-school programs (funded or for a fee), subject to the following:
 - 1) The property owner shall endeavor to use both indoor and outdoor space for these activities to the extent practicable;
 - 2) Summer camps shall only operate between June 1 and September 15 of each calendar year between the hours of 8:00 a.m. and 7:00 p.m.;

- 3) After-school programs shall not operate after 7:00 p.m.; and
 - 4) Any buses transporting students and/or campers shall adhere to all idling laws and applicable rules and regulations;
- v. Art-Related Residency/Retreat Programs. Residency/retreat programs (funded or for a fee), including temporary lodging (for a maximum of one year), meals and studio space for artists only. The maximum number of artists staying on the Property at one time shall be based upon the site plan approved by the Planning Board and the State Uniform Fire Prevention and Building Code;
 - vi. Permanent lodging for full-time employees, as part of an Artist Community's staffing and compensation amenity package, which may include building and/or grounds maintenance staff, executive directors, program coordinators, and resident advisors; however, in no event shall more than fifteen percent (15%) of housing units be allocated to full-time employees permanently residing on the property at any one time. The total number of housing units on the Property shall be established during the site plan and special permit review process and may not be increased without obtaining amended approvals. There shall be designated parking spaces for full-time employees permanently residing on the Property in an amount satisfactory to the Planning Board.
 - vii. Art-Related Indoor Events, including interactive art experiences, presentations, live performances, and exhibits open to the public;
 - viii. Temporary Outdoor Art-Related Events, including interactive and/or informal art experiences, outdoor classes, presentations, live performances, and exhibits, which are limited in size and duration and do not require municipal support services or use amplified sound exceeding the standards set forth in Chapter 130 of the Town Code, subject to the following requirements:
 - 1) The anticipated number of participants, staff, volunteers and others who will be gathering outdoors at one time in connection with the outdoor art-related event shall not exceed seventy-five (75) persons.
 - 2) In no event shall Temporary Outdoor Events be permitted to remain outdoors past 11:00 p.m., and in no event shall Temporary Outdoor Events of more than twenty-five (25) persons be permitted to remain outdoors past 9:00 p.m., provided there shall be no use of amplified sound after 9:00 p.m. Notwithstanding the foregoing, permanent or temporary

residents of the Artist Community may be permitted to remain outdoors past 11:00 p.m. so long as it is not in association with a Temporary Outdoor Event.

- 3) If the Temporary Outdoor event hereunder is expected to be attended by a total of more participants, staff, volunteers and others than there is designated parking on the Property for such attendees, or the Temporary Outdoor event otherwise exceeds the qualifications of this subsection that are permitted, the Property owner shall comply with Chapter 166 of the Town Code (Special Events, Parades, and Public Gatherings) and any other applicable regulations.
 - 4) Notwithstanding the foregoing, the Property owner shall use best reasonable efforts to notify the Town Supervisor's office at least 48 hours in advance of any Temporary Outdoor events that will occur on the Property.
- ix. Uses and structures accessory and/or related to the principal Artist Community use, including temporary staging facilities and tents (subject to approval from the Building Inspector, if necessary), gardening, walking trails, benches, fields, orchards and similar uses of open space, which support or are related to such Art-Related Activities, and do not adversely impact surrounding properties; and
 - x. Any other uses determined by the Building Inspector to be minor in the context of the overall use of the Property and consistent with the special permit issued by the Zoning Board of Appeals.
- b) An Artist Community shall be subject to the following additional requirements:
- i. For any activities otherwise regulated by the Town, including but not limited to Special Events, Beekeeping and Filming, the property owner shall comply with those requirements.
 - ii. For any and all activities listed in subsection (a), the property owner shall comply with all applicable Federal, State and Town laws, rules and regulations.
 - iii. No building or structure or part thereof, parking or loading area, or outdoor uses, activities or events listed in subsection (a) shall be located within 100 feet of any street or lot line.
 - iv. The sum of all areas covered by principal and accessory buildings shall not exceed 20% of the area of the lot.

- v. The entire lot, except for areas covered by buildings or parking or loading areas, shall be suitably landscaped and property maintained.
- vi. The minimum lot size shall be 5 acres.
- vii. The maximum height of any structure shall be 35 feet or 2 ½ stories for new construction, but if an existing structure(s) is being adaptively reused as an Artist Community the height of existing structure(s) may exceed 35 feet or 2 ½ stories provided the height is not further increased.
- viii. At least 50% of the gross floor area of the principal structure shall be devoted to Art-Related Activities.
- ix. Sufficient exterior illumination of the lot shall be provided to assure convenience and safety. All such illumination shall be shielded from the view of all surrounding streets and lots.
- x. Visitors shall not be permitted on site before 8:00 a.m. or after 11:00 p.m., provided, gatherings of more than twenty-five (25) persons at one time shall not be permitted to remain outdoors past 9:00 p.m. This subsection shall not apply to artists temporarily residing on the property or artists using studios on the property.
- xi. Indoor and outdoor sounds shall comply with Chapter 130 of the Town Code (Noise).
- xii. The Zoning Board of Appeals may require that Artist Community special permits be renewed periodically. Such renewal shall be granted no less than every three (3) years, provided, the time periods may be granted for longer in the discretion of the Zoning Board of Appeals. At any time between 12 months and three months prior to the date by which the Artist Community special permit must be renewed, the holder of the special permit shall submit a signed written request to the Town Building Department for renewal of the special permit.

1) The written request for renewal shall contain the following information:

- 1. The name of the holder of the Artist Community special permit;
- 2. The date of the original granting of the special permit;
- 3. Whether any modifications have been made to the site plan and/or the size or location of buildings or structures on the property since the original special permit was issued, or since the most recent renewal issued (if applicable) by the Zoning Board of Appeals;

4. Whether any uses not contemplated in this chapter, in the definitions of Artist Communities and Art-Related Activities set forth Chapter 200-53, or in the original special permit approval (or any subsequent renewals, if applicable) are being conducted or are proposed to be conducted on the property; and
 5. A statement that the Artist Community is in compliance with the conditions of the special permit, and any subsequent renewals, as well as all applicable codes, laws, rules, and regulations.
- 2) The Building Department shall circulate the renewal request to the Building Inspector, Chief of Police and Fire Chief. If, after reviewing such written request, the Building Inspector, Chief of Police, and Fire Chief determine that the Artist Community is in compliance with the conditions of the special permit and all applicable statutes, laws, ordinances, codes, rules, and regulations, and that there have not been any incidents on the Property since the original special permit approval (or any subsequent renewals, if applicable) that raise health, safety and/or welfare concerns, then the Building Inspector shall issue a renewal of the special permit for the Artist Community.
 - 3) If, after such review, either the Building Inspector, Chief of Police, or Fire Chief determines that (i) there are activities on the property that were not contemplated when the special permit was approved, not in compliance with the conditions of the special permit or any applicable statutes, laws, ordinances, codes, rules, or regulations, or are not otherwise authorized under this Chapter, (ii) there is an unanticipated significant increase in any activity permitted under the special permit, or (iii) there has been an incident(s) on the Property since the original special permit approval (or any subsequent renewals, if applicable) that raise health, safety and welfare concerns, then the Building Inspector shall refer the renewal request to the Zoning Board of Appeals to hold further proceedings hereunder to determine whether the special permit shall be modified or revoked, including, the Zoning Board of Appeals may require additional reasonable mitigation, and the conditions of the special permit may be modified upon renewal to provide for such mitigation.
 - 4) If the Building Inspector and/or Zoning Board of Appeals does not complete its review pursuant to this subsection prior to the date the special permit is required to be renewed, then the applicant shall receive an extension of the special permit for up

to six months, in order for the Building Inspector and/or Zoning Board of Appeals to complete its review.

- 5) If the holder of the Artist Community special permit does not submit a request for renewal of such special permit within the timeframe required, then such special permit shall cease to exist on the third anniversary of the original granting of the special permit, or later date as determined by the Zoning Board of Appeals, unless the holder of the special permit adequately demonstrates to the Zoning Board of Appeals that extenuating circumstances prevented a timely renewal request. If the Zoning Board of Appeals agrees that there were extenuating circumstances, then the holder of the special permit may submit a late renewal request or application for a new or amended special use permit.
- xiii. The Zoning Board of Appeals may put reasonable conditions on the special permit as it deems appropriate under the circumstances, provided they are consistent with the terms and conditions of this Section 200-7(B).
 - xiv. A special use permit authorizes only the activity expressly described in the application and approved permit materials. A special use permit shall expire upon change in property ownership or property transfer, unless the Building Department is notified by the owner, in writing, prior to property transfer and the Zoning Board of Appeals reviews the use or activity and special permit documents and is satisfied that the use has and is being conducted in a manner that is consistent with the special permit and any conditions which may have been stipulated at the time of its issuance and approves, in writing, the transfer of the special use permit. Lack of reply from the Zoning Board of Appeals within 60 days of notification by the property owner shall constitute approval of the continuation of the special use permit. A new special use permit shall be required for any expansion, alteration or variation of a use already authorized by a special use permit. A request for such a permit shall be subject to the application and review procedures described in this article.
 - xv. In the event the property owner is found to be in violation of the Special Permit, and such violations are not cured within ninety (90) days of notification to the Artist Community special permit holder, the Building Inspector may, in their discretion, refer the property owner to the Zoning Board of Appeals to hold a public hearing on whether the special permit shall be modified or revoked.

- xvi. The Artist Community special permit use is subject to an approved site plan by the Planning Board, with such reasonable conditions as the Planning Board deems appropriate, including sufficient on-site parking as determined by the Planning Board.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Artist Community Special Permit			
Project Location (describe, and attach a location map): This would apply to all Residential Zoning Districts within the Town of Ossining			
Brief Description of Proposed Action: Amend definitions to Subsection (A) of Section 220-53 (Definitions) to include a definition for Artist Community Add a new Subsection (B)(7) to Section 220-7 (Uses permitted by special permit upon approval by Board of Appeals in R-40 Zoning District) to provide additional regulations and requirements for an Artist Community.			
Name of Applicant or Sponsor: Dana Levenberg, Town Supervisor		Telephone: 914-762-6001 E-Mail: dlevenberg@townofossining.com	
Address: 16 Croton Avenue			
City/PO: Ossining		State: NY	Zip Code: 10562
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO ☐
			YES ☒
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO ☐
			YES ☐
3. a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other(Specify): ☐ Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO ☐ ☐	YES ☐ ☐	N/A ☐ ☐
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO ☐	YES ☐	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO ☐	YES ☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO ☐ ☐ ☐	YES ☐ ☐ ☐	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO ☐	YES ☐	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO ☐	YES ☐	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO ☐	YES ☐	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic 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? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO ☐ ☐	YES ☐ ☐	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO ☐ ☐	YES ☐ ☐	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: ☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional ☐ Wetland ☐ Urban ☐ Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	☐	☐
16. Is the project site located in the 100-year flood plan?	NO	YES
	☐	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	☐	☐
a. Will storm water discharges flow to adjacent properties?	☐	☐
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	☐	☐

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	☐	☐

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	☐	☐

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	☐	☐

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Dana Levenberg, Town Supervisor</u> Date: <u>September 14, 2022</u> Signature: <u></u> Title: <u>Supervisor</u>		

Purpose and Intent of the Proposed Action. The Town of Ossining would like to establish standards for an Artist Community use which is currently regulated as “not-for profit, philanthropic, eleemosynary” use in §200-7(B)(2) of the Zoning chapter of the Town Code. These standards would provide a more streamlined special permitting process and assist with the integration of an Artist Community use within a residential zoning district. The Town proposes to continue to permit an Artist Community use through a Special Permit process in accordance with §200-45(C), but the proposed zoning amendments will provide additional clarification on art-related uses, dimensional requirements, and the special permit renewal process. The proposed zoning amendments include the adoption of a minimum lot size of five (5) acres for an Artist Community use, whereas the current regulations that control an Art Community use do not have a minimum lot requirement. An Artist Community use will continue to be permitted by a Special Permit in all residential zoning districts within the Town as it is currently permitted. No additional environmental resources will be affected by the Proposed Action because the proposed zoning amendments will reduce the potential adverse impacts. In addition, all applications for an Artist Community Special Permit would need to undertake a site specific SEQR process.