

McCULLOUGH, GOLDBERGER & STAUDT, LLP

MEMORANDUM

TO: Board of Trustees of the Village of Croton-on-Hudson

FROM: James Staudt

CC: VHB Engineering, Surveying and Landscape Architecture, P.C.

RE: Local Law Introductory No. 3 of the Year 2010 (October 2011 version)
Harmon/South Riverside Gateway Zoning Amendments

DATE: February 2, 2012

This matter has now reached the stage of the process where it is appropriate for the Board as Lead Agency to make a "Determination of Significance" under the SEQRA Regulations. The Determination of Significance is effectuated by adopting either a "Positive Declaration" or a "Negative Declaration". A Positive Declaration is a written determination that the proposed action (in this case the adoption of the Local Law) may have a significant adverse impact on the environment and that an Environmental Impact Statement should be prepared. A "Negative Declaration" is a written determination that the proposed action (the adoption of the Local Law) will not result in any significant adverse environmental impact and that an Environment Impact Statement will not be required.

Either one of these documents (i.e. a Positive Declaration or a Negative Declaration) requires careful preparation with detailed information about the proposed action, potential impacts, etc. Typically, in a matter like this, the document is drafted by the Lead Agency's professional Planning Consultant.

Accordingly, I have attached hereto a draft Resolution for the Board to give direction to its Planning Consultant (VHB Engineering, Surveying and Landscape Architecture, P.C.) to draft the Determination of Significance. In order to be prepared to give direction to the Planning Consultant, it is my advice that, prior to Monday's meeting, each of you have reviewed and considered the following:

1. The proposed Local Law.
2. The EAF including the addendum thereto.
3. Input you have received to date from involved/interested agencies and interested parties.

4. The section of the SEQRA regulations setting forth the criteria you are to consider in making a Determination of Significance (Part 617.7(c)).

I know you all have the draft Local Law and the EAF with addendum. I am attaching hereto a copy of Section 617.7(c) of the SEQRA Regulations which I recommend you review in advance of Monday's meeting so you will be prepared to give VHB direction.

I have attached hereto a draft Resolution to provide direction to VHB. I have placed alternate paragraphs in the draft:

1. Alternate "A" would direct VHB to prepare a Positive Declaration.
2. Alternate "B" would direct VHB to prepare a Negative Declaration.

Obviously, you will choose one or the other of the alternate paragraphs in adopting your resolution.

Finally, it should be noted that, at this time, you are not actually making your Determination of Significance, but directing your consultant to prepare a draft for your consideration.

John Saccardi from VHB and I will be at your meeting on Monday night to answer any questions you have.

On motion of TRUSTEE _____, seconded by TRUSTEE _____, the following resolution was adopted by the Board of Trustees of the Village of Croton-on-Hudson, New York:

**RESOLUTION DIRECTING DRAFTING OF DETERMINATION OF SIGNIFICANCE
REGARDING LOCAL LAW INTRODUCTORY NO. 3 OF THE YEAR 2010
(October 2011 Version)**

WHEREAS, the Mayor and members of the Board of Trustees have reviewed Local Law Introductory Number 3 (October 2011 version), the Environmental Assessment Form and Addendum to the Environmental Assessment Form in connection with this proposed law, and input from other involved/interested agencies and interested parties in connection with this proposed law; and

WHEREAS, the Mayor and members of the Board of Trustees have each reviewed the criteria for making a Determination of Significance set forth in Section 617.7(c) of the SEQRA regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF CROTON-ON-HUDSON, NEW YORK, as follows:

That VHB Engineering Surveying and Landscape Architecture, P.C. is hereby directed to draft for the Board's consideration:

Alternate "A"

A Positive Declaration (i.e. a determination that the proposed Local Law may have a significant adverse impact on the environment and that an Environmental Impact Statement will be required) regarding Local Law Introductory No. 3 of the year 2010 (October 2011 version).

or

Alternate "B"

A Negative Declaration (i.e. a determination that the proposed Local Law will not result in any significant adverse environmental impact) regarding Local Law Introductory No. 3 of the year 2010 (October 2011 version).

Dated: February ____, 2012

§617.7 Determining significance

(c) Criteria for determining significance.

(1) To determine whether a proposed Type I or Unlisted action may have a significant adverse impact on the environment, the impacts that may be reasonably expected to result from the proposed action must be compared against the criteria in this subdivision. The following list is illustrative, not exhaustive. These criteria are considered indicators of significant adverse impacts on the environment:

(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;

(iii) the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;

(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;

(v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;

(vi) a major change in the use of either the quantity or type of energy;

(vii) the creation of a hazard to human health;

(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;

(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;

(x) the creation of a material demand for other actions that would result in one of the above consequences;

(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or

(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

(2) For the purpose of determining whether an action may cause one of the consequences listed in paragraph (1) of this subdivision, the lead agency must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are:

(i) included in any long-range plan of which the action under consideration is a part;

(ii) likely to be undertaken as a result thereof; or

(iii) dependent thereon.

(3) The significance of a likely consequence (i.e., whether it is material, substantial, large or important) should be assessed in connection with:

(i) its setting (e.g., urban or rural);

(ii) its probability of occurrence;

(iii) its duration;

(iv) its irreversibility;

(v) its geographic scope;

(vi) its magnitude; and

(vii) the number of people affected.