

**TOWN OF SOUTHEAST  
John J. Dunford Civic Center  
1360 Route 22, Brewster, New York 10509  
December 10, 2009  
Special Meeting - 7:30 PM**

Notation of Exits  
Pledge of Allegiance

Present: Supervisor Michael Rights  
Councilman Paul P. Johnson  
Councilman Richard B. Honeck  
Councilman Roger Gross  
Councilman Dwight Yee

Also: Town Clerk Mazzei  
Town Attorney Stephens

And: Approximately 40 persons

Councilman Johnson called for the Order of the Day

Councilman Yee made a motion to open the meeting. Supervisor Rights seconded. All in favor.

Councilman Johnson made a motion to open the Special Meeting. Councilman Honeck seconded. All in favor.

**SPECIAL MEETING**

Councilman Johnson made a motion to close the Public Hearing for Stateline's Special Permit. Councilman Honeck seconded. All in favor.

**RESOLUTION # 63 /2009 APPROVAL FOR THE STATELINE RETAIL CENTER  
SPECIAL PERMIT, WETLAND PERMIT, AND ARCHITECTURE REVIEW BOARD  
RECOMMENDATION**

INTRODUCED BY: Councilman Johnson  
Councilman Honeck

**TOWN OF SOUTHEAST TOWN BOARD RESOLUTION OF APPROVAL FOR THE  
STATELINE RETAIL CENTER SPECIAL PERMIT, WETLAND PERMIT, AND  
ARCHITECTURE REVIEW BOARD RECOMMENDATION**

**WHEREAS**, the Applicant, PLI, LLC, proposes a project known as "Stateline Retail Center" comprising:

The construction of an approximately 184,800 square-foot retail center with 11,000 square feet of additional space on a second floor for a community use (1,500 square feet), a management office and office/personal service uses; and 2) a 14,800 square foot, 2-story office building for a total of 210,600 square feet of floor space; and

**WHEREAS**, the project is proposed for an approximately 44 acre undeveloped parcel of 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 number 68.-2-48, and zoned Gateway Commercial District (GC-2); and

**WHEREAS**, the Gateway Commercial District (GC-2) is the only such district in the Town of Southeast and extends from the Connecticut state line to the Village of Brewster; and

**WHEREAS**, the proposed project requires a Special Permit for the Large Retail portion from the Town Board; and

**WHEREAS**, the proposed project requires Site Development Plan review by the Planning Board; and

**WHEREAS**, the Applicant is seeking Subdivision approval of tax parcel 68.-2-48 into two lots such that the office use would be housed in a single structure located in the southwest corner of the subject property on Lot 1 (6.7 acres) of the subdivided parcel and the proposed retail uses would be housed in two separate structures in the south-central portion of the site on Lot 2 (37.3 acres) of the subdivided parcel; and

**WHEREAS**, the proposed project requires a Wetland permit for activity within the wetland buffer; and

**WHEREAS**, the proposed project requires review by the Architectural Review Board (ARB); and

**WHEREAS**, the Applicant is seeking an Area Variance 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), conducted a thorough review of the proposed project and potential environmental impacts and adopted a SEQR Findings Statement for the proposed project on September 28, 2009; and

**WHEREAS**, the Planning Board issued a positive recommendation that a wetland permit be granted for activity within the wetland buffer, dated September 29, 2009; and

**WHEREAS**, the Town of Southeast Wetland Inspector recommended the issuance of a wetland permit in a report entitled, "Wetland Permit Findings for Town Board Action," dated October 21, 2009; and

**WHEREAS**, the Town of Southeast Town Board referred the proposed project to the Putnam County Department of Planning, Development and Public Transportation pursuant to GML §239-m at its regular meeting of October 22, 2009; and

**WHEREAS**, on October 26, 2009, the Planning Board issued a positive recommendation and report on the Special Permit to the Town Board; and

**WHEREAS**, the Town Board received a positive recommendation from the Putnam County Department of Planning, Development and Public Transportation dated November 12, 2009; and

**WHEREAS**, the Town Board opened a duly-noticed Public Hearing on the Special Permit on November 12, 2009; and

**WHEREAS**, said Public Hearing was held open until December 10, 2009 at which time it was closed; and

**WHEREAS**, the ARB issued a positive recommendation 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 Applicant has an application pending before the ZBA for variances; and

**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;

**General Requirements for Conditional Use and Special Permit Approval**  
**§138-53(A): CONFORMS (Yes/No):**

(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. *The Town retains its authority to administer and enforce its Town Code as appropriate for all applications.*

(6) As a condition of all special permits and conditional use permits, a time limitation may be imposed. *The Town Board is establishing no time limitation on this application.*

**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;

**Special Use Permit Criteria for a Large Retail Center**

**§138-63.4: CONFORMS (Yes/No):**

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.

*See below for conformance with each provision of the Design Guidelines.*

**(1) SITE DESIGN**

**[a] Buffers**

[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 (10) years.

*Yes.*

[2] An Environmental Conservation Buffer of at least 50 feet in width shall be provided alongside 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.

*This provision would be included as a condition of approval and would be handled as an enforcement action should the need arise.*

### **[b] Building Location**

[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.*

### **[c] Site Access**

[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.

*Yes.*

**[d] Parking Lots**

[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.

*NA. Tenants have not been specified.*

[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.

*NA. No extra spaces have been proposed.*

[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

*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*

5

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.

*to the sides of the building.*

*Landscaped islands between parking areas are proposed.*

*No rear entrances or underground parking is proposed, however, given the topographical constraints of the site, surface parking is appropriate.*

[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.

*Yes.*

[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 bioswales may be substituted for raised parking islands (see Drawings LD-4, LD-5, and LD-6).

*Yes.*

[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).

*There is one island that includes a pedestrian walkway in lieu of a planting island, which is an appropriate substitution.*

[7] There shall be a provision for separate pedestrian flow to building entrance(s) outside of drive aisles for each parking area.

*Yes.*

[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).

*Yes. Pervious parking provided along the perimeters of the parking area.*

[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.

*Yes, including the 97 northernmost spaces.*

[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).

*Yes.*

[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.

*Yes.*

#### **[e] Circulation to Adjoining Parcels**

[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.

*Yes. A pedestrian path between proposed office building and retail center is proposed.*

6

[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.

*No. However, compliance would require significant wetland disturbance and is not appropriate at this time.*

#### **[f] Pedestrian Environment**

[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.

*Yes.*

[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.

*Yes.*

[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.

*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.*

[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).

*Yes.*

[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.

*Yes.*

[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.

*Yes.*

[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.*

**[g] Loading & Refuse Collection Areas**

[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.*

**[h] Signage**

[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.

*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] Lighting**

[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.*

**[j] Storage of Merchandise**

[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.*

**(2) BUILDING DESIGN**

**[a] Building Size**

[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.

*Yes. Large anchor tenant proposed with several smaller retail spaces.*

**[b] Building Height**

[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).

*Yes. The building is 35 feet or less, and all towers have been reduced to 50 ft or less.*

**[c] Building Style**

[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.

*Yes.*

#### **[d] Building Facades & Materials**

8

[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:

- The height of cornices, lintels and sill levels, articulated floor levels and other horizontal building features.
- The spacing and proportion of columns, piers and other elements of the basic structural grid.
- The spacing and proportion of window and door openings, bays or other aspects of building fenestration.
- Colors, textures and the general nature of exterior materials and treatment, including building ornament and trim.

*Yes.*

[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, square, or plaza. Public art installations such as murals are exempt from this requirement.

*Yes.*

[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:

- Variation in roof heights.
- Changes in the predominant wall plane and/or in facade elements such as window openings and balconies.
- Use of horizontal projections or recesses in the building facade such as bay windows, cornices, balustrades, etc.
- 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.

*Yes.*

[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.

*The rear façade has minimal articulation. However, those portions of the rear façade that would be intermittently visible from I-84 would be articulated.*

[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.

*Yes.*

[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, of 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).

*Yes.*

[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.

*Yes.*

9

[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.

*Yes.*

#### **[e] Building Roofs**

[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.

*Yes. The applicant has stated that SRI or equivalent material will be utilized.*

#### **[f] Building Materials**

[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.

*The rear façade has minimal articulation. However, those portions of the rear façade that would be intermittently visible from I-84 would be articulated.*

[3] Windows and doors shall be trimmed with wood or stone a minimum of four (4) inches in width.

*Low-maintenance composite materials (such as hardiplank or azek trim) or masonry (such as natural or cultured stone) are proposed.*

#### **[g] Mechanical Equipment**

[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.

*HVAC layout has not been provided, however, the applicant proposes to fully shield all HVAC equipment with RTU screening.*

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

*TBD*

10

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.

*TBD*

**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.
- 11
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.

Upon Roll Call Vote:

Councilman Yee Nay

Councilman Gross Aye

Councilman Honeck Aye

Councilman Johnson Aye

Supervisor Rights Nay

VOTE: carried by a vote of 3 in favor, 2 against; 0 abstained.

### **REASSESSMENT CONSULTANT**

Supervisor Rights made a motion to accept the bid from Briggs Appraisal Service for the Town of Southeast's Annual Real Property Reassessment Project. Councilman Yee seconded.

Motion was defeated by a vote of 2 in favor, 3 against.

Councilman Johnson made a motion to have Town Assessor Laurie Bell send an email to all five bidders for a new RFP, to be returned in a sealed envelope to the Town Clerk by a certain date. The Town Board will select a consultant at next weeks meeting. Councilman Honeck seconded.

Upon Roll Call Vote:

Councilman Yee: Nay

Councilman Gross Aye

Councilman Honeck Aye

Councilman Johnson Aye

Supervisor Rights Abstained

VOTE: carried by vote of 3 in favor, 1 against; 1 abstained.

Supervisor Rights made a motion to close the Special Meeting. Councilman Yee seconded. Motion failed by a vote of 3 in favor, 2 against.

### **SET PUBLIC HEARING**

Councilman Johnson made a motion to set a Public Hearing for Fabric Covered Storage Structures at the December 17, 2009 meeting at 7:00 PM at 1360 Route 22, Brewster, NY. Councilman Honeck seconded. All in favor.

## **EXECUTIVE SESSION**

Councilman Johnson made a motion to go into Executive Session for Litigation. Councilman Honeck seconded. All in favor.

Councilman Honeck made a motion to come out of Executive Session and start the Worksession. Supervisor Rights seconded. All in favor.

No motion was made to close the Special Meeting.

Respectfully submitted,

Ruth Argo Mazzei  
Southeast Town Clerk