

**TOWN OF SOUTHEAST**  
**1360 Route 22, Brewster, New York 10509**  
**Thursday, March 14, 2019**  
**EXECUTIVE SESSION 6:30 P.M.**  
**WORK SESSION / REGULAR MEETING 7:00 P.M.**

**Pledge of Allegiance**

**Notation of Exits**

**Turn Off/Put on Vibrate – All Electronic Devices**

Present: Supervisor Tony Hay  
Councilman John Lord  
Councilman Eric Larca  
Councilwoman Lynne Eckardt  
Councilman Edwin Alvarez

Also: Town Clerk Michele Stancati  
Town Attorney Willis H. Stephens Jr.

And: 15 Persons

**EXECUTIVE SESSION**

Supervisor Hay made a motion to open the meeting and go into Executive Session for Personnel & Litigation Matters. Councilwoman Eckardt seconded. All in favor.

Supervisor Hay made a motion to close the Executive Session where no decisions were made and Councilman Alvarez seconded. All in favor.

**WORK SESSION**

Supervisor Hay made a motion to open the Work Session and Councilman Alvarez seconded. All in favor.

*Discussion – Longview School*

Peder Scott, representing the Longview School, a non for profit, gave a presentation on the project. The Longview School was founded by Barbara and Mark Jacobs and they are looking to purchase property on 188 Joes Hill Rd, an abandoned project of an unfinished home over the last 15 years. They will keep the shell of the house and turn it into a school for 30 to 40 students in total, ages 5-19, kindergarten to high

school. It is a non- traditional, non for profit, school serving special ed, traditional and exceptional learners. The school will have traditional hours and about four small school buses daily, and no one will be living there. They will serve not only Brewster, but the surrounding school districts. The septic and sewer capacity are enough, but they would need a minor zoning variance. They will also be adding a 5000 sq. ft. building, an elevator, driveway, parking and plantings. The plan is to build it in two phases in two years.

Discussion – Highway Superintendent – Section 284 Agreement

Highway Superintendent Bruen asked that the 284 Highway Agreement be signed by the Town Board. He explained the process of fixing the roads and what materials he uses. The Town Board asked for a report on how much money and what roads the money will be spent on because there seems to be a discrepancy. Councilwoman Eckardt suggested she sit with the Highway Superintendent to get a detailed report together. Highway Superintendent Bruen also stated he needed to convert a couple of trucks and the Supervisor asked that he identify what he needs and give the Town Board some quotes. Superintendent Bruen stated that if the Town Board will consider releasing some of the funds in the highway reserve account, then he will pursue it. Councilman Alvarez said yes, just bring us some quotes. Councilwoman Eckardt also asked Superintendent Bruen if he could give the Town Board a schedule of when the trucks would need to be replaced, since it was always done in the past with the highway superintendents, and it would be appreciated if that could be done in the future and Superintendent Bruen agreed to do it.

Discussion – E-Waste Disposal

Supervisor Hay stated that the County notified the Towns that the E-Waste program was to be discontinued with only two weeks’ notice. Since then, there have been meetings with the County, The Shared Services Committee and the Town Supervisors. The County gave the Towns a list of 3 to 5 vendors and suggested the Towns go out for three bids and the County will solicit a bid to include all six Towns collectively, to see if they can get a lower price. Supervisor Hay has already begun the processes and the vendors have already come back with prices. He suggested the Town Board start with a proposal, have it where it was previously located at the Highway Department, and maybe open once a month for a couple of hours and hire 2 part-time employees to be there.

**REGULAR MEETING**

Supervisor Hay made a motion to open the Regular Meeting and Councilman Alvarez seconded. All in favor.

**RESOLUTION NO. 21 / 2019 FWL GROUP, LLC 200-280 FIELDS LANE ARCHITECTURAL REVIEW BOARD**

INTRODUCED BY: Supervisor Hay  
SECONDED BY: Councilwoman Eckardt

WHEREAS, the Town Board is in receipt of a Report of the Architectural Review Board (“ARB”) of the Town Southeast dated February 28, 2019 in connection with the application of FWL GROUP, LLC, which seeks to develop its property with a 28,000 square foot commercial building,

associated parking lot, driveway and storm water management system located at 200 and 280 Fields Lane, Tax Map IDs 78.-2-1 & 2, in the Town of Southeast, Putnam County, New York; and

WHEREAS, the Report concludes that the ARB positively recommends the project to the Town Board on certain conditions; and

WHEREAS, the Town Board finds that there is no reason to upset the findings and recommendation of the Architectural Review Board in connection with the instant application,

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board hereby accepts and approves the Report of the Architectural Review Board dated February 28, 2019 in connection with the application of FWL GROUP, LLC, which seeks to construct a commercial building and associated accessory parking facilities at 200 & 280 Fields Lane, Tax Map ID 78.-2-1 & 2, in the Town of Southeast, Putnam County, New York, a copy of which is annexed hereto and made part hereof, and that such Report shall be incorporated in any final Site Plan subsequently reviewed and approved for this project by the Planning Board.

UPON ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilwoman Eckardt	<u>Aye</u>
Councilman Larca	<u>Aye</u>
Councilman Lord	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

**RESOLUTION NO. 22 / 2019 SETTLEMENT OF CERTIORARI PROCEEDING  
FORTUNE RIDGE HOMEOWNERS ASSN – TAX MAP 67.-3-79.2**

INTRODUCED BY: Supervisor Hay

SECONDED BY: Councilman Alvarez

WHEREAS, proceedings have been commenced in NYS Supreme Court, Putnam County, under Index No. 500823/18 challenging the assessed valuation of premises owned by Fortune Ridge Homeowners Assn., Tax Map No. 67.-3-79.2, for the 2018 tax roll; and

WHEREAS, the Town Board is in receipt of a recommendation from its Assessor, Appraiser and Town Attorney in connection with the assessed valuation of the subject premises.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Southeast does hereby accept the recommendations of its professional advisors and authorizes the Town Attorney to execute a Stipulation of Settlement, Consent Judgment and/or Order on Consent in accordance with said recommendations for the following:

<u>Petitioner</u>	<u>Tax ID</u>	<u>Year</u>	<u>Assessment</u>	<u>Settled Assessment</u>
Fortune Ridge Homeowner Assn.	67.-3-79.2	2018	\$800,000	\$100

And be it further

RESOLVED, that the Town Attorney is hereby authorized and directed to execute any and all stipulations, consent orders or other documents necessary to reflect the forgoing settlement.

UPON A ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilwoman Eckardt	<u>Aye</u>
Councilman Larca	<u>Aye</u>
Councilman Lord	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

**RESOLUTIONNO. 23 / 2019 TOWN BOARD TOWN OF SOUTHEAST, NY STATEMENT OF SEQRA FINDINGS**

INTRODUCED BY: Supervisor Hay

DATE: March 14, 2019

SECONDED BY: Councilman Alvarez

WHEREAS, the Town Board of the Town of Southeast is in receipt of an application for Site Plan approval, Special Permit and Wetland Permit, and other supporting documents, for a project entitled STATELINE RETAIL CENTER; and

WHEREAS, the Applicant, PLI, LLC, proposes the construction of an approximately 184,800 square foot retail center and a 14,800 square foot, 2-story office building on two undeveloped parcels of land totaling approximately 44 acres and land located on US Route 6/202 to the east of Old Nichols Road, to the west of Dingle Ridge Road and immediately north of Interstate 84, in the Town of Southeast, Putnam County, New York, and identified as tax map numbers 68.-2-48.1 (“Lot 1”) and 68.-2-48.2 (“Lot 2”), and zoned Special Route 6 (SR-6); and

WHEREAS, the Planning Board, as Lead Agency, previously conducted a Coordinated Review for a project identical to this current Proposed Project, which is a Type I Action, and issued a Statement of Findings on or about September 28, 2009; and

WHEREAS, the Planning Board issued Site Plan Approval for the proposed project on or about April 26, 2010; and

WHEREAS, the Applicant exhausted all extensions and was granted a new Site Plan Approval for the Stateline Retail Center on Lot 2 on or about June 9, 2014; and

WHEREAS, the third and final one-year extension of such approval was granted on or about May 8, 2017; and

WHEREAS, pursuant to §617.6 of the State Environmental Quality Review Act (SEQRA), the Planning Board affirmed its continued Lead Agency status on or about March 26, 2018; and

WHEREAS, the Planning Board, having considered whether changes in background conditions, including: land use, zoning, public policy, and community character; community services; economic conditions; cultural resources; natural resources; geology; water resources and wetlands; stormwater management; traffic and transportation; air quality; noise; construction; infrastructure and energy; growth inducement and cumulative impacts; and energy consumption and conservation would alter the conclusions presented in the SEQRA Findings Statement, affirmed its prior SEQRA Findings Statement on April 9, 2018; and

WHEREAS, the applicant has submitted documentation supporting the position that changes in background conditions would not materially affect the conclusions of the Findings Statement, and in many cases the potential impacts would be less than previously considered; and

WHEREAS, in 2013 the Town of Southeast amended its sign ordinance to permit larger signs, which lessened the extent of the variances previously granted; and

WHEREAS, in 2015 the Town of Southeast amended its Zoning Map and the project site was rezoned from GC-2 to SR-6, however the Proposed Project complies with the new zoning designation and no new variances are required; and

WHEREAS, in 2016 the Town of Southeast amended its Zoning Ordinance to transfer the discretionary approval authority of all “large retail establishments” to the Town Board per § 138-41.1; and

WHEREAS, the applicant has submitted recent traffic data which confirms that current traffic levels on Route 6 are less than or equal to traffic levels previously analyzed; and

WHEREAS, at the request of the New York State Department of Transportation (NYSDOT) the applicant submitted supplemental traffic analysis to the NYSDOT; and

WHEREAS, the Town is in receipt of a letter from Gregory Bentley, Sr. PE, NYSDOT, to Chairman LaPerch, dated January 28, 2019 and a Project Submission Review Report for Stateline Retail Center, prepared by the NYSDOT, dated January 25, 2019, and the Applicant shall comply with all required conditions of this letter and the Project Submission Review Report. Any changes to the Proposed Project shall require a new review under the State Environmental Quality Review Act (SEQRA) and referral to NYSDOT; and

WHEREAS, the applicant’s wetland consultant and the Town Wetland Inspector inspected the wetland conditions on the property in 2014 and found that the wetlands are substantially unchanged; and

WHEREAS, the Town Board has reviewed the following documents in support of this determination:

1. Letter from Jeff Contelmo, Insite Engineering, to Chairman LaPerch and Members of the Board dated April 2, 2018
2. Evaluation of Potential Impacts, Final Site Plan Re-Approval Application, prepared by Insite Engineering, dated March 28, 2014 and last revised March 5, 2018
3. Memorandum Re: Stateline Wetlands, prepared by Steve Marino, PWS, Tim Miller Associates, dated March 28, 2014
4. Memorandum Re: Threatened and Endangered Species, prepared by Steve Marino, PWS, Tim Miller Associates, dated March 28, 2014
5. Letter Re: Stateline Traffic Count Update, prepared by Tim Miller, AICP, Tim Miller Associates, dated April 3, 2014
6. Letter Re: Updated Route 6 Traffic Counts, Stateline Project, Town of Southeast, prepared by Tim Miller, AICP, Tim Miller Associates, dated April 21, 2014
7. Memorandum Re: Stateline Retail Center – Wetlands Review, prepared by Stephen W Coleman, dated April 3, 2014
8. The following drawings, prepared by Insite Engineering, Surveying, & Landscape Architecture, PC, related to the site plan application:

Drawing No. & Title	Last Revised
SP-1 Overall Site Plan	4/17/2018

Drawing No. & Title	Last Revised
SP-2.1 Layout and Landscape Plan	4/17/2018
SP-2.2 Layout and Landscape Plan	4/17/2018
SP-3.1 Grading and Utilities Plan	4/17/2018
SP-3.2 Grading and Utilities Plan	4/17/2018
SP-4.1 Overall Phasing Plan	4/17/2018
SP-4.2 Sediment and Erosion Control Plan	4/17/2018
SP-4.3 Sediment and Erosion Control Plan	4/17/2018
PR-1 Profiles and Cross Sections	4/17/2018
LP-1 Lighting Plan	4/17/2018
D-1 Site Details	4/17/2018
D-2 Site Details	4/17/2018
D-3 Site Details	4/17/2018
D-4 Site Details	4/17/2018
D-5 Site Details	4/17/2018
D-6 Site Details	4/17/2018
Stormwater Pollution Prevention Plan	4/17/2018

9. The following drawings, prepared by DCAK-MSA Architecture, related to the site plan application:

Drawing No. & Title	Last Revised
SA-1 Proposed Sign Area Buildings A,B & C	3-09-10
SA-2 Proposed Sign Area Buildings A,B & C	3-09-10
SA-3 Proposed Sign Area Buildings A,B & C	3-09-10
SA-4 Proposed Sign Area Buildings A,B & C	3-09-10
SA-5 Proposed Sign Area Building D	3-09-10
MS-1 Proposed Freestanding Signs	4-22-10
MS-2 Proposed Freestanding Signs	4-22-10
MS-3 Proposed Freestanding Signs	4-22-10
SW-1.0 Proposed Plaza Sidewalk Plan	11-18-09
SW-2.0 Proposed Elevations for Buildings A,B & C	11-18-09
SW-2.1 Proposed Elevations for Buildings A,B & C	11-18-09
SW-2.2 Proposed Elevations for Buildings A,B & C	12-02-09
SW-2.3 Proposed Elevations for Buildings A,B & C	11-18-09
SW-3.0 Proposed Elevations for Building D	12-02-09

10. The following drawings, prepared by John Collins Engineers, P.C., related to the site plan application:

Drawing No. & Title	Last Revised
T-1 Traffic Signal Plan	1/9/2009
SP-1 Signing & Striping Plan	1/9/2009
SP-2 Signing & Striping Plan	1/9/2009
SP-3 Signing & Striping Plan	1/9/2009
SP-4 Signing & Striping Plan	1/9/2009
MD-1 Miscellaneous Details & Typical Sections	2/25/2009
GN-1 General Notes	1/9/2009
CGD-1 Construction, Grading and Drainage	1/9/2009
CGD-2 Construction, Grading and Drainage	1/9/2009
CGD-3 Construction, Grading and Drainage	1/9/2009



immediately north of Interstate 84, in the Town of Southeast, Putnam County, New York, and identified as tax map number 68.-2-48.2, and zoned Gateway Commercial District (GC-2); and,

**WHEREAS**, as a large retail establishment the Proposed Project requires a Special Permit, Site Development Plan Approval, and wetland permit approval from the Town Board; and,

**WHEREAS**, the Proposed Project requires review by the Architectural Review Board (ARB); and,

**WHEREAS**, the Proposed Project requires Area Variances from the Zoning Board of Appeals (ZBA) for the number and size of certain signs and the height of a proposed manufactured slope/retaining wall; and,

**WHEREAS**, the Planning Board, as Lead Agency under the State Environmental Quality Review Act (SEQRA), previously conducted a Coordinated Review for a project identical to this current Proposed Project, which is a Type I Action, and issued a Statement of Findings on or about September 28, 2009; and

**WHEREAS**, the Planning Board, which previously had site plan approval authority for large retail establishments, issued Site Plan Approval for a project identical to this current Proposed Project or about April 26, 2010; and

**WHEREAS**, having exhausted all extensions, the Planning Board re-issued Site Plan Approval for a project identical to this current Proposed Project or about June 4, 2014; and

**WHEREAS**, the third and final extension of such approval was granted on or about May 8, 2017; and

**WHEREAS**, on or about March 26, 2018, the Applicant appeared before the Planning Board seeking re-approval of the site plan; and

**WHEREAS**, on or about April 9, 2018 the Planning Board affirmed its prior Statement of Findings and issued a Report and Recommendation to the Town Board on the Site Plan, Wetland Permit, and Special Permit for Lot 2, as per change in the Town Zoning Code, discretionary approval authority for Large Retail Establishments is now with the Town Board; and

**WHEREAS**, the Town Board held public hearings on the Proposed Project on April 26, 2018 and February 28, 2019; and

**WHEREAS**, on or about March 14, 2019, the Town of Southeast Town Board (the "Town Board"), pursuant to SEQRA, and having reviewed the Proposed Project and changes in background conditions issued a Findings Statement and found that a Supplemental Environmental Impact Statement pursuant to §617.9(a)(7) is not required; and

**WHEREAS**, the Town Board is in receipt of the following drawings, prepared by Insite Engineering, Surveying, & Landscape Architecture, PC, related to the site plan application:



<b>Drawing No. &amp; Title</b>	<b>Last Revised</b>
SP-1 Overall Site Plan	4/17/2018
SP-2.1 Layout and Landscape Plan	4/17/2018
SP-2.2 Layout and Landscape Plan	4/17/2018
SP-3.1 Grading and Utilities Plan	4/17/2018
SP-3.2 Grading and Utilities Plan	4/17/2018
SP-4.1 Overall Phasing Plan	4/17/2018
SP-4.2 Sediment and Erosion Control Plan	4/17/2018
SP-4.3 Sediment and Erosion Control Plan	4/17/2018
PR-1 Profiles and Cross Sections	4/17/2018
LP-1 Lighting Plan	4/17/2018
D-1 Site Details	4/17/2018
D-2 Site Details	4/17/2018
D-3 Site Details	4/17/2018
D-4 Site Details	4/17/2018
D-5 Site Details	4/17/2018
D-6 Site Details	4/17/2018
Stormwater Pollution Prevention Plan	4/17/2018

; and,

**WHEREAS**, the Town Board is in receipt of the following drawings, prepared by John Collins Engineers, P.C., related to the site plan application;

<b>Drawing No. &amp; Title</b>	<b>Last Revised</b>
T-1 Traffic Signal Plan	1/9/2009
SP-1 Signing & Striping Plan	1/9/2009
SP-2 Signing & Striping Plan	1/9/2009

<b>Drawing No. &amp; Title</b>	<b>Last Revised</b>
SP-3 Signing & Striping Plan	1/9/2009
SP-4 Signing & Striping Plan	1/9/2009
MD-1 Miscellaneous Details & Typical Sections	2/25/2009
GN-1 General Notes	1/9/2009
CGD-1 Construction, Grading and Drainage	1/9/2009
CGD-2 Construction, Grading and Drainage	1/9/2009
CGD-3 Construction, Grading and Drainage	1/9/2009
CGD-4 Construction, Grading and Drainage	1/9/2009
MPT-1 Maintenance & Protection of Traffic	2/10/2009
MPT-2 Maintenance & Protection of Traffic	2/10/2009

; and,

**WHEREAS**, the Town Board is in receipt of the following drawings, prepared by DCAK-MSA Architecture, related to the site plan application;

<b>Drawing No. &amp; Title</b>	<b>Last Revised</b>
SA-1 Proposed Sign Area Buildings A,B & C	3-09-10
SA-2 Proposed Sign Area Buildings A,B & C	3-09-10
SA-3 Proposed Sign Area Buildings A,B & C	3-09-10
SA-4 Proposed Sign Area Buildings A,B & C	3-09-10
SA-5 Proposed Sign Area Building D	3-09-10
MS-1 Proposed Freestanding Signs	4-22-10
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SW-1.0 Proposed Plaza Sidewalk Plan	11-18-09
SW-2.0 Proposed Elevations for Buildings A,B & C	11-18-09

<b>Drawing No. &amp; Title</b>	<b>Last Revised</b>
SW-2.1 Proposed Elevations for Buildings A,B & C	11-18-09
SW-2.2 Proposed Elevations for Buildings A,B & C	12-02-09
SW-2.3 Proposed Elevations for Buildings A,B & C	11-18-09
SW-3.0 Proposed Elevations for Building D	12-02-09

**WHEREAS**, the above listed plans are identical to those last approved by the Planning Board on or about June 4, 2014; and,

**WHEREAS**, the Planning Board has reviewed the following documents in conjunction with this application:

1. Letter from Jeff Contelmo, Insite Engineering, to Town of Southeast Town Board dated April 18, 2018
2. Evaluation of Potential Impacts, Final Site Plan Re-Approval Application, prepared by Insite Engineering, dated March 28, 2014 and last revised March 5, 2018
3. Memorandum Re: Stateline Wetlands, prepared by Steve Marino, PWS, Tim Miller Associates, dated March 28, 2014
4. Memorandum Re: Threatened and Endangered Species, prepared by Steve Marino, PWS, Tim Miller Associates, dated March 28, 2014
5. Letter Re: Stateline Traffic Count Update, prepared by Tim Miller, AICP, Tim Miller Associates, dated April 3, 2014
6. Letter Re: Updated Route 6 Traffic Counts, Stateline Project, Town of Southeast, prepared by Tim Miller, AICP, Tim Miller Associates, dated April 21, 2014
7. Memorandum Re: Stateline Retail Center – Wetlands Review, prepared by Stephen W Coleman, dated April 3, 2014
8. Letter from Gregory Bentley, Sr. PE, New York State Department of Transportation, to Chairman LaPerch, dated January 28, 2019.
9. Project Submission Review Report for Stateline Retail Center, prepared by the New York State Department of Transportation, dated January 25, 2019.

**WHEREAS**, the Town Board has reviewed said drawings and documents in addition to reports and correspondence filed with those drawings and has caused the same to be reviewed by its consultants; and,

**WHEREAS**, the Town Board has determined on the basis of its own review and the review comments received from its consultants that the drawings and reports and other information submitted by the applicant are in substantial compliance with Chapter 138, "Zoning," (specifically Article IX thereof) of the Town of Southeast Code; and,

**WHEREAS**, the a project identical to this current Proposed Project was granted wetland permit approval or about October 21, 2009 and June 4, 2014, both of which have since expired; and,

**WHEREAS**, the applicant's wetland consultant and the Town Wetland Inspector have both inspected the current wetland conditions on the property and found that the wetlands are substantially unchanged; and

**WHEREAS**, the Town Board approved a Special Permit for a project identical to this current Proposed Project or about December 10, 2009 and May 22, 2014, both of which have since expired; and,

**WHEREAS**, the ARB issued a positive recommendation on the retail building to the Town Board in a resolution dated December 2, 2009, based on the site plan and architectural drawings sets dated November 18, 2009, and as presented at the December 2, 2009, ARB meeting; and,

**WHEREAS**, the Town Board approved the retail center architecture for a project identical to this current Proposed Project or about December 10, 2009, the approval for which remains valid; and,

**WHEREAS**, the ARB has not issued a recommendation or approval of any of the proposed signage or monument structures; and,

**WHEREAS**, the Applicant shall return to the ARB for review and approval of all signage and monument structures, and shall prepare for the ARB's review and approval tenant signage design criteria, which shall govern the tenant signage on the project site and ensure that a cohesive signage package is developed for the project; and,

**WHEREAS**, no signage or monument structures shall be erected on the site until the tenant signage design criteria has been reviewed and approved by the ARB; and,

**WHEREAS**, the Town Board is in receipt of minutes from the ZBA dated March 15, 2010 and April 19, 2010 granting variances for the manufactured slope, the size and location of the proposed signage, and the proposed monument signs; and

**WHEREAS**, in 2013 the Town of Southeast amended its sign ordinance to permit larger

signs, which lessened the extent of the variances previously granted; and

**WHEREAS**, pursuant to §239-m of the General Municipal Law, the Town Board referred the complete application to the Putnam County Division of Planning and Development on January 11, 2010 for its review; and,

**WHEREAS**, the Town Board received a positive recommendation from the Putnam County Department of Planning, Development and Public Transportation dated January 22, 2010, which remains applicable to the Proposed Project;

**WHEREAS**, the Town Board determines that the proposed project substantially conforms with the General Requirements for Conditional Use and Special Permit Approval as defined in §138-53(A) of the Code of the Town of Southeast and as identified in the table below;

<b>General Requirements for Conditional Use and Special Permit Approval</b>	
<b>§138-53(A):</b>	<b>CONFORMS (Yes/No):</b>
(1) The proposed use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and shall not be detrimental to the site or adjacent properties in accordance with the zoning classification of such properties.	Yes.
(2) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous.	Yes.
(3) The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the development and use of adjacent land and buildings.	Yes.
(4) The proposed use will not require such additional public facilities or services or create fiscal burdens upon the Town greater than those which characterize uses permitted by right.	Yes.
(5) As a condition of all special permit and conditional use permits, right of entry for inspection with reasonable notice shall be provided for to determine compliance with the conditions of said permit.	<i>The Town retains its authority to administer and enforce its Town Code as appropriate for all applications.</i>

(6) As a condition of all special permits and conditional use permits, a time limitation may be imposed.	<i>The Town Board is establishing no time limitation on this application.</i>
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**WHEREAS**, the proposed project substantially conforms with the special permit criteria for a large retail center as defined in §138-63.4 of the Code of the Town of Southeast and as identified in the table below;

<b>Special Use Permit Criteria for a Large Retail Center</b>	
<b>§138-63.4:</b>	<b>CONFORMS (Yes/No):</b>
A. Any parcel shall consist of not less than 35 acres and have access via a state or county road; and	Yes.
B. Any retail use in connection with any zoning lot shall be limited to a floor area ratio (FAR) not to exceed 0.15. All other dimensional standards for any parcel shall be the same as those contained in the Commercial Zoning Schedule for the HC-1 and GC-2 zones except as they are superseded by the Town of Southeast Design Guidelines for Large Retail Establishments; and	Yes.
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 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. 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.	<i>See below for conformance with each provision of the Design Guidelines.</i>
<b>(1) SITE DESIGN</b>	
<b>[a] Buffers</b>	
[1] All Large Retail Establishments shall include a 75-foot minimum Environmental Conservation Buffer vegetated buffer along the entire frontage with the exception of areas necessary for ingress or egress from the site. Stormwater management features may be included in the Environmental Conservation Buffer as long as the margins of any such feature are planted with vegetation that will reach an appropriate height for screening proposed uses within ten	Yes.

(10) years.	
[2] An Environmental Conservation Buffer of at least 50 feet in width shall be provided along side and rear property lines. Where a Large Retail Establishment abuts a Residential Zoning District, a minimum 100-foot Environmental Conservation Buffer shall be provided along the boundary line, unless the Town Board determines that a larger buffer is required. No building containing a Large Retail Establishment shall be closer than 250 feet from any residential use.	Yes.
[3] Existing mature vegetation shall be retained where feasible within the Environmental Conservation Buffers and within the interior of the site.	Yes.
[4] New vegetation shall be planted to create a mix of species. Native species or species known to be tolerant to urban stressors (see Table 1) are preferred to non-native species; although non-native ornamental species may be used as accents.	Yes.
[5] If any significant habitat is found on-site, no disturbance shall occur within that area or within 100 feet of the area.	Yes.
[6] A vegetated berm not less than 3 feet in height and 6 feet in width at its top may be used where existing mature vegetation would not provide adequate screening.	NA
[7] All landscaping as shown on the approved site plan shall be maintained in a healthy growing condition throughout the duration of the use or uses being served. Any plants not so maintained shall be replaced by the property owner with healthy, new plants of comparable size, type and quality at the beginning of the next immediately following growing season.	<i>This provision would be included as a condition of approval and would be handled as an enforcement action should the need arise.</i>
<b>[b] Building Location</b>	
[1] Buildings shall be oriented on-site to avoid disturbance to sensitive natural and topographic features to the maximum extent practicable while presenting a “public face” to major roads.	Yes.
[2] Multiple buildings on a single site shall be oriented to achieve a unified character for the site. Individual buildings shall not be isolated by large expanses of parking lots in order to encourage safe pedestrian movement within the site.	Yes.
<b>[c] Site Access</b>	

<p>[1] Driveway entrances and exits onto any street shall be provided in such a manner that no undue traffic hazards or traffic congestion will be created. A minimum of two (2) driveways shall be provided. Driveway entrances shall be spaced a minimum of 300 feet apart. Driveways shall not exceed 30 feet in width at the street line unless a greater width is required by the County of Putnam or State of New York.</p>	<p>Yes.</p>
<p><b>[d] Parking Lots</b></p>	
<p>[1] Large Retail Establishments that have more than 10 percent Gross Leasable Area in dining or entertainment uses shall use the Urban Land Institute Shared Parking methodology to calculate appropriate parking requirements in place of the required 4.0 spaces per 1,000 square feet of Gross Floor Area.</p>	<p><i>NA. Tenants have not been specified.</i></p>
<p>[2] Any parking spaces provided above the required number shall be in a separate parking area utilizing a pervious paving technique (see Drawing L-1). Alternatively, additional parking areas may be “land-banked” for future development depending on use.</p>	<p><i>NA. No extra spaces have been proposed.</i></p>
<p>[3] All required parking shall be provided in parking areas that are designed and laid out to avoid uninterrupted stretches of paved surfaces. Parking areas may be separated from each other by drive aisles, pedestrian walkways, stormwater management facilities, or landscaped areas (see Drawing L-1). Parking areas to the rear or side of buildings are preferred to parking areas in front of (between the major street and any side of) a building. Rear entrances to tenant spaces shall be considered in the overall site design process. Underground or structured parking may be considered and shall not be included in Gross Floor Area.</p>	<p><i>Parking has primarily been proposed for the front of the building, however, due to the topography and proposed landscaping it will be minimally visible from Route 6. Small parking areas are located off to the sides of the building.</i></p> <p><i>Landscaped islands between parking areas are proposed.</i></p> <p><i>No rear entrances or underground parking is proposed, however, given the topographical constraints of the site, surface parking is appropriate.</i></p>
<p>[4] Individual parking stalls shall be nine (9) feet by eighteen (18) feet except as required to meet Americans with Disabilities Act (ADA) requirements. Parking stalls in employee parking areas may be eight (8) feet by eighteen (18) feet.</p>	<p>Yes.</p>



<p>[5] Parking areas shall have a minimum 10-foot wide, curbed planting island around the perimeter with appropriate gaps for vehicular access. Such raised planting islands and the landscaping within them shall be designed and arranged in such a way as to provide vertical definition to major traffic circulation aisles, entrances and exits, to channel internal traffic flow and prevent indiscriminate diagonal movement of vehicles and to provide relief from the visual monotony and shadeless expanse of a large parking area. Planted bio-swales may be substituted for raised parking islands (see Drawings LD-4, LD-5, and LD-6).</p>	<p>Yes.</p>
<p>[6] Large parking areas of 50 spaces or more shall have additional planting islands a minimum of eight (8) feet in width within the parking area between every second parking module (defined as a 60-foot-wide area containing two rows of parking separated by a drive aisle).</p>	<p><i>There is one island that includes a pedestrian walkway in lieu of a planting island, which is an appropriate substitution.</i></p>
<p>[7] There shall be a provision for separate pedestrian flow to building entrance(s) outside of drive aisles for each parking area.</p>	<p>Yes.</p>
<p>[8] Twenty-five (25) percent of calculated required parking shall be provided in a designated employee-only parking area that utilizes a pervious paving technique. Where possible, this parking area shall be located to the rear of any building(s).</p>	<p><i>Yes. Pervious parking provided along the perimeters of the parking area.</i></p>
<p>[9] Twenty-five (25) percent of calculated required parking shall be provided in an overflow area that shall be physically separated from other parking areas by lawn or other vegetated area.</p>	<p><i>Yes, including the 97 northernmost spaces.</i></p>
<p>[10] At least one tree, not less than three (3) inches in caliper measured three (3) feet above ground level at time of planting, shall be provided within a planting island for each ten (10) parking spaces in the parking area (see Drawing LD-3).</p>	<p>Yes.</p>
<p>[11] Bicycle parking racks shall be provided in a location no further than 200 feet from a building entrance and not to the rear of any building.</p>	<p>Yes.</p>
<p><b>[e] Circulation to Adjoining Parcels</b></p>	
<p>[1] Where a Large Retail Establishment adjoins another parcel with existing commercial development every opportunity for connecting parking areas and/or driveways shall be explored to avoid separate curb-cuts onto major roads.</p>	<p><i>Yes. A pedestrian path between proposed office building and retail center is proposed.</i></p>

<p>[2] Where a Large Retail Establishment adjoins a vacant commercially-zoned parcel a stub driveway shall be established in a location conducive to creating a future internal connection point.</p>	<p><i>No. However, compliance would require significant wetland disturbance and is not appropriate at this time.</i></p>
<p><b>[f] Pedestrian Environment</b></p>	
<p>[1] Pedestrian-scale public spaces (pedestrian walkway, square, or plaza) shall be integrated into the overall site plan to provide meaningful circulation and seating areas.</p>	<p>Yes.</p>
<p>[2] Pedestrian amenities such as seating or dining areas, fountains, gazebos, kiosks, or other such features shall be provided in any square or plaza. Amenities associated with public transit or bicycle use (bus waiting shelter, information kiosk with bus schedule, bicycle racks, or taxi waiting area) shall be incorporated into public spaces on the site.</p>	<p>Yes.</p>
<p>[3] A pedestrian walkway shall be a minimum of ten (10) feet in width and shall have street trees planted forty (40) feet on center at a minimum (not less than three (3) inches in caliper measured three (3) feet above ground level at time of planting) (see Drawing LD-3). Pedestrian walkways offering access between buildings and/or providing access to rear parking areas are not required to have planting areas or street trees.</p>	<p><i>A 10 foot wide pedestrian walkway, as well as street trees, has been provided. However, in some locations the spacing between trees is in excess of 40 ft. In most cases, this is due to the location of the store entrance or to enhance an architectural feature, and is therefore appropriate.</i></p>
<p>[4] A square or plaza shall be a minimum of thirty (30) feet in any dimension and shall include a vegetated area covering a minimum of fifty (50) percent of the total area when any one linear dimension of the square or plaza equals or exceeds fifty (50) feet (see Drawings L-2, L-3, and LD-1). (Pedestrian walkways shall not be required to meet this standard).</p>	<p>Yes.</p>
<p>[5] Building(s) shall be designed to have a front façade that has at least one (1) principal functional entry from a pedestrian walkway, square, or plaza.</p>	<p>Yes.</p>
<p>[6] No ground-level façade shall have blank (without doors or windows) walls longer than 50 feet along any pedestrian walkway, square, or plaza. Public art installations such as murals are exempt from this requirement.</p>	<p>Yes.</p>

[7] Pedestrian walkways, squares, or plazas shall provide continuous pedestrian flow throughout the site and shall provide protected access through a designated crosswalk or walkway between building entrances and all parking areas.	Yes.
[8] Pedestrian walkways, squares, and plazas shall be integrated into the overall landscaping and lighting plans for the site.	Yes.
[9] Pedestrian walkways and other surface areas of paving material shall offer a variety of pigments and textures that are in harmony with nearby buildings and other paved surfaces and are safe for pedestrian traffic, including the handicapped. Pervious surfaces shall be used wherever practicable to minimize the need for stormwater infrastructure.	Yes.
<b>[g] Loading &amp; Refuse Collection Areas</b>	
[1] All loading and refuse collection areas shall be screened from public views from primary driveways and pedestrian walkways, squares, or plazas and shall not be located along the front façade of any building or within any parking area. Loading and refuse collection areas shall be internal to a structure to the extent possible.	Yes.
<b>[h] Signage</b>	
[1] All signs shall be carefully integrated with other site design elements. Signs shall be designed so that they are visible and informative at the pedestrian scale. Signs shall not be mounted above the eave line of any structure or be placed in or attached to any window. Signs must comply with the provisions in Article XII of the Zoning Code.	<i>The applicant has submitted a schematic sign program that generally complies with this provision. However, variances would be required for the number of signs and the size of certain signs.</i>
<b>[i] Lighting</b>	
[1] A site lighting plan shall be provided in conformance with Article XIII of the Zoning Code. Pedestrian-scale lighting fixtures shall be provided in parking areas and along pedestrian walkways and in squares or plazas.	Yes.
<b>[j] Storage of Merchandise</b>	
[1] Any areas intended for storage or display of merchandise shall be identified on the site plan and shall be approved by the Town Board as part of the Special Permit process.	Yes.
[2] Vending machines, ice machines, newspaper boxes, or similar equipment may not be located outside of any building.	Yes.

<b>(2) BUILDING DESIGN</b>	
<b>[a] Building Size</b>	
[1] Large single-use buildings are to be avoided. Where a large tenant is considered, the same building shall include several smaller tenants with separate exterior access to balance the scale of the larger tenant and to facilitate improved building design. In all cases, all buildings shall comply with the design parameters set forth herein.	<i>Yes. Large anchor tenant proposed with several smaller retail spaces.</i>
<b>[b] Building Height</b>	
[1] Buildings may be one (1) or two (2) stories to a maximum height of 35 feet. Vertical elements such as clocktowers, cupolas, or other architectural embellishments may extend the total height of the building but shall be no greater than 50 feet in height (see Drawing LD-2).	<i>Yes. The building is 35 feet or less, and all towers have been reduced to 50 ft or less.</i>
<b>[c] Building Style</b>	
[1] Buildings shall be designed to be compatible with buildings in the surrounding area, but in all cases shall be of high-quality design and materials. Colonial or Classic design style is considered appropriate for any location within the Town of Southeast. Examples of the types of architecture compatible with the Town’s vision are shown in the Typology of Architecture pages included at the end of this Chapter. These images are not prescriptive but do show what is preferred.	<i>Yes.</i>
<b>[d] Building Facades &amp; Materials</b>	
[1] Building facades shall present a varied appearance at street level and be designed to give individual identity to each building and/or use as well as to help achieve the planned pedestrian scale using features such as: <ul style="list-style-type: none"> <li>• The height of cornices, lintels and sill levels, articulated floor levels and other horizontal building features.</li> <li>• The spacing and proportion of columns, piers and other elements of the basic structural grid.</li> <li>• The spacing and proportion of window and door openings, bays or other aspects of building fenestration.</li> <li>• Colors, textures and the general nature of exterior materials and treatment, including building ornament and trim.</li> </ul>	<i>Yes.</i>
[2] Blank wall exposures shall be limited. No ground-level façade shall have blank (without doors or windows) walls longer than 50 feet along any pedestrian walkway,	<i>Yes.</i>

<p>square, or plaza. Public art installations such as murals are exempt from this requirement.</p>	
<p>[3] The design of building facades shall reflect the scale of existing or planned building development through modulation of vertical and horizontal elements by features such as:</p> <ul style="list-style-type: none"> <li>• Variation in roof heights.</li> <li>• Changes in the predominant wall plane and/or in facade elements such as window openings and balconies.</li> <li>• Use of horizontal projections or recesses in the building facade such as bay windows, cornices, balustrades, etc.</li> <li>• Use of pitched roofs and other roof elements such as cross gables, dormer windows, turrets, and clocktowers to provide visual interest, reduce the scale of continuous roofs and break the line where the building meets the sky.</li> </ul>	<p>Yes.</p>
<p>[4] Treatment of the sides and rear of proposed buildings shall be in a manner substantially consistent in appearance, amenity and quality of materials to the treatment given to their front facade.</p>	<p><i>The rear façade has minimal articulation. However, those portions of the rear façade that would be intermittently visible from I-84 would be articulated.</i></p>
<p>[5] Building facades shall be architecturally articulated horizontally so that there are breaks in the façade plane where building entrances, windows, or landscaped areas may be located.</p>	<p>Yes.</p>
<p>[6] Building facades shall be architecturally articulated vertically to define a pedestrian scale along any pedestrian walkway, square, or plaza. Arcades, awnings, roof- or eave-lines, or second-story windows may be used to define the pedestrian scale. (Any awning, roof, or eave that extends above a pedestrian walkway, square, or plaza shall have a minimum clear height (height from sidewalk to the bottom of any awning, roof, or eave) of eight (8) feet six (6) inches and a maximum clear height of ten (10) feet above the sidewalk and shall extend beyond the building face a minimum of five (5) feet).</p>	<p>Yes.</p>
<p>[7] All buildings shall have an appropriate rhythm of entrances and windows consistent with the overall size of the building and orientation to any pedestrian walkways, squares, or plazas.</p>	<p>Yes.</p>
<p>[8] Exterior cladding shall be consistent with the overall building style and shall include a variety of colors and textures to help articulate the main facades.</p>	<p>Yes.</p>

<b>[e] Building Roofs</b>	
[1] Fully-enclosed gabled roofs (minimum pitch of 8:12) are preferred to flat roofs with parapets. On larger buildings a variety of roof-lines shall be used to break up the horizontal extent of the building. Where parapets are used, the parapet shall be provided along each façade. Parapet height is limited to ten (10) feet above the flat roof.	Yes.
[2] Where flat roofs are required due to building size, roofing materials having a Solar Reflectance Index (SRI) equal to or greater than the values in the table below for a minimum of 75 percent of the roof surface shall be used or a green roof on at least 50 percent of the roof area shall be used.	<i>Yes. The applicant has stated that SRI or equivalent material will be utilized.</i>
<b>[f] Building Materials</b>	
[1] While synthetic materials may be acceptable, natural building materials including, but not limited to, clapboard and shingle siding, brick, stone, glass, or glass block are preferred and encouraged over synthetic materials. Generic, unadorned Concrete Masonry Units (CMUs) shall not be used as a primary exposed building material on any facade. CMUs with any type of variegated surface (e.g., Architectural Block or Split-Faced CMUs) are permitted but shall not comprise the majority of the surface area of any one facade.	Yes.
[2] Treatment of the sides and rear of proposed buildings shall be in a manner substantially consistent in appearance, amenity and quality of materials to the treatment given to their street frontage.	<i>The rear façade has minimal articulation. However, those portions of the rear façade that would be intermittently visible from I-84 would be articulated.</i>
[3] Windows and doors shall be trimmed with wood or stone a minimum of four (4) inches in width.	<i>Low-maintenance composite materials (such as hardiplank or azek trim) or masonry (such as natural or cultured stone) are proposed.</i>
<b>[g] Mechanical Equipment</b>	
[1] All HVAC or similar equipment shall be screened from ground-level views and views from any roads or adjoining properties at a higher elevation.	<i>HVAC layout has not been provided, however, the applicant proposes to fully shield all HVAC equipment with RTU screening.</i>

<p>D. The developer shall provide adequate proof to the Town Board, prior to the issuance of any certificate of occupancy, that the developer has contracted with a private security company for the purpose of patrolling the premises for the safety and security of its customers, employees and businesses invitees and to ensure that the premises do not become a focal point for loitering or vagrancy. Such contract, or replacements thereof, shall remain in full force and effect during the occupancy of any premises developed hereunder. Failure to adequately maintain security services for the premises shall result in the revocation of any certificate of occupancy by the Town of Southeast; and</p>	<p><i>TBD</i></p>
<p>E. The Town Board may require the inclusion of any of the foregoing conditions in a declaration of restrictive covenants executed in recordable form and to be recorded by the applicant/owner as a condition of any Special Permit approval.</p>	<p><i>TBD</i></p>

**WHEREAS**, the Town Board finds that east and southeast elevations of Retail Building A will be visible from I-84 and should have the same architectural treatment as the front of the building;

**WHEREAS**, at the ARB meeting on December 2, 2009, the Applicant presented revised elevations for the east side of Retail Building A (entitled Proposed Elevations for Buildings A, B, & C, drawing SW-2.3, dated November 18, 2009) and the southeast side of Retail Building A (entitled Proposed Elevations for Buildings A, B, & C, drawing SW-2.2, undated but presented to the ARB on December 2, 2009) which have added substantially similar architectural treatments to the upper portion of the façade, parapet, and roof line of east and southeast elevations of Retail Building A;

**WHEREAS**, the Town Board finds that the west elevation of Retail Building D is under-articulated, but that the existing heavily vegetated wetland will buffer its views from Route 6;

**WHEREAS**, in addition to its natural resources value, this existing wetland area serves as an important visual buffer between Route 6 and the proposed retail center, and no trees, other than what have been identified within the limits of disturbance evaluated in the Environmental Impact Statement, shall be removed from this area;

**WHEREAS**, while the Town Board finds that outdoor display areas have the potential to become unattractive outdoor storage areas, the Applicant has included delineated areas on the site plan, last

revised November 18, 2009, (and as required by the Special Permit Design Guidelines), to facilitate enforcement of these areas;

**WHEREAS**, while some of the proposed trees were initially too small, the Applicant has revised the landscape plan on Drawings SP-2.1 and SP-2.2 entitled Layout and Landscape Plan, last revised November 18, 2009, to increase the size of select trees in accordance with the direction of the ARB;

**NOW THEREFORE BE IT RESOLVED**, that pursuant to the authority vested in the Town Board by Chapter 3, "Architectural Review Board," of the Town Code, the Town Board hereby adopts the recommendation and report of the ARB for the approval of the architecture, as referenced above.

**BE IT FURTHER RESOLVED**, that pursuant to the authority vested in the Town Board by Chapter 78, "Freshwater Wetlands," of the Town Code, the Town Board hereby grants Wetland Permit Approval for the Proposed Action, as recommended by the Planning Board and the Town of Southeast Wetland Inspector, as referenced above.

**BE IT FURTHER RESOLVED**, that pursuant to the authority vested in the Town Board by Chapter 138, "Zoning," of the Town Code, the Town Board hereby grants Special Permit Approval for the Proposed Action, as defined above, subject to the following Conditions identified below. (For purposes of compliance, these conditions, and any other conditions identified in the environmental review of the Proposed Action, shall be enforceable by the Town of Southeast in accordance with the Town Code of the Town of Southeast).

1. The Applicant must conform to all the rules, regulations, and ordinances of the Town of Southeast, County of Putnam, and State of New York.
2. The Applicant is hereby bound by any statements offering modifications, improvements, or offerings to the Town of Southeast made by itself or its representatives in relation to approval of the Proposed Project.
3. Should project changes be required that would represent a significant change to the approved plans, the Applicant may be required to seek an amended Special Permit approval from the Town Board.
4. As stated by the applicant in a letter dated December 1, 2009, 1,500 square feet of space on the second floor of the retail center shall be made available to the community for public meetings, functions, or similar uses, including activities for seniors. The community space shall be accessible by elevator, and shall have ADA compliant restroom facilities. A secured storage cabinet and/or closets that could be used by the seniors or other civic and community organizations to safely store items shall be made available.
5. Existing trees, understory vegetation, and ground cover along all property lines shall remain undisturbed to the maximum extent practicable throughout the duration of construction. Should



any disturbance be required to construct approved improvements, the area shall be replanted with comparable vegetation as soon as is practicable following completion of construction activity in that area.

6. To allow for a more natural landscape and appropriate screening, the proposed trees shall be planted in a variety of caliper widths and tree heights, with larger trees planted at key locations.
7. All landscaping shall be installed in a healthy and vigorous state and shall be inspected at the beginning and end of the growing season within the first year of installation. Individual species that do not survive beyond the first year shall be replaced at the beginning of the next growing season. Landscaping shall be maintained for the life of the facility.
8. The Applicant shall provide an on-site and qualified arborist or landscape architect to supervise construction activity within 100 feet of any tree designated to be preserved on the approved plans. The arborist or landscape architect shall ensure that the tree protection measures indicated on the approved plans are in place and properly maintained throughout construction activity.
9. Rooftop HVAC equipment shall be fully screened from view, and upon installation, screening shall be adjusted as necessary to ensure proper shielding.
10. Outdoor display areas shall be maintained in such a manner to ensure an attractive and pedestrian friendly sidewalk.
11. Outdoor display areas shall be clearly delineated on the site plan to facilitate enforcement.
12. No banners, signs, or other promotional materials shall be permitted within outdoor display areas.
13. No heavy machinery, large equipment, or palletized merchandise shall be permitted within outdoor display or parking areas.
14. Vending machines, reverse vending machines (bottle and can recycling stations), ice machines, newspaper boxes, or similar equipment shall be prohibited outside any buildings.

**BE IT FURTHER RESOLVED**, that pursuant to the authority vested in the Town Board by Chapter 138, "Zoning," of the Town Code, the Town Board hereby grants Final Site Plan and Wetland Permit Approval for the Proposed Project, as defined above, subject to the following Conditions identified below. (For purposes of compliance, these conditions, and any other conditions identified in the environmental review of the Proposed Project, shall be enforceable by the Town of Southeast in accordance with the Town Code of the Town of Southeast).

#### **General Conditions**

1. The Applicant must conform to all the rules, regulations, and ordinances of the Town of Southeast, County of Putnam, and State of New York.
2. The Applicant is hereby bound by any statements offering modifications, improvements, or offerings to the Town of Southeast made by itself or its representatives in relation to approval of the Proposed Project.
3. Prior to issuance of a Building Permit, the applicant will submit to the Town Board information pertaining to the specific tenant/use and, if necessary, an amended site plan application showing any proposed modifications to the site for the specific tenant/use.

4. The Applicant is granted approval based on generic review by the Architectural Review Board of building design and elevations and will have to seek a second review if modifications to the approved design are made. The Proposed Project shall be constructed in accordance with the approved plans and drawings for the specific tenant as reviewed by the Architectural Review Board and approved by the Town Board.
5. Within thirty (30) days of this resolution, the Applicant shall provide to the Town of Southeast Town Board one full set of final full-sized plans and five copies of the filed plans on eleven-inch by seventeen-inch, or similar, paper, with a graphic scale indicated (to allow for scale measurements of photo-reduced drawings), for distribution to the Town Engineer, the Planning Board, the Town Clerk, the Building Inspector, and the Town Planner. The final plan set shall have a last revised date of April 17, 2018 and shall be certified by the Supervisor of the Town of Southeast.
6. The Applicant shall submit two (2) sets of as-built plans to the Town of Southeast Building Department after final construction is completed. The as-built plans must show the impervious surfaces, landscaping, and final design specifications for all stormwater management facilities. The plans must be certified by a professional engineer.

#### **Financial & Legal Considerations**

1. The Applicant shall post a Performance Bond in an amount determined by the Town Engineer and approved by the Town Board to ensure all site grading, stormwater management, and road improvements will be made in accordance with the approved drawings, Town of Southeast Code and to the satisfaction of the Town Engineer and/or Highway Superintendent. The Performance Bond may also be used to finance necessary work to stabilize the project site should the Applicant abandon the project and the Town is forced to complete necessary improvements. The establishment of the Performance Bond shall be done in a form acceptable to the Town Counsel. The bond amount will be based upon 2019 construction costs. If the construction is not begun during the calendar year 2019, the Applicant must re-apply to the Town Board for an adjustment of the bond amount to account for escalation of material and labor costs. Upon such request the Town Board shall diligently set a new bond amount in accordance with the recommendation of the Town Engineer. The Performance Bond must be paid prior to the start of any work on the site and/or the filing for a Building Permit. The Town Board requests that the Southeast Building Inspector withhold the Certificate of Occupancy until the Town Board or its duly authorized representative has made an inspection of the subject improvements and determined that the Applicant has complied with all the conditions of this approval.
2. Any and all outstanding inspection, engineering, or planning consulting fees shall be paid to the Town prior to the issuance of a Certificate of Occupancy for any improved lot.
3. This resolution supersedes all construction, design, approvals, conditions, restrictions, and requirements of any previously approved site plan or building permits for the affected parcels. The inclusion of certain previously adopted conditions in this resolution shall not be deemed as an affirmation of past approvals or conditions not recited herein.

### **Construction Activity**

1. At least ten (10) days prior to commencing construction of any required improvements, the Applicant shall notify the Town Board and the Town Engineer, in writing, of the time when it proposes to commence construction of such improvements so that the Town Board may cause an inspection to be made to ensure that all Town specifications and requirements shall be met during the construction of required improvements. The Applicant shall provide a general construction phasing schedule to the Town Board and Town Engineer and shall update that schedule, and provide copies to the Town Board and Town Engineer, throughout the construction process, as necessary. The Town shall require a pre-construction conference between the Town Engineer and Town Highway Superintendent and the owner or owner's representative, general contractor and on-site engineer to review construction phasing plans, inspections schedules, and requirements for complying with all regulations and conditions of this approval.
2. The Town of Southeast Town Board or its designee may make periodic inspections to ensure that all site work and site improvements are being made in conformance with the approved plat, its conditions, and all Town of Southeast Code requirements. The Applicant shall designate a responsible and competent person to be the on-site construction manager who shall be responsible for ensuring the continued compliance with the approved plat, its conditions, and all Town of Southeast Code requirements. The Applicant shall ensure that all remedial measures are taken within 72 hours of any notification of deficiencies relating to construction. If appropriate measures are not implemented to the satisfaction of the Town Engineer, a stop work order may be issued by the Town and/or a fine imposed according to Town Code.
3. Should project changes be required that would represent a significant change to the approved plans, the Applicant may be required to seek an amended approval from the Town Board.
4. The Applicant shall retain the services of a professional engineer and/or a landscape architect (in accordance with the drawings prepared) throughout the construction process who shall periodically observe the construction of all approved improvements, except improvements to Town of Southeast roads and drainage (which shall be inspected by the Town Engineer and/or Highway Superintendent). The Applicant's professional engineer and/or landscape architect shall provide a statement, in writing, that all approved improvements have been constructed substantially as required and approved by the Town Board or as such requirements have been modified.
5. Prior to commencing any site clearing, grading, or construction activity, the Applicant shall have the boundary of the property staked out by a licensed surveyor.
6. A copy of the completed Notice of Intent (NOI) to comply with the New York State Department of Environmental Conservation General Permit for Construction Activity shall be maintained at the on-site construction office.
7. All sediment and erosion control measures or Best Management Practices indicated on the approved plans and/or required for compliance with the New York State Department of Environmental Conservation General Permit for Construction Activity shall be installed at the commencement of grading activities and shall be inspected on a weekly basis (or following any storm event in excess of one-half inch) to ensure proper function. All construction activities shall adhere to the provisions for sediment and erosion control

contained in the New York State Department of Environmental Conservation's *New York Standards and Specifications for Erosion and Sediment Control*.

8. The design and construction of all proposed water quantity and water quality best management practices shall adhere to the *New York State Stormwater Management Design Manual*.
9. Any drainage improvements that would affect a Town drainage structure or element or any improvements to Town of Southeast roads shall be made in accordance with the Town Road and Drainage Specifications (Chapter A143 of the Town Code) and shall be made under the direction and supervision of the Highway Superintendent.
10. The Town Highway Superintendent must be notified a minimum of 72 hours in advance of any construction activity affecting the Town drainage system or any Town Road except where emergency repairs are required, in which case the Highway Superintendent must be notified as soon as possible after the affected area has been stabilized.
11. Existing trees, understory vegetation, and ground cover along all property lines shall remain undisturbed to the maximum extent practicable throughout the duration of construction. Should any disturbance be required to construct approved improvements, the area shall be replanted with comparable vegetation as soon as is practicable following completion of construction activity in that area.
12. All disturbed areas shall be stabilized pursuant to New York State Department of Environmental Conservation regulations. Should disturbed areas remain disturbed for periods longer than one month, more permanent stabilization measures shall be installed.

#### **Landscaping**

1. Prior to planting according to the approved landscape plan, the Applicant shall stake the location of all proposed landscaping and allow for a site inspection by the Town Board or its designees to ensure that the proposed landscaping will provide the maximum screening benefit and/or that the proposed landscaping is suitable for the visual setting and overall appearance of the project site.
2. All landscaping shall be installed in a healthy and vigorous state and shall be inspected at the beginning and end of the growing season within the first year of installation. Individual species that do not survive beyond the first year shall be replaced at the beginning of the next growing season. Landscaping shall be maintained for the life of the facility. In the event that said landscaping is not maintained to the satisfaction of the Building Inspector, the Building Inspector shall notify the applicant in writing of the violation. If the required landscaping maintenance is not performed within 30 during the growing season, or within 30 days of the start of the growing season if the violation is noted during the winter months, to the satisfaction of the Town Engineer and/or Building Inspector, the Town shall correct the violation and be reimbursed for Town costs by the applicant.
3. The Applicant shall provide an on-site and qualified arborist or landscape architect to supervise construction activity within 100 feet of any tree designated to be preserved on the approved plans. The arborist or landscape architect shall ensure that the tree protection measures indicated on the approved plans are in place and properly maintained throughout construction activity.

4. Existing trees, understory vegetation, and ground cover along all property lines shall remain undisturbed to the maximum extent practicable throughout the duration of construction. Should any disturbance be required to construct approved improvements, the area shall be replanted with comparable vegetation as soon as is practicable following completion of construction activity in that area.
5. To allow for a more natural landscape and appropriate screening, the proposed trees shall be planted in a variety of caliper widths and tree heights, with larger trees planted at key locations.

### **Architecture and Signage**

1. The application shall be subject to all representations made to the Planning Board, ARB, ZBA, and Town Board with regards to the proposed architecture. Any substantive changes to the proposed architecture shall be referred by the Building Inspector to the ARB for review and recommendation to the Town Board.
2. Prior to the erection of any signage or sign monuments, tenant signage design criteria shall be prepared by the Applicant and submitted to the ARB for review and approval. The tenant signage design criteria shall include the maximum dimensions, location, mounting style, materials, lighting, and any other such design elements as the ARB deems necessary to ensure that a cohesive signage package is developed for the site. The tenant signage design criteria shall govern all tenant signage on the site.
3. Prior to the erection of any tenant signage, the proposed tenant sign shall be reviewed and approved by the ARB in conformance with the approved tenant signage design criteria.
4. Rooftop HVAC equipment shall be fully screened from view, and upon installation, screening shall be adjusted as necessary to ensure proper shielding.

### **Stormwater Management**

1. Pursuant to § 119-13 of the Code of the Town of Southeast, the Applicant/property owner shall submit a plan for ownership, construction, operation and maintenance of stormwater facilities. This plan shall provide for the inspection, operation and maintenance of each and every component of such facilities and shall specify the methods and procedures to be used to provide and ensure the funds required for such inspection, operation and maintenance and who will be responsible there for. A four-year performance guaranty shall be provided for the entire stormwater management system by the developer to cover any modifications, corrections, or material failures. In addition, the developer shall fund or otherwise guarantee an inspection and maintenance program for a period of no less than 10 years.
2. The Applicant shall provide for the long term maintenance and continuation of stormwater control measures approved by the Town of Southeast. Stormwater control measures shall be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components.
3. This resolution binds the Applicant, property owner, and its successors, to the maintenance provisions depicted in the approved stormwater pollution prevention plan and site plan.

4. The Applicant shall maintain, clean, repair, replace and continue the stormwater control measures depicted in the approved stormwater pollution prevention plan to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices, aeration system, and retention ponds.
5. The Applicant/property owner shall be responsible for all expenses related to the maintenance of the stormwater control measures.
6. The Applicant/property owner shall provide for the periodic inspection of the stormwater control measures, not less than once per year, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Town Engineer within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
7. The Applicant/property owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Town.
8. The Applicant/property owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Town or in accordance with the recommendations of the inspecting engineer.
9. If ever the Town determines that the Applicant/Property owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Town or by the inspecting engineer, the Town is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.
10. All stormwater management basins shall be maintained to provide vector control. The aeration system shall be monitored and repaired as necessary. Any garbage or debris shall be removed on a regular basis.
11. Any plant material associated with the stormwater management facilities shall be installed in a healthy and vigorous state and shall be inspected at the beginning and end of the growing season within the first year of installation. Individual species that do not survive beyond the first year shall be replaced at the beginning of the next growing season. Plant material approved as part of the stormwater pollution prevention plan shall be maintained for the life of the facility and replaced as necessary.

#### **Outdoor Storage**

1. Outdoor display areas shall be maintained in such a manner to ensure an attractive and pedestrian friendly sidewalk.
2. Outdoor display areas shall be clearly delineated on the site plan to facilitate enforcement.

3. No banners, signs, or other promotional materials shall be permitted within outdoor display areas.
4. No heavy machinery, large equipment, or palletized merchandise shall be permitted within outdoor display or parking areas.
5. Vending machines, reverse vending machines (bottle and can recycling stations), ice machines, newspaper boxes, or similar equipment shall be prohibited outside any buildings.

**Community Space**

1. As stated by the applicant in a letter dated December 1, 2009, 1,500 square feet of space on the second floor of the retail center shall be made available to the community for public meetings, functions, or similar uses, including activities for seniors. The community space shall be accessible by elevator, and shall have ADA compliant restroom facilities. A secured storage cabinet and/or closets that could be used by the seniors or other civic and community organizations to safely store items shall be made available.

**Traffic**

1. The Applicant shall comply with all required conditions of the letter from Gregory Bentley, Sr. PE of the New York State Department of Transportation (NYSDOT) dated January 28, 2019 and the Project Submission Review Report for Stateline Retail Center, prepared by NYSDOT, dated January 25, 2019, and referenced above. Any changes to the Proposed Project shall require a new review under the State Environmental Quality Review Act (SEQRA) and referral to NYSDOT.

**UPON ROLL CALL VOTE:**

Councilman Alvarez	Aye
Councilwoman Eckardt	_____
Councilman Larca	Aye
Councilman Lord	_____
Supervisor Hay	Aye
	_____

VOTE: carried by a vote of  5  in favor,  0  against;  0  abstained.

### **PUBLIC COMMENT**

Peter Bell asked about the Court Budget and stated he spoke to people who have to wait over a year for a court date. If they are that busy, why the loss of money? Supervisor Hay explained that they haven't had as many Court dates this year, so he will have to adjust the budget next year.

Kathleen McBride stated that she brought her TV and electronics to Winter Brothers Carting in Danbury and they took it for her. She gave the Town Board the information.

### **TOWN BOARD COMMENT**

Supervisor Hay stated that there have been a lot of false fire alarms in the Town, about 330 last year. We have a Volunteer Fire Department who have to leave their jobs, get to the Fire Department, suit up and rush to the alarm to find out its for nothing. Some people don't take it seriously, but the Town is working with the Fire Department, Town Clerk, Building Department and Fire Inspector to start enforcing the Code. A warning will be sent first, then the fines will start to incur.

Councilman Lord stated he spoke with John Pilner from the County who has been involved with the Rail Trail. He said the section over Metro North to connect to Brewster Heights should be completed by January 2020. The trail from Lisi Towing on Route 6 to CT is going out to bid and will hopefully be completed by Jan 2021. The trail from Pumphouse Rd to Hopewell Junction, which will be about 23 miles and is being handled by Metro North, is proposed to be completed by 2020 also. There is one section near the trestle over the Croton river, near Brewster Honda that needs more funding and additional engineering.

Councilman Alvarez made a motion to close the meeting and Councilman Larca seconded. All in favor.

Respectfully Submitted,

Michele Stancati  
Southeast Town Clerk