
LAND USE, ZONING, AND PUBLIC POLICY

Chapter Two

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A. Introduction

The 51.88± acre property is presently zoned RC - Rural Commercial, a Zone with a limited number of permitted or special permit commercial uses which are, in the applicant's opinion, financially viable. The applicant has requested an HC-1 Zone designation for to the site. The applicant has requested, special permit, site plan and wetland permit approval of the Town Board of Southeast.

B. Land Use

1. Existing Conditions

The site is 51.88± acres in size. A single family residence and a three ± acre wood processing facility occupy the property. A driveway serving both uses enters from Route 312, see Map#11, Existing Conditions.

The site is wooded with a mixture of oak, maple, and birch. The site has been logged over time as lumber has continually been harvested.

The property has 1,900± feet of frontage on NYS Route 312 along the northwest side of the site. The site has 1,800± feet frontage on I-84 on the southern side and 3,000± feet of frontage along the Metro North Rail Line on the easterly side. A residential property abuts to the north, zoned ED - Economic Development, See Maps #5, #8, #11, and #12.

Within 1/4 mile of the site to the northwest, lies Terravest Corporate Park which is developed with over 540,000 SF± of light industrial, warehouse and office space constructed and 150,000 SF± planned for expansion. Route I-84 lies immediately south. Within 1/4 mile of the site and abutting I-84 is the "Highlands" retail center of 380,000 SF±. Easterly, is undeveloped land beyond the railroad right of way mostly composed of NYSDEC Wetland BR-18. Northerly lie two small homes followed by older industrial uses on Route 312, see Map #8 and Map#12.

Site context is important when considering the possible impact of a

developmental proposal. Generally, it is usually desirable to propose projects which are consistent with the majority of neighboring uses. Map #12 Land Use Category Map, depicts the various types of uses within 1/4 mile of the subject property. The map shows that commercial land uses and transportation land uses dominate the area. Vacant lands lie to the east of the site. Due to the fact that the easterly vacant parcels are encumbered by wetlands, the potential for development is low. The only residential properties in the immediate area lie north of the site; these two lots front on Route 312 and are zoned ED, Economic Development.

2. Existing Zoning RC Summary:

- Office, restaurant and recreation are permitted uses.
- Bed and Breakfast, Cemetery, Country Inn, Conference Centers, Equestrian Center, Farm Use, Hotel, Institutional, Nursery, Public Utilities, Research Labs, Veterinary and Animal Hospitals are allowed as special permit uses
- Accessory uses are Restaurant, Private Utilities, Retail and Services .
- Allowed lot size is 200,000±SF, lot frontage, lot width, and lot depth are set at 400'.
- A 100' setback is required for all front, side, and rear yards as is a 50' environmental conservation buffer.
- Building coverage is set at 15%, floor area ratio at .15 and lot coverage for 45%, while open space must be 55%.
- Building height is limited to 3 stories or 35'.
- Parking setbacks are required as 100 in all yards.

See Maps #6 and #7 Existing Zoning and Proposed Zoning.

Maximum Development Potential:

Per the Town of Southeast Zoning Code, Floor Area Ratio (FAR) is calculated on a land base minus 50% of slopes over 25% and 50% of State Wetlands on the site. In this case, the FAR will be calculated on 41.79+/- acres.

FAR Calculation: Find FAR area-	
Base Property Area:	51.88+/- ac.
Subtract 50% of slopes over 25%	
19.75+/- acres x 0.5=	- 9.87+/- ac
Subtract 50% of State wetlands	
0.44+/- acres x 0.5=	- 0.22+/- ac

Total Lot Area for FAR Calculation	41.79+/- ac

Based on an FAR Area of 41.79 acres (or 1,820,372+/- SF) and a maximum FAR

allowed of 0.15, a FAR of 273,055 SF± could be developed on the property under RC Zoning.

3. Potential Impacts as a Result of the Proposed Project

The applicant believes the proposed HC-1 Retail/Commercial use of the property is consistent with the majority of uses on the surrounding area. The proposed use is compatible with the “Highlands” retail center to the south and west; it also is complementary to the uses within Terravest Corporate Park. Visitors and employees to Terravest will potentially shop at Crossroads 312.

Two houses lie immediately north of the project which are zoned ED - Economic Development. With the ED zoning, the Town appears to desire these lots be redeveloped for economic growth. Immediately to the north of these lots are industrial land uses.

Site context is important when considering the possible impact of a development proposal. Generally, it is usually desirable to propose projects which are consistent with the majority of neighboring land uses. Map #12 Land Use Category Map, depicts the various type of uses within the ¼ mile of the subject property. The map shows that commercial land uses and transportation land uses dominate the area. Vacant lands lie to the east of the site. The only residential properties in the immediate area be north of the site; these two lots front on Route 312 and zoned ED, Economic Development.

The proposed project will generate some additional traffic in this Commercial area of Town. Stormwater discharges will follow the natural slope of the site and be directed toward the east. Much of the development will not be visible due to topography and screen planting from the east, south and west. The development will only be partially visible from Route 312 because a required Environmental Conservation Buffer of 75' will be established as per Section 138-63.4 of the Zoning Code. A description of the Environmental Conservation Buffer is included in Chapter 1. The applicant believes the proposal is consistent with the Town Comprehensive Plan in suggesting this area is a potential node of economic activity.

4. Mitigation Measures Proposed

The majority of surrounding land uses are developed as commercial properties. The proposed zone change will allow the continued development of the area as commercial. The most significant potential impact of commercial development of the site may be traffic. Similar traffic volumes would be generated from the development of the site under the present RC Zoning were a market to exist for office development and a project constructed for office use. Mitigation to offset

the impacts of increased traffic generation will include improvements at both the east and west bound ramps at Exit 19 on Route I-84. Lanes will be adjusted or added and signals will be upgraded. NYS Route 312, within vicinity of the site, will have turning lanes added at the proposed driveway locations and at International Boulevard. The traffic signal at International Boulevard will be improved. The proposed improvements should maintain the current levels of service in the area. With the additional improvements made to North Brewster Road and Route 312 intersection as well as at the Route 6 and 312 intersection and, at the Applebee's/Home Depot intersection on Independent Way, existing traffic flows in the area should be improved. The traffic system is discussed in detail in Chapter #11.

Stormwater discharges will be mitigated both during construction and following development. Erosion control practices such as minimizing areas of disturbance and the creation of temporary sedimentation basins and re-stabilization of the site will mitigate construction impacts, surrounding land uses will not be harmed during construction. These plans will be developed through final design.

Long term stormwater discharges will be mitigated by employing a series of treatment systems designed to meet regulatory requirements. Stormwater detention and pollutant reducing basins will be employed along with low impact techniques such as porous paving and , possible green roof areas.

C. Zoning

See Existing Zoning Map #6 and Proposed Zoning Map #7 See also Appendix A Zoning Petition.

1. Existing Conditions:

The site is now zoned RC-Rural Commercial. The RC Zone requires 100' building and parking set backs on all sides. Building coverage is set at 15% maximum, a maximum .15 floor area ratio is allowed, 45% lot coverage is allowed. (impervious surface). Height is limited to three stories or 35'. Given these requirements, allowed total allowed floor area on the 51.88 acre site would be about 273,055 SF± , as noted above based on a FAR area of 41.79+/- ac.

Permitted uses include office, restaurant and recreation. Special permit uses include bed and breakfast, cemetery, country inn, conference center, equestrian center, farm use, hotel, institutions, nursery, public utilities, research labs.

Prior to 1996, the land had been Zoned OP-1 and OP-2, office park districts. In 1996, the property was conditionally re-zoned HC-1 Highway Commercial. It was stipulated in the rezoning that a Site Plan be filed for the properties before a

deadline of May 28, 1999.

On December 13, 1996, a Site Plan was filed for lots 52, 53, and 54 of Section 45, Block 2. On May 29, 1997, a Site Plan was filed for lots 55 and 56 of Section 45 Block 2. Please see Zoning Petition, Appendix A.

The property was rezoned by the town to RC in 2004. Existing Zoning is as described on the on the Comparison Zoning Chart at the end of this chapter.

2. Potential Impacts as a Result of the Proposed Project

The Proposal seeks a rezoning to HC-1, a zone which existed on the site from 1996 to 2004. A Comparison Chart is included at the end of this section which lists the attributes of the HC-1 and RC Zones. The proposed zone provides retail and large retail as special permit uses. The proposed HC-1 Zone does not list hotels as permitted or special permit uses. The applicant has requested the Town consider modifying the HC-1 zone to allow 4-story hotels. A plan depicting a hotel is included in the Alternative Section.

D. Comparison to Existing RC Zone:

- The significant technical differences between the RC and HC-1 are:
 1. A hotel is a special permit use in an RC Zone but not included in the list of permitted or special permit uses in a HC-1 Zone.
 2. Retail or large retail is not permitted or special permit use in on RC Zone
 3. Personal and Professional Services are not included or permitted or special permit use in an RC Zone.
 4. As the Petition requests, all “large retail” developments would place, site plan and wetland review and approval at the Town Board. This would simplify the process by keeping the review and approval authority with one board.
 5. The petition requests the Town Board be authorized to issue a permit for tree removal and site disturbance in a ridgeline area ,138-12.1 A & B if

the resulting development remains hidden from surrounding roads.

6. The petition requests the Town Board be authorized to issue a permit for a variation to the steep slopes and retaining wall provisions of 138-15.1 A & B by up to 10% to provide flexibility to address any un-anticipated design changes or field conditions.
7. The petition requests the Town Board amend the HC-1 Zone to allow, by special permit, four story hotels.

4. Mitigation Measures Proposed

The HC-1 Zone will allow more special permit uses at greater density than the RC Zone. However, the applicant is proposing a development which will qualify as 'large retail' under 138-63.4 as a 'large retail' use the FAR automatically drops to 0.15, equal to that of the RC Zone. A front yard environmental conservation buffer of 75' is also required. Other provisions of 138-63.4 such as a requirement for porous paving will mitigate the impact of impervious surface.

The Town has expressed both a desire to see economic development and simultaneously, a desire to preserve the visual character of the Town. The HC-1 Zone with the 'large retail' overlay will require a 75' Environmental Conservation Buffer along Route 312. The applicant proposes to create a screen berm and planted buffer to reduce the visual impact of site development from view of those traveling Route 312. Area of Disturbance, Building Coverage, FAR and impervious cover will meet the requirements of the existing RC zone. There are **no** increases requested for those bulk requirements under the proposed HC-1 zone.

The applicant proposes to maintain a buffer of existing trees along the Route I-84 frontage and will set the development below the ridgeline elevation so that buildings are not visible from the highway.

E. Public Policy

1. Existing Conditions

Public Policy at the time of the last zoning change is reflected in the present zone of the property RC - Rural Commercial as noted previously. Rural Commercial Zoning requires somewhat larger setbacks than does the proposed HC-1 Zone. The uses permitted or by special permit are limited and do not include retail or large retail. Since the implementation of the present zoning regulations, which had changed, the Zoning District of the site from HC-1 to RC, little new

commercial development has taken place in the Town of Southeast and as a result, little new tax revenue has been generated.

Both within Putnam County and the Town of Southeast, the prolonged economic recession has prohibited approved projects from moving forward. The Town of Carmel approved the Gateway Summit project on Route 6, nothing has been constructed. A new 50,000 SF± office building was approved in Carmel on the site of the former Guideposts property; no construction has happened. The Towns of Patterson and Kent approved a retail development called Patterson Crossing of 400,000 SF± no construction has happened. State Line Retail of 184,000 SF± was approved in the Town of Southeast, just west of the Danbury town line, no construction has happened. Perhaps worse than lack of construction, approved projects with potential for economic generation have been taken off the table. Projects such as the Putnam Seabury Campus at Fields Corner, approved for a mixture of residential and commercial space, has given up the approvals. The Putnam Seabury project, for example, was granted numerous approvals from local, state and regional agencies, approvals which cost a small fortune and many years of work, which were abandoned.

In regard to specific references to Town documents, the Town Comprehensive Plan indicates in Section 7.2, Page 7-4, a general support of balanced economic growth:

“The Town of Southeast seeks a diversified base of business and industry to strengthen the Town’s tax base and to provide employment opportunities for area residents while providing the Town’s rural residential character and protecting the Town’s portion of the regional drinking water supply. Future non-residential uses should be targeted to those areas where they will have minimal impact on water quality, traffic, and commuting character.”

Since 2004, the Town had desired this site be developed as an office park as noted on Page 7-4 of the Comprehensive Plan. Unfortunately, the applicant believes that the market for office development does not exist in this section of New York State, thereby making the stated desire unobtainable.

The Comprehensive Plan further states the following about the Town’s vision:

“The I-84/Route 312 interchange—This area is envisioned as a node of commercial activity. Continued development within the Terravest

Corporate Park, the new Highlands Center, and any potential development in the “Campus at Fields Corner” along Pugsley Road would be compatible with this vision.”

The idea of the I-84/Route 312 intersection as an important feature in the Town’s Long Term Economic Development Plan is reinforced in the Transportation Section of the Comprehensive Plan, Page 8-4

“ As discussed in Section 7, one focal point of commercial development in the next twenty years is expected to be an 1,800-acre area around the I-84/Route 312 interchange. This area in Southeast’s northwestern quadrant has the advantages of good transportation location, beautiful views from its hills of the nearby reservoir, commercial zoning which permits large scale development, and large vacant parcels of relatively buildable land. “

“This area promises to be a significant commercial hub for the Town of Southeast and for Putnam County. However, the level of development proposed can not be built without roadway improvements. The roads in the area are a spectrum of nearly impassable dirt roads, passable dirt roads, tow lane country routes, and a multi-lane interstate. Southeast and the development community active in this area agreed to pursue creating a special assessment district which would fund needed improvements.”

Further support for economic development is found on the Croton Plan on Page 1-8 in a discussion of the character and special needs of a community. Two important needs are reference for the Town of Southeast and the importance of the highway interchange is recognized.

- “Maintaining a strong commercial and industrial base.”
- “Maintaining a strong commercial and industrial tax base to provide opportunities for local employment.”

“The Third and Fourth factors listed above, regarding maintenance of a strong commercial and industrial tax base to balance residential taxes and to provide employment for residents of the Town and County, is an objective of most

towns. The Town of Southeast is fortunate to have a healthy balance of commercial and residential uses, and the prospect of additional commercial uses in the short and medium term.”

On Page 1-13 of the Croton Plan, support for commercial development at the I-84/Route 312 interchange is evident. The plan states that commercial development can happen in coordination with watershed protection and good design, (also see Figure I-18 from the Croton Plan, attached).

“ Fields Lane and the Interchange of I-84 and Route 312. The impacts from these uses must be considered on a case by case basis. When properly designed and located, new commercial uses can contribute to community character. Adequate stormwater management and wastewater treatment must be available for these land uses to comply with water quality objectives. At the interchange of I-84 and route 312, the Town has adopted a Conditional Rezoning for certain commercial parcels that establishes strong design guidelines for new uses to ensure that the overall appearance and character of the area is not dominated by one development.”

Figure 1-18, from the Croton Plan, indicates that Area F, the I-84/Route 312 area is an existing and potential commercial area. The Crossroads site falls entirely within the area. The Croton Plan on Page 1-17 calls for a strong diversified tax base and for new growth to be located in areas where development will have minimal impact on water quality, traffic and community character.

“Provide a healthy economic environment”

The Town of Southeast seeks a diversified base of business and industry to strengthen the Town’s tax base and to provide employment opportunities for area residents while preserving the Town’s rural residential character and protecting the Town’s portion of the regional drinking water supply. Future non-residential uses should be targeted to those areas where they will have minimal impact on water quality, traffic and community character.”

On Pages 4-5 and 4-6 of the Croton Plan under the Section of Goal and Policy for Economic Development, the concept of strengthening the Town tax base and employment opportunities of the I-84/Route 312 interchange is reinforced.

“The Town of Southeast seeks a diversified base of business and industry to strengthen the Town’s tax base and to provide employment opportunities for area residents while providing the Town’s rural residential character and protecting the Town’s portion of the regional drinking water supply. Future non-residential uses should be targeted to those areas where they will have minimal impact on water quality, traffic, and commuting character.”

“The Town envisions commercial growth continuing in the following areas: The I-84/Route 312 interchange– This area is envisioned as a node of commercial activity. Continued development within the Terravest Corporate Park, the new Highlands center, and any potential development in the “Campus at Fields Corner” along Pugsley Road would be compatible with this vision.”

“To accomplish these goals, the Town of southeast intends to:

* Adjust the distribution of allowed uses within the existing zoning districts to more clearly define areas of commercial development that are consistent with community character.

* Update the zoning code to include design standards to ensure that larger retail facilities (“big box retail”) do not dominate the surrounding character of commercial or residential districts. Include site design and landscape standards to lessen the visual impact of these types of uses.”

2. Potential Impacts as a Result of the Proposed Project

The applicant believes, the goals and policies cited above are all consistent with the proposed zone petition and the particulars of the site plans filed with the Town Board.

The site could be developed with commercial uses and, large retail use, at a possible FAR of .15, not exceeding that of the existing RC Zone. Site development as a result of Land Use Regulations changes, would be similar in extent to permitted development under the RC Zone.

In addition to being consistent with the Public Policy, The development will generate a diverse tax base with retail, hotel, banking, and restaurant space. Additional employment opportunities will become available in these fields. The implementation of the stormwater requirements of the NYSDEC and NYCDEP will maintain stormwater quality. The development is proposed to occur at a location where public planning documents refer to the area as a “Node of Commercial Activity”. No large scale residential development is close to the property. The character to the interchange is

commercial with over 1,000,000 SF of industrial and retail space existing within ¼ to ½ mile.

3. Mitigation Measures Proposed

1. The proposal will mitigate site disturbance by providing: 262+/- permanent jobs, \$46,084+/- in property taxes to the Town, \$568,519+/- in property taxes to the School Board, \$60,920 +/- in property taxes to the County, \$10,340+/- in property taxes paid to the Fire District- for a total of \$687,863+/- . \$3,955,000 will be paid in sales taxes to the County and a nearly equal amount to the State, annually.
2. Proposed traffic impacts will be mitigated with numerous improvements. Roadway improvements will be constructed, at private expense. Traffic mitigation is proposed to mitigate existing conditions at North Brewster Road and Route 312, Route 6 and 312 and at the Applebee's/Home Depot driveways.
3. A 75' Planted Environmental Conservation Buffer will be created along the frontage of Route 312 to screen the development.
4. The development will maintain a portion of the ridgeline area and will be invisible from Route 84.
5. Design requirements of 138.63.4 will mitigate the appearance of large scale development.
6. An existing approved subsurface discharging wastewater treatment facility will handle all sewage flows, the watershed will be protected without impacting other land uses.
7. An existing well system and water tank will address fire and domestic water needs without impacting other land uses.
8. Construction will be phased to minimize construction impacts on the environment. Stormwater basins and other best management techniques will be employed to protect regional water quality.

F. SUMMARY of the Petition Request to Town Board

1. Rezone 51.88 site from RC to HC-1.

2. The Town to modify the HC-1 Zone Table of Uses to permit, as a special permit use, hotels with a 4 story height limit.
3. The Town Board to establish that all 'Large Retail' projects meeting the Zoning Code definition of such, regardless of underlying zone designation, be reviewed and Site Plan Approval granted by the Town Board.
4. The Town Board establish a permit process for approval of ridgeline area tree removal and disturbance.
5. The Town Board establish a permit process for approval of variation to 138.15.1.A & B of up to 10%.
6. Town Board retain review authority associated with wetlands for "Large Retail" projects. Wetland approval authority already rests at the Town Board.

RC Zone/HC-1 Zone Comparison Chart

Requirements	RC Zone Required/Allowed	HC-1 Zone Required/Allowed	Crossroads 312 Proposed
The following dimensional requirements shall apply:			
1. Minimum Lot Size	200,000SF	40,000SF	2,259,892 SF
2. Minimum Lot Frontage	400 feet	150 feet	2,200 feet
3. Minimum Lot Width	400 feet	150 feet	2,200 feet
4. Minimum Lot Depth	400 feet	150 feet	1,000 feet
5. Minimum Front Yard	100 feet	50 feet (*75' Buffer)	150 feet to building includes 75' Environmental Conservation Buffer
6. Minimum Side Yard	100 feet	35 feet (*50' Buffer)	180 feet
7. Minimum Rear Yard	100 feet	35 feet (*50' Buffer)	360 feet
8. Maximum Building Coverage	15%	15%	8%
9. Maximum Floor Area Ratio	0.15	0.30 (*.15)	0.08
10. Maximum Lot Coverage	45%	45 %	30%
11. Minimum Open Space	55%	55%	60%
12. Maximum Height	3 stories/ 35 feet	3 stories/ 45 feet	1 story/30'
*13. Minimum Front Parking Setback	100 feet	25 feet	75'
14. Minimum Side Parking Setback	100 feet	25 feet	80'
15. Minimum Rear Parking Setback	100 feet	15 feet	300'
16. Minimum Buffer Abutting Single Family Residential District			
Permitted Uses			
	Office	Office	Yes
	Restaurant	Personal Services	Yes
	Recreation	Professional Services	Yes
		Restaurant	Yes
		Recreation	
Special Permitted Uses			
	Bed & Breakfast	Carwash	
	Cemetery	Large Retail Establishments *	Yes (Large Retail Establishments only)
	Country Inn	Public Utilities	
	Conference Center	Adult Uses, Night Clubs	
	Equestrian Center	Pawn Shops, Pool or Billiard Hall and Tattoo Parlors	
	Farm Use	Retail	
	Hotel	Kennel & Animal Hospital	
	Institutional		
	Nursery		
	Public Utilities		
	Research Lab		
	Kennel and Animal Hospital		
Permitted Accessory Uses			
	Restaurant	Residence Private Utilities	
	Private Utilities		
	Retail		
	Services		
*Requirements of Large Section 138-63.4			