



***Environmental and Planning Consultants***

34 South Broadway  
Suite 401  
White Plains, NY 10601  
tel: 914 922-2350  
fax: 914 949-7559  
[www.akrf.com](http://www.akrf.com)

## Memorandum

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**To:** Supervisor Tony Hay and Members of the Town Board  
**From:** Ashley Ley, AICP  
**Date:** November 5, 2014  
**Re:** Crossroads 312 Process  
**cc:** Tom LaPerch, Victoria Desidero, Tom Fenton, and Stephen Coleman

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This memorandum summarizes the status of the proposed Crossroads 312 project and outlines the process for conducting the State Environmental Quality Review Act (SEQRA), Zoning Amendment, Special Permit, and Site Plan reviews.

### **SUBMISSIONS & ACTIONS TO DATE:**

**January 2009** – Crossroads 312, LLC, (“Applicant”) initiated discussions with the Town of Southeast.

**January 26, 2009 and March 17, 2009** – Meetings held with representatives of the Town Board and Applicant to discuss different planning and zoning approaches to the site.

**June 30, 2009** – Applicant filed a “Zone Change Petition” to create a new “Focused Highway Commercial (HC-1A)” Zoning District that would apply to this site and would allow for the proposed development.

**August 13, 2009** – Town Board circulated a Notice of Intent to Serve as Lead Agency under SEQRA.

**September 24, 2009** – Town Board declared itself the Lead Agency, identified the project as a Type 1 action under SEQRA, issued a Positive Declaration (requiring an EIS), and scheduled a public scoping session for the EIS.

**October 5, 2009** – Applicant submitted a set of applications for Special Permit, Site Plan, and Wetland Permit to the Town Board.

**October 8, 2009** – Public scoping session held as a “Joint Meeting” of the Town Board and Planning Board.

**October 19, 2009** – Close of written comment period on draft scope.

**November 11, 2009** – Town Board adopted a Final Scope.

**April 11, 2010** – Applicant conducted balloon test with members of the Town Board, Planning Board, ARB, AKRF, and public present to witness the test.

**April, 2012 through August, 2013** – Completeness review (3 draft pDEISs submitted)

**August 22, 2013** – DEIS determined to be complete

**September 24, 2013** – Notice of Completion in posted in the Environmental Notice Bulletin (ENB)

**October 24, 2013** – Public Hearing on DEIS and zoning amendment

**July 25, 2014** – Submission of draft FEIS

**October 17, 2014** – Submission of revised draft FEIS

## **REVIEW PROCESS**

### *FINAL ENVIRONMENTAL IMPACT STATEMENT*

A draft Final Environmental Impact Statement (“FEIS”) has been prepared by the Applicant, and the Town’s consultants have reviewed it for completeness in coordination with the Town Board. Once the items that have been identified by the Town and its consultants have been addressed, the document may be accepted as complete. An important distinction between the DEIS and the FEIS is that the Lead Agency (the Town Board) is responsible for the adequacy and accuracy of the FEIS, and therefore must concur with all conclusions and responses to public comments contained therein. A public hearing is not required on the FEIS.

### *FEIS DISTRIBUTION*

The adopted FEIS and Notice of Completion are required to be posted on-line. Hard copies will be made available at Town Hall and the library. Copies (which may be on CD) are also required to be circulated to the Involved and Interested Agencies.

### *FINDINGS*

The findings can be finalized no sooner than 10 days and no more than 30 days following the filing of the Notice of Completion of the Final EIS. As such, the 10 day clock starts once the Applicant’s consultants have printed and distributed the FEIS and Notice of Completion, and both documents are on-line. AKRF will work with the Applicant and the Town Board to prepare the Findings Statement. A public hearing is not required on the Findings Statement.

### *ZONING AMENDMENT*

Following the issuance of a SEQRA Findings Statement by the Town Board, the Town Board would then have to consider adoption of the Zoning Amendment.

The following is a summary of the changes proposed to the Zoning Amendment since the DEIS (copies of the DEIS and FEIS Local Laws attached):

1. Section 138-41 has been amended to include “...other uses proposed as part of the same overall master plan as the Large Retail Establishment, shall be submitted to the Southeast Town Board.” This additional language clarifies that the site plan and special permit review for a Large Retail Establishment and any accessory/supplemental uses on the same site (e.g. hotel) would be subject to approval by the Town Board instead of the Planning Board.
2. Section 138-63.4.C is proposed to be amended to clarify that the design guidelines would be reviewed by the Town Board instead of the Planning Board.
3. The applicant’s language proposed for Section 138-63.F will be revised to replace 10% with hard numbers (amended text to be provided by the applicant).
4. The commercial zoning schedule is proposed to be amended as follows:

- a. Add “Hotel/motel/conference facility” as a special permit use in the HC-1 Zoning District.
  - b. Clarify in the “NOTES” section that the “except as otherwise set forth in this chapter [i.e. Large Retail Establishments]” site plan approval would be by the Planning Board.
  - c. Add a new note U that would permit a hotel, motel, or conference facility to be a maximum of 4 stories or 50 feet in height.
5. Add a new 138-41.1 “Approvals for Large Retail Establishments” which establishes that the Town Board would be responsible for all discretionary permits and approvals for a Large Retail Establishment. The Zoning Petition contained in the DEIS left the Wetland Permit approval authority with the Planning Board.

While some of the above items are substantive, they were discussed at the public hearing on 10/24/13, and were generally made in response to comments on the DEIS. As such, holding a public hearing on the proposed changes would be at the Town Board’s discretion. If the Town Board decides to not hold another public hearing on the Zoning Amendment, then the Findings Statement and Zoning Amendment could be voted on the same night.

#### *SITE PLAN AND SPECIAL PERMIT REVIEW*

As discussed above, the proposed Zoning Amendment includes a provision to give the Town Board the responsibility for Site Plan approval. If that Zoning Amendment is adopted, then the Town Board could consider the Special Permit and Site Plan approvals. A referral to the Planning Board (for a recommendation on the Special Permit) and Architectural Review Board (for a recommendation on the architecture) would be required at that time. The Town Board would not vote on the Special Permit and Site Plan applications until the other Town boards have had the opportunity to review the application and report back to the Town Board. The Town Board would be responsible for conducting a public hearing on the Special Permit and Site Plan applications. None of the other boards would conduct public hearings on the site plan or special permit.

# DEIS

## LOCAL LAW AMENDING CHAPTER 138 OF THE TOWN CODE

A LOCAL LAW to amend Chapter 138 of the Code of the Town of Southeast regarding Zoning.

**BE IT ENACTED** by the Town Board of the Town of Southeast as follows:

**Section 1.** Chapter 138, Section 41 entitled "Application procedures" shall be amended as follows:

§ 138-41. Application procedures.

Applications for site development shall be submitted to the Southeast Planning Board, except that applications for site development for Large Retail Establishments shall be submitted to the Southeast Town Board, according to the standards as set forth in this article and to the additional standards, where applicable, in Articles IV and X.

**Section 2.** Chapter 138, Section 63.4, Subsection F entitled "Adjustment of regulations" shall be added as follows:

F. Adjustment of Regulations. The Town Board may permit minor modifications or waivers of the provisions set forth at §138-12 and §138-15.1 as it deems appropriate, except that modifications or waivers of §138-15.1 are limited to 10%, upon balancing important concerns of the community's health, safety and welfare, including: consistency with the Town of Southeast Comprehensive Plan; economic development; harmony of uses with the immediate area; impacts upon quality of life for neighboring residential areas; and mitigation of any adverse environmental impacts. In granting any modification or waiver, the Town Board may attach such conditions as are, in its judgment, necessary to secure substantially the objectives of the standards or requirements so modified or waived.

**Section 3.** Town of Southeast Commercial Zoning Schedule, 138 Attachment 5, page 5:2, shall be amended to add "Hotel/motel/conference facility" to the list of special permit uses in the HC-1 District.

**Section 4.** This local law shall take effect immediately upon filing with the Office of the Secretary of State.

# FEIS

## LOCAL LAW AMENDING CHAPTER 138 OF THE TOWN CODE

A LOCAL LAW to amend Chapter 138 of the Code of the Town of Southeast regarding Zoning.

**BE IT ENACTED** by the Town Board of the Town of Southeast as follows:

**Section 1.** Chapter 138, Section 41 entitled "Application procedures" shall be amended as follows:

§ 138-41. Application procedures.

Applications for site development shall be submitted to the Southeast Planning Board, except that applications for site development for Large Retail Establishments, including other uses proposed as part of the same overall master plan as the Large Retail Establishment, shall be submitted to the Southeast Town Board according to the standards as set forth in this article and to the additional standards, where applicable, in Articles IV and X.

**Section 2.** Chapter 138, Section 63.4, Subsection C entitled "Design guidelines" shall be amended as follows:

C. Design guidelines. All large retail establishments shall comply with the following Town of Southeast Design Guidelines for Large Retail Establishments. ~~The Planning Board, when considering the site plan, and the~~ Town Board, when considering the site plan and special permit, shall consider the application's conformance to these design guidelines in considering approval or denial of the application. Drawing L-1 shows a schematic layout for a large retail establishment showing, in general, a number of the design elements contained in these design guidelines. *Editor's Note: Drawing L-1 is included at the end of this chapter.* Users of the design guidelines shall refer to this drawing and other drawings for clarification of the guidelines but not as a prescriptive site or building design. Table 1 provides a listing of preferred native plant species.

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**Section 3.** Chapter 138, Section 63.4, Subsection F entitled "Adjustment of regulations" shall be added as follows:

F. Adjustment of Regulations. The Town Board may permit minor modifications or waivers of the provisions set forth at §138-12.I and §138-15.1 as it deems appropriate, except that modifications or waivers of §138-15.1 are limited to 10%, upon balancing important

concerns of the community's health, safety and welfare, including: consistency with the Town of Southeast Comprehensive Plan; economic development; harmony of uses with the immediate area; impacts upon quality of life for neighboring residential areas; and mitigation of any adverse environmental impacts. In granting any modification or waiver, the Town Board may attach such conditions as are, in its judgment, necessary to secure substantially the objectives of the standards or requirements so modified or waived.

**Section 4.** Town of Southeast Commercial Zoning Schedule, 138 Attachment 5, page 5:2, shall be amended as follows:

1. Add "Hotel/motel/conference facility" to the list of special permit uses in the HC-1 District.
2. Amend the first line under "NOTES:" at 138 Attachment 5, page 5:3 as follows: \* All special permit uses are subject to site plan approval by the Planning Board, except as otherwise set forth in this Chapter, and architectural review by the Architectural Review Board.
3. The column labeled "Maximum Height" (with subcolumns labeled "Stories" and "Feet") shall be amended to add "See Note U" in the corresponding boxes for the HC-1 District; and the "NOTES" at 138 Attachment 5, Page 5:3 shall be amended to add the following: Note U: A hotel, motel or conference facility may be a maximum of 4 stories or 50 feet in height.

**Section 5.** Article IX of Chapter 138, entitled "Site Plan Review and Approval" shall be amended as follows:

§ 138-41.1. Approvals for Large Retail Establishments.

Notwithstanding any other provision of the Town Code, the Town Board shall have approval authority for all discretionary permits and approvals, of whatever kind, needed for the construction of a Large Retail Establishment and other uses proposed as part of the same overall master plan as the Large Retail Establishment. The Town Board, in its discretion, may consult with any other Town board, commission, committee or officer whom the Town Board deems necessary and appropriate. The Town Board, in its consideration of applications for discretionary permits and approvals shall follow the procedure of the approval authority that otherwise would have decided the application. For purposes of this section, discretionary permits and approvals shall mean those permits and approvals which are granted at the discretion of the approving authority and excluding ministerial permits and approvals which must be granted upon the applicant's compliance with the relevant requirements under the Town's laws and regulations.

**Section 6.** This local law shall take effect immediately upon filing with the Office of the Secretary of State.