

**GATEWAY DISTRICTS  
Village of Croton-on-Hudson  
Westchester County, New York**

**FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT**

**LEAD AGENCY:**

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Croton-on-Hudson, NY 10520

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**January 2004**

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## 1.0 INTRODUCTION

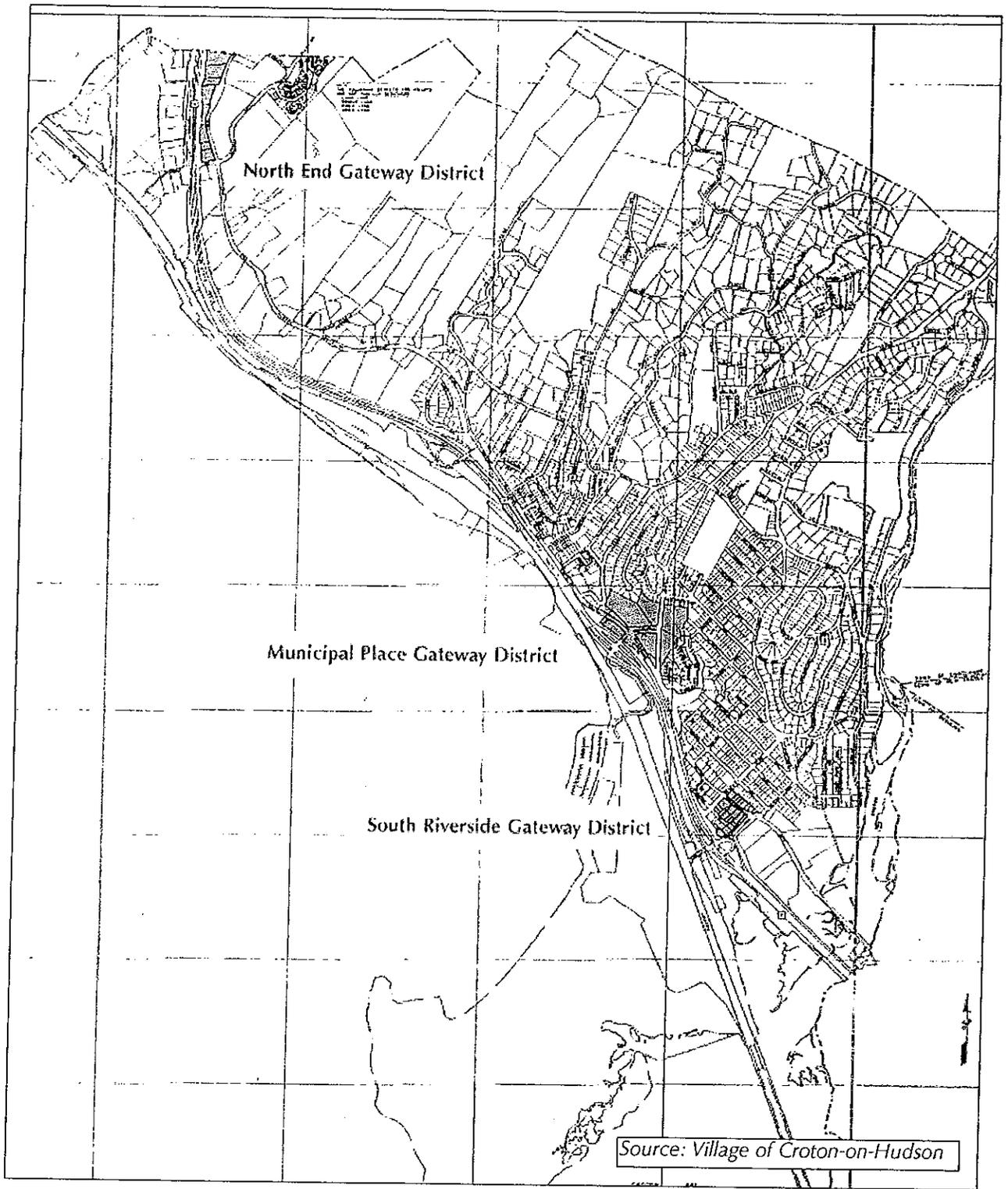
This Final Generic Environmental Impact Statement (FGEIS) for the adoption of a Gateway Overlay District ordinance is submitted by the Village of Croton-on-Hudson, as "Applicant", in compliance with the requirements set forth in the New York State Environmental Quality Review Act "SEQR". The Village of Croton-on-Hudson is the lead agency for this action under SEQR. The lead agency must approve the proposed project in order for it to proceed.

The Village of Croton-on-Hudson is proposing the adoption of a Gateway overlay zoning ordinance for three gateway areas, as identified in the Village's 2003 Comprehensive Plan. These areas are: Harmon/South Riverside; the Municipal Place Shopping Area; and the North End office district along Albany Post Road (Route 9A). See Figure 1.1 Project Location. The three areas were selected on the basis of three characteristics:

1. Vehicular entry points into Croton-on-Hudson from Routes 9 and 9A
2. Commercial or office uses principally accessed by automobile traffic
3. Possibilities for development and redevelopment

The goal of the proposed zoning is to establish standards that upgrade the image and function of gateway areas, strengthen the overall visual identity of the Village, and improve linkages to adjacent residential neighborhoods.

The proposed overlay includes special use regulations, FAR controls, size limitations, open space and lighting requirements, design regulations as well as individual design guidelines for each of the three gateways.



**Village of Croton-on-Hudson, New York**  
Gateway Districts FGEIS

Figure 1.1: Gateway Districts

## 1.1 SEQR History and Status

On October 22, 2002, the Village of Croton-on-Hudson Board of Trustees declared itself as lead agency under SEQR. On August 20, 2003, the Village, as lead agency under SEQR, issued a Positive Declaration requiring the preparation of a Draft Generic Environmental Impact Statement (DGEIS). In issuing the Positive Declaration, the Village of Croton-on-Hudson determined that the proposed action may have a significant effect on:

- Socioeconomics/Neighborhood Character

A DGEIS was submitted to the Village of Croton-on-Hudson Board of Trustees on Friday October 3, 2003. At an October 7th meeting the Board of Trustees accepted the DGEIS as complete and issued a Notice of Completion and SEQR Hearing for the DGEIS. Accordingly, on November 3, 2003 a public hearing was held at the Stanley H. Kellerhouse Municipal Building. A total of three speakers commented on technical aspects of the DGEIS and/or provided general comments regarding the proposed action. The DGEIS public comment period remained open until November 21, 2003 for the receipt of written comments. A compilation of all written comments and a record of the public hearing are included in the Appendix.

## 1.2 Revisions to Legislation

In response to comments raised during the public hearing and comment period, the Board of Trustees has made several changes to the proposed legislation. The original and revised legislation texts are included in the Appendix. The changes are as follows:

1. §230-20.3-3: The limitation on hours of operation has been deleted
2. §230-20.4-2: The maximum building square footage for any single building has been changed from 8,000 square feet to 20,000 square feet. The size limitation now applies to *any* single building, not just those buildings designed for retail use.
3. §230-20.4-3: A maximum square footage limitation has been established for any single commercial use. This restriction limits the maximum permissible square footage for any single commercial use by any single occupant or tenant to 8,000 square feet of gross floor area.
4. §230-20.5-3 (Open Space): The per-lot open space requirement has been *decreased* to 15%, from 25%.

Two additional corrective revisions have been made to the legislation.

1. §230-20.6 (Gateway Overlay District Design Guidelines): In the introductory paragraph, the word *unique* has been changed to *special*.
2. §230-20.6-1-b (design guidelines for South Riverside/Harmon): Landscaping guidelines have been established for the South Riverside/Harmon gateway district. These guidelines are consistent in scope with the landscaping guidelines for the North End

and Municipal Place gateway districts set out in the gateway legislation. The guidelines reflect the improvements recommended in the Comprehensive Plan and shown in the concept drawing for South Riverside.

**1.3 Amendment to DGEIS**

Several sections of the DGEIS (pages ii, 4, 15, and 39) of the DGEIS indicate that the North End gateway district presently has a floor area ratio of 0.2, consistent with O-3 zoning, and that this FAR will not change with the proposed gateway legislation. However, Croton's most current zoning map indicates that underlying zoning for the North End district is in fact O-1, which does not at present have any FAR standards.

The properties in the North End gateway district would be held to the FAR standards established in the proposed gateway zoning: 0.35 for single-use properties and 0.40 for multi-use properties. The actual FARs of the North End gateway properties are substantially below these proposed FARs; therefore, none of the properties will be rendered non-conforming and all will have room for expansion.

The table below, found on page 15 of the DGEIS, should accordingly be corrected as follows:

**Table 3: Proposed Development Potential**

District	FAR	Total Area (SF)	Maximum Development (SF)
South Riverside	0.4	165,528	66,211.2
Municipal Place	0.4	744,876	294,466.0
North End	0.2	329,967	65,993.4
	0.4		131,986.8
	<b>Total</b>	<b>1,240,371</b>	<b>426,671.0</b> <b>492,664</b>

**1.4 Description of FGEIS Format**

This FGEIS is a follow-up document to the Draft Environmental Impact Statement (DGEIS) which was accepted as complete on October 7, 2003. The DGEIS is incorporated into this FGEIS by reference.

SEQR requires that the FGEIS respond to substantive comments on the proposed action that were raised during the DGEIS public hearing and comment period. Comments on the DGEIS were received at both the November 3<sup>rd</sup> Public Hearing and during the public comment period between November 3<sup>rd</sup> and November 21<sup>st</sup>. The responses to comments raised in connection with this project have been numbered and organized by category. For example, all questions relating to traffic can be found in Section 3.5, Traffic and Transportation.

The following example provides a guide to reviewing the comments and response sections:

**Comment 3.2.1: Define the meaning of the term "multi-use" building as used in the proposed Gateway Legislation and DGEIS.** (Mr. Adam Wekstein, letter dated 11/3/03, p.14)

Response: The term "multi-use building" refers to buildings containing more than one use such as a building containing both retail and office or retail and residential uses.

As indicated above, the comment is numbered according to category, which in this example, means that the comment is the first comment (3.2.1) in Section 3.2, Land Use, Zoning and Public Policy. Then after each comment is a name, a date and the page where the comment can be found. In the example above, Mr. Wekstein's comment is found on page 14 of his letter dated November 3<sup>rd</sup>, 2003. Both the public hearing record and the written comments are contained in the appendix to this document.

## 2.0 DESCRIPTION OF PROPOSED ACTION

### 2.1 Description of Proposed Action

The proposed action is the adoption of gateway overlay district legislation. The legislation is the direct outcome of Croton's 2003 Comprehensive Plan, which was conceived during a 16-month planning process and incorporates the ideas and recommendations of village officials, residents, and the Comprehensive Plan Committee. The goals of the gateway zoning reflect the goals set out in the 2003 Plan, and the wording of the zoning legislation is drafted to be consistent with the 2003 Plan. The full zoning text is included in the appendix.

### 2.2 Purpose of Proposed Action

Croton's gateways serve as the major entry points from surrounding municipalities and roads (see Figure 1: Location of Gateway Districts). The physical gateway area is comprised of the roads and surrounding properties that a motorist or pedestrian encounters when first entering the village. These areas mark a sense of arrival and connection to the village and establish an image and initial impression of the community.

Croton is proposing the adoption of a gateway overlay district ordinance to establish standards that will upgrade the image and function of gateway areas, strengthen the overall visual identity of the village, and improve linkages to adjacent residential neighborhoods. The defining characteristics for the gateway areas, as identified in Croton's 2003 Comprehensive Plan and in the gateway legislation, are:

1. Vehicular entry points into Croton from Routes 9 and 9A
2. Commercial or office uses oriented toward automobile traffic
3. Opportunities for development and redevelopment

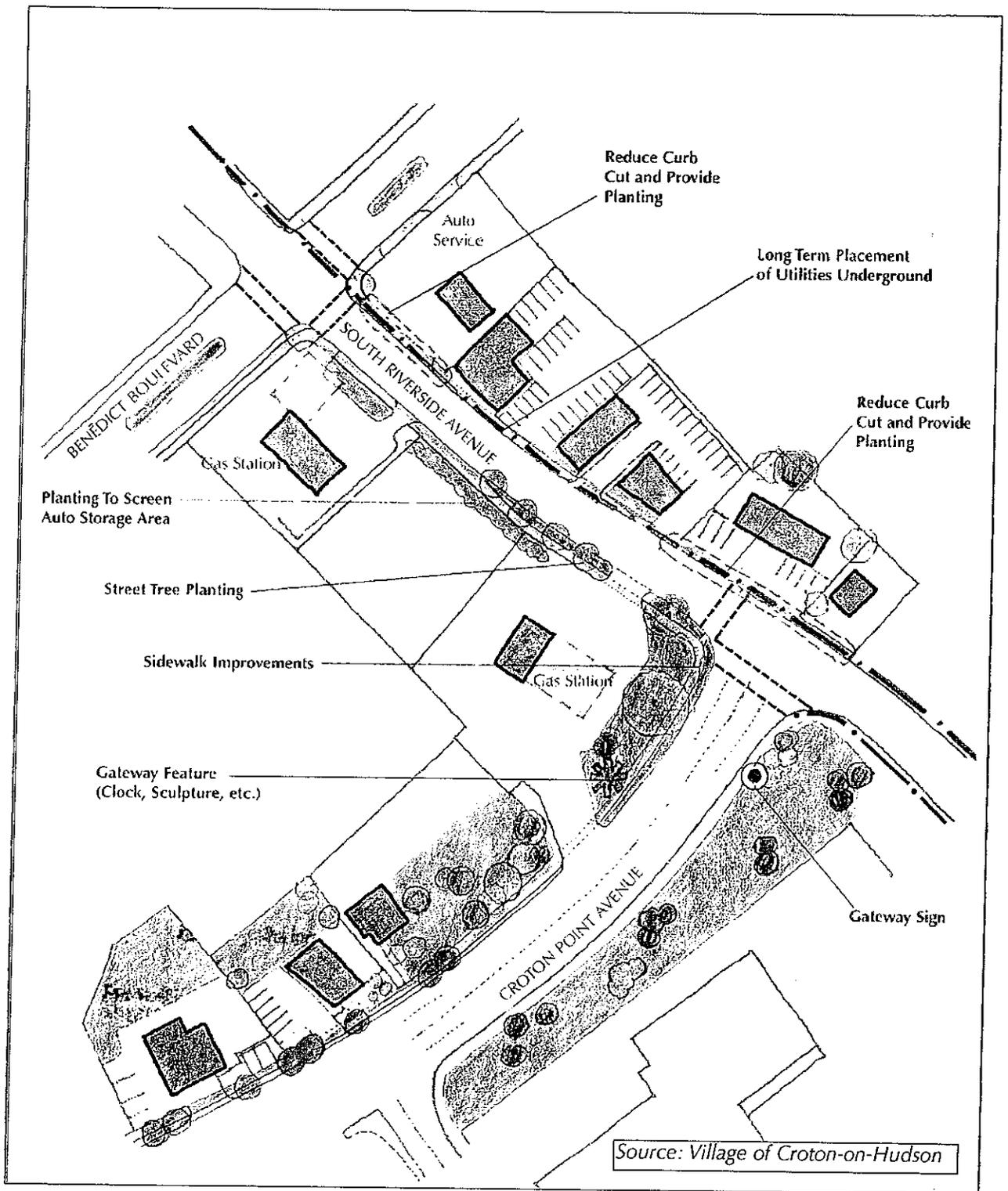
### 2.3 Location of Gateway Areas

Croton's three gateway areas are described below and shown in Figure 1: Location of Gateway Districts.

1. *Harmon / South Riverside*, running along Croton Point Avenue between Route 9 and South Riverside Avenue and along South Riverside Avenue between Croton Point Avenue and Benedict Boulevard. The area is an important link to the train station via Croton Point Avenue and to the Harmon neighborhood. It also provides a connection to the historic Van Cortlandt Manor to the south.
2. *Municipal Place Shopping Area*, consisting of the lots on the north and south sides of Municipal Place between Route 9 and Maple Street, the commercially-zoned portion of the block on the east side of Maple Street, and the lots located between Route 9 and South Riverside Avenue from the village-owned parcel to the north to the intersection of Maple and South Riverside to the south. The Municipal Place shopping area is an

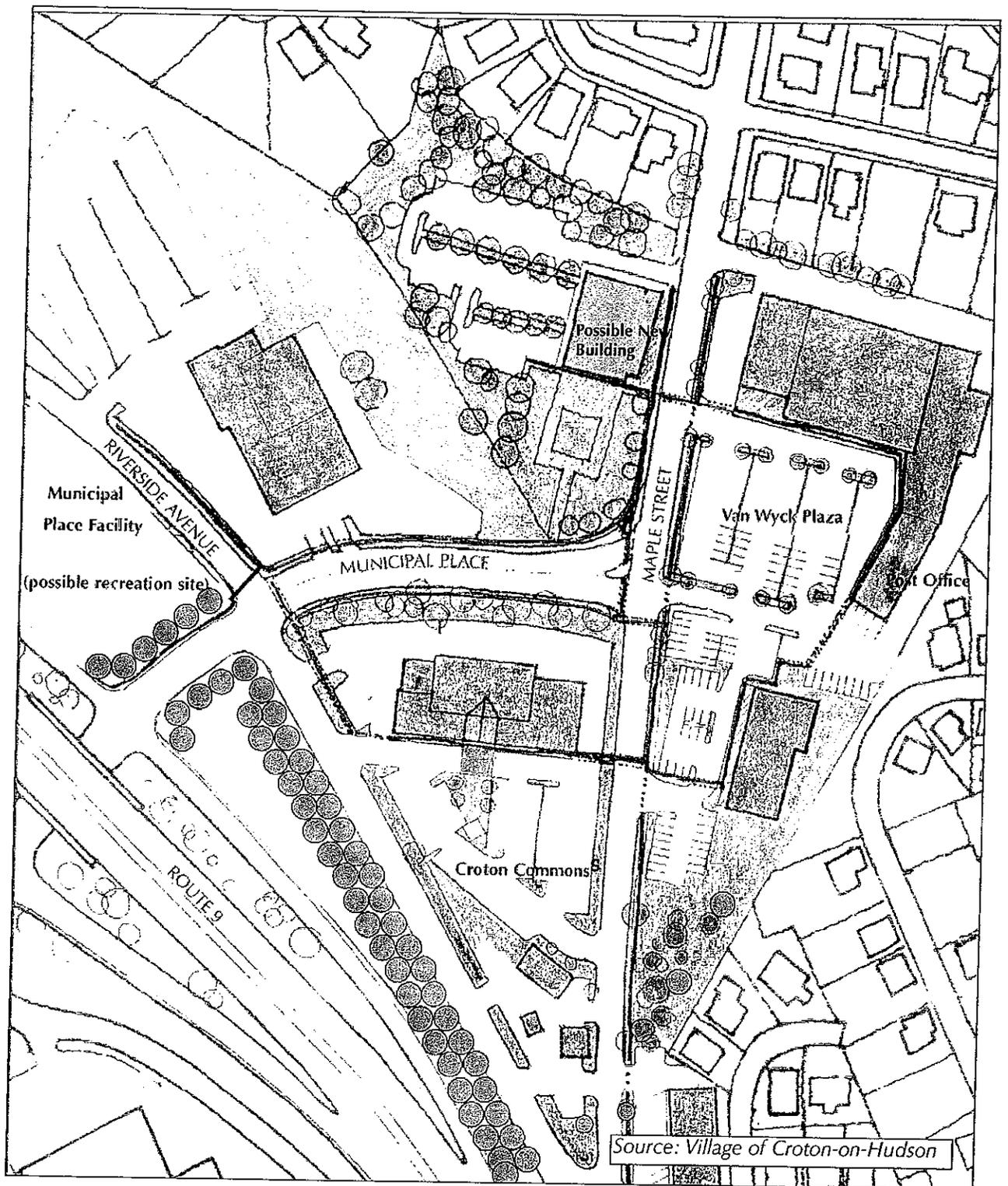
important entrance to the village from Route 9 and connects to the Upper Village via Maple Street and to the surrounding neighborhoods.

3. *North End of the Village along Albany Post Road (9A)*, consisting of the eight lots between Routes 9 and 9A and the village boundary and Warren Road. This area marks the entrance to the village from the north along Routes 9 and 9A.



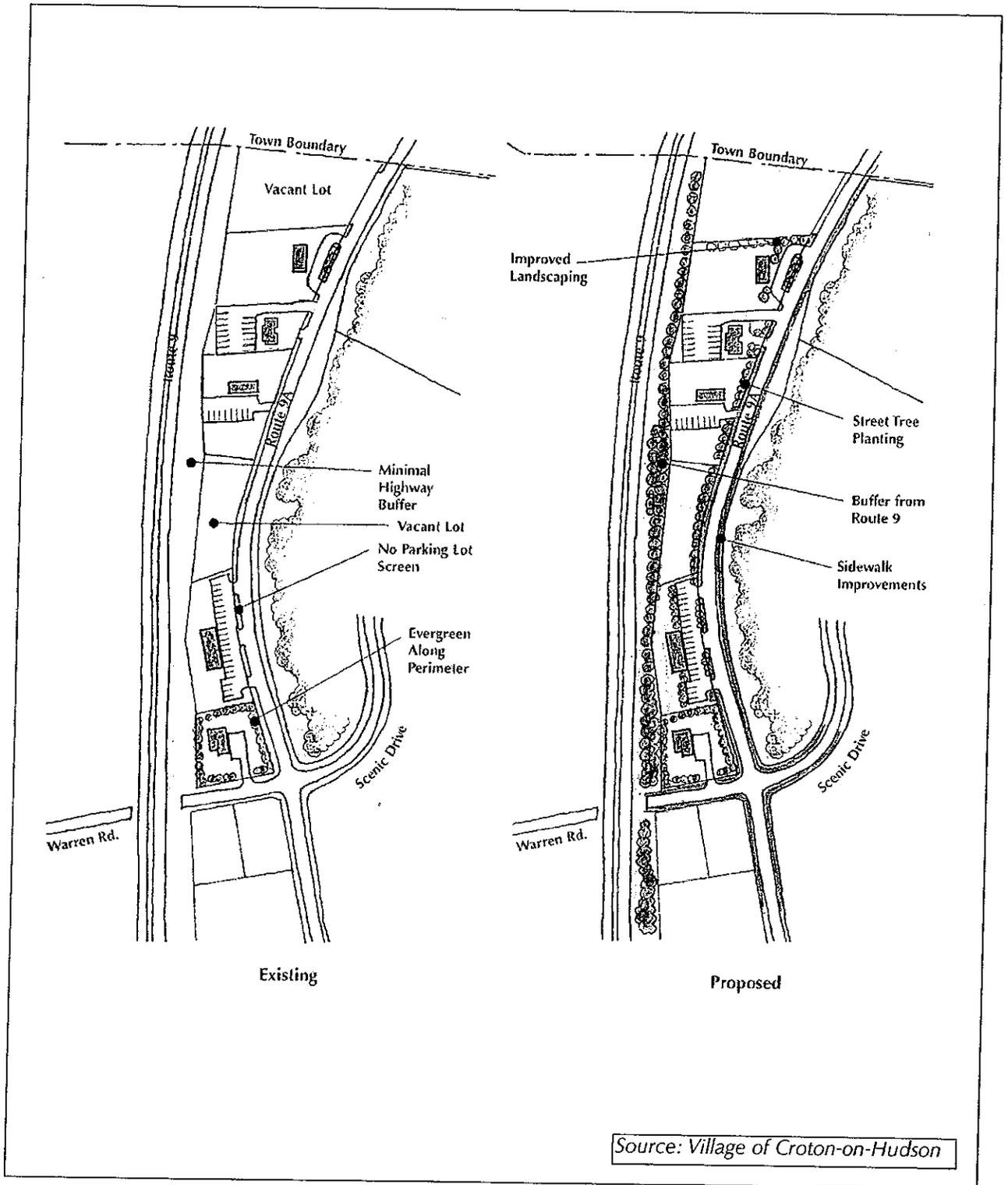
Village of Croton-on-Hudson, New York  
Gateway Districts FGEIS

Figure 2.1: South Riverside  
Guidelines



Village of Croton-on-Hudson, New York  
Gateway Districts FGEIS

Figure 2.2: Municipal Place  
Guidelines



Village of Croton-on-Hudson, New York  
Gateway Districts FGEIS

Figure 2.3: North End  
Guidelines

3.0 RESPONSE TO COMMENTS

Table 3.1 below summarizes all the comments received on the DGEIS including both oral comments received at the public hearing and written comments received during the public comment period. There were a total of three (3) speakers at the public hearing on November 3. Three (3) letters were received from interested groups and local citizens. A record of the public hearing and the written comments is included in the appendix.

Table 3.1. DGEIS Public Comment & Letter List

SPEAKERS, WRITTEN COMMENTS & LETTERS		Date
<b>COMMENTS AT SEQR PUBLIC HEARING</b>		11/3/03
	Introductory Statements	11/3/03
	Brief Project Presentation	11/3/03
<b>Speaker #</b>	<b>Speaker</b>	
1	Mr. Adam Wekstein	11/3/03
2	Mr. David Steinmetz	11/3/03
3	Ms. Joan Minnet	11/3/03
<b>WRITTEN COMMENTS &amp; LETTERS</b>		
<b>Written Comments from Interested Parties/Groups</b>		
<b>Letter #</b>		
1	Mr. Adam Wekstein	11/3/03
2	Ms. Maria Cudequest	11/21/03
3	Mr. Robert Wintermeier	11/24/03 <sup>1</sup>

<sup>1</sup> These comments were sent after the closing of the public comment period (which ended on November 21<sup>st</sup>) but have been responded to in the FGEIS.

### 3.0 COMMENTS AND RESPONSES

#### 3.1 SEQR Process

**Comment 3.1.1: Substituted for the real environmental analysis, study and empirical data required of an EIS by SEQRA is the repeated statement that because the proposed rezoning will allow no development and reduces development potential, it will have no environmental impacts.** (Mr. Adam Wekstein, letter dated 11/3/03, p.12)

Response: "Real environmental analysis, study and empirical data" is necessary only in instances where there is the potential for environmental impacts. As Section 617.9 (b) (2) of SEQR states "EISs should address only those potential significant adverse environmental impacts that can be reasonably anticipated and/or have been identified in the scoping process." If no adverse environmental impact is identified, analysis is not required.

#### 3.2 Land Use, Zoning and Public Policy

##### Zoning Terminology

**Comment 3.2.1: Define the meaning of the term "multi-use" building as used in the proposed Gateway Legislation and DGEIS.** (Mr. Adam Wekstein, letter dated 11/3/03, p.14)

Response: The term "multi-use building" refers to buildings containing more than one use such as a building containing both retail and office or retail and residential uses.

##### Building Size Limitation

**Comment #3.2.2: Although the DGEIS is quick to point out that there allegedly are only nine commercial buildings in the Village with floor areas in excess of 8,000 square feet, a survey which is appendix C in the DGEIS, as well as the environmental assessment form prepared in connection with Local Law No. 3 of 2003, establish that at least four such buildings are sited within the limited confines of the proposed Municipal Gateway District. Accordingly, the development in the district is overwhelmingly characterized by buildings with floor areas exceeding 8,000 square feet, and several exceeding 20,000 square feet** (Mr. Adam Wekstein, letter dated 11/3/03, p.6).

Response: This is a misquotation of the DGEIS which states that "Based on the Village survey, out of a total of 132 retail/commercial uses, only 9 exceed 8,000 square feet" (p.38, emphasis added). While the buildings at Croton Commons and Van Wyck Plaza clearly exceed 8,000 square feet, it is important to note that within the Municipal Gateway, none of the individual uses bar one (closed) unit at Van Wyck exceeds 8,000 square feet.

Since the DGEIS was circulated, and in response to comments received at the November 3 public hearing, the Village Board of Trustees has amended the proposed Gateway text so that the 8,000 square foot size limitation now specifically applies to individual *commercial* uses, not building size. Building size has also been amended and is now limited to 20,000 square feet. As previously stated, where feasible this will serve to accommodate existing conditions whilst allowing the development of larger buildings containing multiple uses in keeping with the village's development goals set forth in the 2003 Comprehensive Plan.

**Comment #3.2.3: Is there any sound planning basis for concluding that reducing the maximum size of any retail buildings in the Gateway District to 8,000 square feet will serve a useful purpose when the Katz property is the only vacant privately-held parcel therein and most of the remaining properties are developed with retail buildings far in excess of that size? (Mr. Adam Wekstein, letter dated 11/3/03, p.12)**

Response: As discussed in Section 1.2 of this document, the 8,000 square foot size limitation has been amended to apply to individual commercial uses not building size. Building size has also been amended and is now limited to 20,000 square feet.

**Comment #3.2.4: Nor can the rationale which is prominently stated in the DGEIS as the basis for the 8,000 square foot retail limit – discouraging national retail chains from locating their stores within the Gateway area – serve as a legal basis for zoning regulation. A zoning restriction designed to foreclose development by national retail chains of otherwise permitted land uses is illegal under New York Law (Mr. Adam Wekstein, letter dated 11/3/03, p.7).**

Response: This is a misrepresentation of what is stated in the DGEIS. The DGEIS neither implies nor does it contain the statement that the size restriction is "designed to foreclose development by national retail chains". On page iv of the Executive Summary, the DGEIS states that "The proposed 8,000 square foot size limitation will limit the potential to develop **large-scale retail** and as such will discourage **large national retail chains** from locating within the three Gateways" (emphasis added). The restriction relates to size, not whether or not the use is a national retail chain. The DGEIS acknowledges that the size restriction will have a tendency to discourage larger national retail chains from locating within the Gateway areas, but neither large nor smaller national chains would be prohibited. It is the size of the establishment not of the chain that counts. This point is illustrated in Table 8 of the DGEIS (p.40), which lists retail chains that use 8,000 square feet or more and would therefore tend not to locate in the Gateway Areas, and Table 9, which lists retail chains that use 8,000 square feet or less, and which would therefore comply with the proposed Gateway zoning.

**Comment #3.2.5: What is the rationale for imposing an 8,000 square foot limitation on the size of retail buildings in the Gateway Districts while imposing no similar limitation on buildings designed for other permitted uses? Describe any studies or empirical data**

**which would support this double standard.** (Mr. Adam Wekstein, letter dated 11/3/03, p.12)

Response: As discussed in Section 1.2 of this document, the 8,000 square foot size limitation has been amended to limit the maximum permissible square footage for any single commercial use by any single occupant or tenant to 8,000. Furthermore, maximum building square footage has been limited to 20,000 square feet for any single building.

**Comment #3.2.6: Equally unavailing is the reliance of the DGEIS on Mount Kisco's Zoning Ordinance as a model for the 8,000 square foot size limit. The provisions quoted from the Mount Kisco Ordinance are taken out of context. Even on its face, Mount Kisco's CB-1 zoning only regulates the size of stores or other business establishments over 8,000 square feet. It does not prohibit them but merely requires a special permit for larger stores or commercial establishments.**

**The text in the Mount Kisco Code also appears to impose no limit on the size of buildings, such as that included in the proposed Gateway legislation, but just on the size of the spaces occupied by the businesses therein** (Mr. Adam Wekstein, letter dated 11/3/03, p.7-8).

Response: It is correct to say that the Mount Kisco ordinance allows stores to exceed 8,000 square feet by special permit. However, pursuant to Section 110-15 (1) Principal Uses, the underlying zoning or "as-of-right" condition, permits no more than 8,000 square feet and this remains a useful benchmark for the Village of Croton-on-Hudson in achieving the goals of the Comprehensive Plan.

Since the DGEIS was circulated, and in response to comments received at the November 3 public hearing, the Village Board of Trustees has amended the proposed Gateway text so that the 8,000 square foot size limitation now specifically applies to individual commercial uses, not building size. Building size has also been amended and is now limited to 20,000 square feet. As previously stated, where feasible this will serve to accommodate existing conditions whilst allowing the development of larger buildings containing multiple commercial uses.

**Comment #3.2.7: The DGEIS cites the regulations in certain zoning districts in the Village of Mount Kisco and the Village of Mamaroneck as providing examples supporting the proposed 8,000 square foot size limitation in the Gateway rezoning.**

(a) Has the preparer of the DGEIS studied other zoning districts in those communities?

(b) Describe the zoning rules applicable to areas in those communities that are analogous to the proposed Municipal Place Gateway district – areas which are physically separated from an existing village center and are already populated by strip-type shopping centers and include heavily-traveled State roads. (Mr. Adam Wekstein, letter dated 11/3/03, p.13)

Response: In preparing the text, a number of different municipalities were studied in order to establish a size limitation that reflects the goals of the Village's Comprehensive Plan. Mount Kisco and Mamaroneck are examples of municipalities with pedestrian-friendly, vibrant downtown areas of the kind that the Village of Croton-on-Hudson would like to see within its own gateway areas. Another such village is the village of Bronxville in Westchester County, which is presently considering a 5,000 square foot limitation in its downtown to preserve and enhance its character. It is true to say that the strip-type retail that generally characterizes the Municipal Place gateway is not comparable to the more traditional patterns of development found in the business centers in Mount Kisco, Mamaroneck and Bronxville. However, the small-scale retail, street walls and pedestrian-friendly environment found in these business centers are characteristics that the proposed zoning is seeking to achieve in the gateway areas in Croton-on-Hudson.

Studying zoning controls for areas analogous to the gateways – with strip retail development - would not serve the goals of the Village's Comprehensive Plan which seeks precisely to reverse the strip retail patterns of development. While the majority of the lots within the gateways already contain strip development, one of the stated goals in the Comprehensive Plan is to "Prepare Long Term Redevelopment Guidelines" which would include the monitoring of potential redevelopment to take advantage of opportunities that arise to re-orient this area from an automobile-based layout to one that better reflects Croton-on-Hudson's historic development and character (Croton Comprehensive Plan, p.90).

**Comment #3.2.8: What is the planning rationale for discouraging national retail chains from locating in Croton-on-Hudson?** (Mr. Adam Wekstein, letter dated 11/3/03, p.13)

Response: See response to Comment #3.2.4. The DGEIS neither implies nor does it contain the statement that the size restriction is designed to foreclose development by national retail chains.

Since the DGEIS was circulated, and in response to comments received at the November 3 public hearing, the Village Board of Trustees has amended the proposed Gateway text so that the 8,000 square foot size limitation now specifically applies to individual commercial uses, not building size. Building size has also been amended and is now limited to 20,000 square feet. As previously stated, where feasible this will serve to accommodate existing conditions whilst allowing the development of larger buildings containing multiple commercial uses.

**Comment #3.2.9: The DGEIS states that the 8,000 square foot limitation is designed to exclude big box retail stores.**

**(a) Describe what constitutes a "big box" retail store with reference to any pertinent planning literature or studies.**

**(b) Explain why the 8,000 square foot limitation is not an overly restrictive size limit to accomplish this purpose? (Mr. Adam Wekstein, letter dated 11/3/03, p.13)**

Response: Since the DGEIS was circulated, and in response to comments received at the November 3 public hearing, the Village Board of Trustees has amended the proposed Gateway text so that the 8,000 square foot size limitation now specifically applies to individual commercial uses, not building size. Building size has also been amended and is now limited to 20,000 square feet. As previously stated, where feasible this will serve to accommodate existing conditions whilst allowing the development of larger buildings containing multiple commercial uses.

"Big-box retail" is a colloquial term but is also widely used in professional planning circles. For example, the term was used in a seminar at the 1998 National Planning Conference held by the American Institute of Certified Planners (the relevant article is included in the Appendix). The Maryland Department of Planning produced a 2001 report entitled "Managing Maryland's Growth: Models and Guidelines "Big-Box" Retail Development" (also included in the Appendix). Numerous other studies refer to big-box retail. There is a diversity of opinion on a precise definition but two of the sources, included in the Appendix, cite 20,000 square feet as a threshold size.

In response to comment (b), the Village believes that the 8,000 square foot size limitation for single commercial uses is consistent with policies described in both the Village Comprehensive Plan and the DGEIS, and does not believe that the size limitation is "overly restrictive."

**Impact of Legislation on Specific Properties and Scope of Regulation**

**Comment #3.2.10: The Village's planning policies and this law [the gateway legislation] in particular have targeted the Katz property (Mr. Adam Wekstein, Gateway Public Hearing, 11/3/03)**

Response: Approximately 40 tax lots fall within the boundaries of the proposed gateway overlay districts. The proposed legislation applies equally to all properties within the district boundaries. Of the 40 lots, the Katz property and two parcels in the North End are vacant. The remaining lots are improved, but many are not fully built-out, leaving opportunity for expansion. Any new development on vacant lots will need to adhere to the gateway regulations, as will expansion, redevelopment, and new construction projects on the already-improved lots.

**Comment #3.2.11: His client [Strickland Realty] is under contract with Eckerd Drug Store to develop the vacant property. Plans for the drug store were submitted to the Planning Board that they [Strickland Realty] believed complied with the then-proposed gateway zoning requirements. The new gateway plan imposes further regulations; however, identity and internal operation of a business cannot be regulated under New York State law. (Mr. Adam Wekstein, Gateway Public Hearing, 11/3/03).**

Response: Under New York State Village Law §7-700, the village board of trustees is empowered by local law to regulate and restrict ". . . the location and use of buildings, structures and land for trade, industry, residence or other purposes" for the purpose of promoting the health, safety, morals, or the general welfare of the community. The village's regulation of uses, including the prohibition of uses, falls within the purview of New York State law.

Since the DGEIS was circulated and in response to comments received at the November 3<sup>rd</sup> public hearing and during the comment period, the Village Board of Trustees has amended the gateway text to eliminate the restriction on hours of operation.

**Comment #3.2.12: The Gateway overlay rezoning violates Village Law; the Board has no authority to enact it; it leaves underlying zones intact but imposes different area, use, operation, dimensional and design criteria in portions of that district. His client's property [the Katz property] in the C2 zone is subject to different regulations than properties in the C2 zone elsewhere. (Mr. Adam Wekstein, Gateway Public Hearing, 11/3/03).**

Response: The overlay district, which is imposed over an existing zoning district, is a commonly-used planning tool. Overlay districts enable communities to apply an additional layer of development standards within a particular area to address special land use needs and goals. An overlay zone supplements, but does not replace, the underlying zoning. In common zoning practice, properties within the overlay zone adhere to both the underlying zoning regulations and the additional set of regulations; properties outside the overlay district adhere only to the underlying zoning regulations. Overlay districts have been used for over thirty years in New York City and have also been used in several Westchester County municipalities, for such purposes as commercial improvement and preservation of visual or historic character.

**Comment #3.2.13: Additional properties that should be included in the Gateway areas if approved are:**

- Albert Realty & Poritzky properties West of Route 9.
- The entire stretch on South Riverside from Benedict Boulevard north to the Municipal Gateway.
- The entire stretch on South Riverside from Croton Point Avenue south to the Croton River.
- The entire stretch of South/North Riverside from Route 129 north to Prospect. The facade of stores in this area is a blight on the appearance of Croton and the only view that many passersby on Route 9, Riverside or the railroad ever have of our Village. There is plenty of land available here for development also.
- The Upper Village including Grand Street from Kennedy Realty to the Municipal Building and Old Post Road from the South side of Maple to Grand Street. It should include the Kennedy Realty and Grant ice cream businesses after "grandfathering" since they already provide attractive frontage. This Eastern

**Gateway was ignored for some strange reason. If the Gateway concept is so good, this area needs to most help!**

(Mr. Robert Wintermeier, e-mail dated 11/24/03, p. 1; emphasis in original)

Response: As indicated in the gateway legislation and in the 2003 Comprehensive Plan, the gateway areas are identified by the following three characteristics: 1) vehicular entry points from Routes 9 and 9A; 2) commercial or offices uses principally accessed by automobile traffic; and 3) possibilities for development and redevelopment. The Comprehensive Plan also recommends visual and development improvements for all of Croton's commercial areas (North Riverside, South Riverside, Municipal Place, and the Upper Village). The areas identified in the above comment by Mr. Wintermeier may be candidates for the improvements suggested in the Comprehensive Plan; however, they do not meet the three gateway characteristics and consequently have not been included in the village's gateway areas.

**Comment #3.2.14: Van Cortlandt Manor will not benefit from any Gateway regulations since it is on South Riverside south of Croton Point Avenue. If the Gateway concept is so wonderful, this area should be included. (Page 31) (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 4)**

Response: As stated in the response to Comment 3.2.13 and in Section 2.2 of this FGEIS, the gateway districts were selected on the basis of three criteria. Since Van Cortlandt Manor is situated south of but not within a major entrance point to the village (South Riverside), it was not included in the gateway district. However, as indicated in the DGEIS, the Manor "... may be positively impacted by being proximate to the district. The overlay district's bulk, use and design guidelines, aimed to improve the major entry points into the Village, will create a more attractive overall setting for the Manor. For instance, under the proposed ordinance, commercial parking lots and automobile dealerships would be prohibited which would detract from the Manor's bucolic setting." (DGEIS, p. 31).

### Prohibition of Automobile Dealerships

**Comment #3.2.15: Automobile dealerships should not be singled out [as prohibited uses in the gateway legislation]. (Mr. Adam Wekstein, Gateway Public Hearing, 11/3/03).**

Response: Automobile dealerships are part of a group of uses that have been prohibited in the gateway districts. These other uses are: commercial parking lots, automobile storage lots, drive-through windows for commercial establishments, and fast-food restaurants.

**Comment #3.2.16: The second rationalization in the DGEIS for the dealership prohibition fares no better. Without any support, the DGEIS asserts that automobile dealerships often have large areas of impervious surface which create stormwater runoff issues (Mr. Adam Wekstein, letter dated 11/3/03, p.12).**

Response: It is not clear which part of the DGEIS this statement refers to. Section 2.1 (p.16) mentions paved lots in reference to visual character. Section 2.2 (p.19) points out that under the proposed reduction in FAR there would be a corresponding reduction in the amount of required parking which in turn would require fewer impervious surfaces; the reduction in impervious surfaces combined with the landscaping requirements would have a beneficial effect on stormwater runoff. Section 2.7 (p.39) states that the prohibited uses "require a large percentage of the lot to be paved", but this is in the context of the effects on neighborhood character, not in reference to stormwater.

### Site Plan and Landscape Regulations; Design Guidelines

**Comment #3.2.17: One of the stated aims of the Gateway zoning guidelines, as set forth in both the DGEIS and the Comprehensive Plan, is to create a so-called "streetscape" where the facades of stores are located along sidewalks lining the edge of the street. However, in the context of the Municipal Place Gateway, there is no rational basis for imposing such a requirement. None of the stores in this largely-developed area are located along the street and there is no "streetscape".**

**Photographs and plans included in both the Comprehensive Plan and the DGEIS also depict the nature of the development in Municipal Place area – in essence strip retail development with substantial buildings separated from the street by expansive paved parking lots (Mr. Adam Wekstein, letter dated 11/3/03, p.8; Mr. Adam Wekstein, Gateway public hearing, 11/3/03).**

Response: It is correct that one of the aims of the proposed Gateway zoning is to encourage a street wall whereby the facades of stores are located along sidewalks lining the edge of the street. It is also correct that none of the stores within the Municipal Place area are currently located along the sidewalk. The rational basis for imposing the proposed guidelines is to provide the opportunity to reverse the trends away from strip retail towards a more traditional village-type development. Clearly in all but one instance within the Municipal Place Gateway, this will encourage gradual redevelopment of currently-developed property to a more village-like atmosphere.

**Comment #3.2.18: What is the basis for concluding that requiring buildings in the Municipal Place Gateway District to be designed with facades abutting their frontage and requiring the installation of sidewalks will create a downtown "village-like" feel or a "streetscape," when there is only one undeveloped privately-held property in the area and all other lots that would be subject to the regulation are improved with buildings that are well set back from their frontage and perpendicular to the road and include parking lots in their front yards? (Mr. Adam Wekstein, letter dated 11/3/03, p.13; Mr. Adam Wekstein, Gateway Public Hearing, 11/3/03)**

Response: See above response.

**Comment #3.2.19: Describe the genesis of the site plan for the Katz Property which is Figure 4.3 in the Master Plan, and Figure 9b in the DGEIS.**

- (a) Were any studies performed as the basis for this design?  
(b) With respect to the site plan, explain what uses were contemplated within the building and on the remainder of the Katz Property.  
(c) State the size of the building depicted on the conceptual site plan for the Katz Property. (Mr. Adam Wekstein, letter dated 11/3/03, p.14)

Response: The conceptual design for the Katz property shown in the Comprehensive Plan and the DGEIS was developed by BFJ principal Paul Buckhurst in close consultation with the Comprehensive Plan Committee. Paul Buckhurst has over 30 years national and international experience as an architect and urban designer. He has completed work for a number of Westchester municipalities including Irvington, Mamaroneck, Ossining, Peekskill and Yonkers.

The Croton Comprehensive Plan contemplates but does not require the following uses for the Katz property including:

- A mixed-use building on Maple Street.
- A park oriented to the Municipal Place-Maple Street intersection
- Convenient pedestrian access to both the proposed building and park, and connecting via a crosswalk to the stores on the east side of Maple Street
- A landscaped parking area set back from Maple Street with buffer planting to isolate it from nearby housing (Comprehensive Plan, p.88)

The size of the building depicted in Figure 9b of the DGEIS is less than 8,000 square feet, although under the proposed modification, the footprint could be up to 20,000 square feet provided that none of the individual commercial uses within the building exceeds 8,000 square feet.

**Comment #3.2.20: Illuminating glare restrictions to prevent parking lights from spilling over into adjacent lots is ridiculous and another burden on the property owner. I've never heard anyone complain about this problem! Why was it hidden in the SEQR (Page 4)** (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 4)

Response: The DGEIS clearly states that lighting regulations have been established in the proposed gateway legislation (see Executive Summary p. ii; Summary of Proposed New Zoning, p. 10; and Visual Resources, p. 32). The establishment of lighting regulations is a standard way to reduce overall ambient light and glare and to ensure that lighting is not disruptive to surrounding properties and neighborhoods.

**Comment #3.2.21: Most upscale shopping areas throughout the country contain a fountain in a central location which has sufficient space for small entertainment events such as a small concert, magic show, etc. that families can enjoy after a dinner at one of the shopping area restaurants.** (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 5)

Response: The decision to allocate commercial property for public gathering/assembly space would be made by individual property owners.

**Comment #3.2.22: Orienting buildings close to the front property line (Page 9) may place an undue burden on the merchant to have a rear and unnecessary frontal entrance. This is especially true in large areas like Van Wyck shopping areas where parking would be at the rear. Due to slopes, it would be impossible at Croton Commons or Shop-Rite (if Shop-Rite were included in the Gateway). In addition, two entrances in these instances minimize the useful retail space for the merchant. The only place that I've seen this arrangement is at Mohegan Lake where customers usually enter from the rear. The regulation only makes sense in smaller areas like the shops at the western end of Maple. In this situation, parking between the store and sidewalk is the best option. Common sense, not strict regulations should prevail! (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 5; emphasis in original)**

Response: Building orientation close to the front property line is a characteristic of many highly regarded shopping areas in Westchester County, including Bronxville, Scarsdale, Rye, Katonah, and Larchmont. Bronxville and Rye, as well as Garden City in Nassau County, all have parking in the rear of stores, with entrances in the front. While this type of arrangement may be an inconvenience to some property owners, as identified in the DGEIS, villages and merchants have been able to develop solutions that benefit both the property owners and meet community goals.

#### **Hours of Operation Restriction**

**Comment #3.2.23: Significantly, nothing in the DGEIS supports the limitation on hours of operation and the record is devoid of the requisite empirical evidence or studies necessary to support such a restriction in the Gateway Districts (Mr. Adam Wekstein, letter dated 11/3/03, p.12; Mr. Adam Wekstein, Gateway Public Hearing, 11/3/03).**

Response: Since the DGEIS was circulated, and in response to comments received at the November 3 public hearing, the Village Board of Trustees has amended the proposed Gateway text to entirely remove the limitation on hours of operation.

**Comment #3.2.24: With reference to any empirical data, relevant literature and site-specific studies, what is the planning basis for the imposition of a 16-hour a day restriction on business operations in the municipal place area? (Mr. Adam Wekstein, letter dated 11/3/03, p.13)**

Response: See above response

**Comment #3.2.25: Why is the limitation on hours of operation proposed in the Gateway Zones, but not in other commercial centers within the Village? (Mr. Adam Wekstein, letter dated 11/3/03, p.13)**

Response: See above response.

### Reduction in Density and Diversity of Uses

**Comment #3.2.26:** There is no quantitative evidence provided that reduced FARs will produce multi-use properties OR that "this may result in a greater mix and diversity of uses within the gateway areas of Croton-on-Hudson" OR that "A greater diversity of uses MAY encourage greater number of visitors which will in turn stimulate the local economy". (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 5; emphasis in original).

Response: The DGEIS does not suggest that reduced FARs will produce multi-use properties. Rather, the DGEIS states in several places that the additional 0.05 FAR permitted for multi-use development will provide an incentive for mixed-use development (see DGEIS, Section C: List of Potential Impacts and Mitigation Measures, p. ii, and Section 2.7, Socioeconomics and Neighborhood Character, p. 39).

Diversity of uses, such as residential and commercial or commercial and office, brings different groups of users to a given area (e.g. residents and shoppers, shoppers and workers), thereby broadening the scope of potential shoppers. In this way, increasing the total number of people who may be drawn to an area can in turn increase the sales and stimulate the economy.

**Comment #3.2.27:** There is no quantitative evidence provided that:

1. "With reduced density and reduced hours of operation, fewer trips will be generated than under the current zoning and it is likely that most trips will be during the day and not late at night or early in the morning" (Page iii). Most shopping is done before 9:00am or after 5:00pm. Seniors, kids and soccer Mom's/Dad's shop between these hours. Nothing will change these patterns, certainly not reduced density and/or hours.
2. "The reduction of the maximum density permitted in the gateway areas will effectively limit the potential impact on community facilities and services as compared to existing zoning..."(Page iii). If it doesn't apply to the non-Gateway areas, it shouldn't apply to Gateway zones.
3. "In the long term, the reduction in density, retail size limitation, and design improvements MAY increase the amount of foot traffic and reduce the amount of vehicular traffic as compared to development under current zoning" (Page iii). (Mr. Robert Wintermeier, email letter dated 11/24/03, pp. 5-6; numbering added to facilitate responses)

Response:

1. The reduction in density will not reduce the present number of trips that occur. However, since the reduction in density limits the total amount of future development that can occur, it in turn reduces the number of vehicle trips that may be generated in the future.

Since the circulation of the DGEIS and in response to comments received during the public comment period, the gateway legislation has been amended to remove the limits on hours of operation.

2. The reduction in maximum density limits the total development potential in the gateway area, thereby reducing the demand for community facilities and services such as police, fire, and infrastructure.
3. The design guidelines include recommendations for sidewalks and crosswalks which are designed to make the gateway areas more amenable and safe for pedestrians, thereby attracting more pedestrians to the area. The reduction in density and building size limitation will reduce the total amount of potential development, thereby decreasing the amount of potential vehicular traffic in the future.

### Nonconforming Uses

**Comment #3.2.28: His client [Louis Giordano, owner of Croton Auto Park and Croton Dodge] would not be able to rebuild if a fire caused more than 50% of business to cease; it also could not expand if the Comprehensive Plan and the Gateway Overlay was imposed. (Mr. David Steinmetz, Gateway Public Hearing, 11/3/03)**

Response: Croton Auto Park and the Croton Dodge storage lot would become prior non-conforming uses under the proposed gateway legislation. As such, they would be subject to Article IX, Nonconforming Buildings and Uses, of the Zoning Code. Section 230-53-B(3) states, "... no building which houses a nonconforming use shall be restored for other than a conforming use after damage from any cause *exceeding 50% of the replacement cost* of such building . . ." (emphasis added). However, the proposed gateway legislation does not prevent or prohibit the continued operation of these businesses nor does it prevent the applicant from applying to the Board of Appeals for a variance in the case of a fire. The Croton Dodge building is not located in the gateway area and therefore does not become a non-conforming use.

**Comment #3.2.29: Has the Village analyzed the impact of converting two of the largest productive businesses in the Village to pre-existing non-conforming status? (Mr. David Steinmetz, Gateway Public Hearing, 11/3/03)**

Response: It is not clear precisely to which businesses the commentor is referring; if he is referring to the Croton Auto Park and Croton Dodge storage lot, the gateway legislation does not prevent or prohibit the continued operation of these businesses.

### Content of Ordinance

**Comment #3.2.30. The added bureaucratic Gateway Zoning regulations serve no useful purpose. Instead, they expose the Village to law suits by reducing the value of retail property, making it harder to attract new businesses or to do business in Croton. For example:**

1. Floor Area Ratios (FAR) are reduced from 50% to 35% for single use retail purposes and 40% for multi-use purposes at the Municipal and Harmon Gateways, thereby reducing the property owners' rental potential by 20%-30%.
2. On top of this burden, property owners are also asked to donate an additional 25% of their property for open space and the maintenance thereof. The remainder, 40% for single use purposes and 35% for multi-use purposes, is graciously provided to the owner for parking. For single use, the owner has more property (40%) for parking than for his building (35%)!!!

The rationale for the Village's generosity is that this will "reduce parking decks." This is utter nonsense since we don't have parking decks in the Village and it is highly unlikely that we will have any given the small amount of land available for commercial use. If we don't want parking decks, create a zoning law to outlaw them instead of penalizing all property owners.

3. Placing another burden on the commercial property user to provide a "shared parking analysis" (Page ii) only increases the cost of establishing a business in Croton and will drive new businesses away.
4. The 16-hour business limit (Page iii) impacts gas stations, convenience stores, diners and gas station operations, and their ability to make a profit. It may also have an impact on banks (24-hour ATMs) but the Gateway proposal did not address this for new businesses. It is outrageous for this Village to dictate when a small business owner can make a profit. If there are no local demands for their services, business owners will close of their own volition. Many services are needed 24 hours per day due to the working hours of residents! If the Village allows 16-hour operation outside the Gateway, it must allow them inside the Gateway or the regulation appears capricious. Once again, there is no valid reason for this regulation and it opens the Village to lawsuits due to its whimsical nature!
5. The Gateway Plan takes aim at selected business such as greenmarkets, farmers markets, garden centers and auto dealers by requiring special permits without describing the reason for doing so or the problems that need to be solved. We could use a good nursery in this area.
6. The North Gateway is close to the fastest growing segment of Croton's residential districts and will require more retail outlets. The Gateway Plan discriminates against this zone since it restricts buildings to 20% of the property. Because the regulations (FAR, special permits, etc.) in the Northern Gateway are the most restrictive, there is little likelihood that any business development will ever take place here! At a minimum, the FAR in the North Gateway should be increased to the same proportions as the other Gateways and there should be no need for special permits for agricultural establishments.
7. On the other hand, since both the Comprehensive Plan and the Gateway Plan (Page 8) specifically take aim at the use of the Katz property for community purposes, it could also be legally argued that the Village of Croton set up the

**Municipal Gateway as a nefarious tactic to force Mr. Katz to relinquish this property to the Village. Regardless, I suspect there will be lawsuits over these bureaucratic restrictions! (Pages iv, 1 and 8).**

8. **[The] 8,000 square foot limitation restricts the establishment of a future supermarket in Municipal Gateway where many Croton residents still miss the convenience of the Grand Union. (Page iv)**
  
9. **Drive-through windows are a modern convenience needed by seniors, handicapped and parents with kids in cars (a key safety factor that allows the parent to perform their chores without unbuckling/rebuckling their children to accompany them in dangerous parking lots). They also reduce the number of parking spaces needed and the time spent by drivers in a parking lot. They are essential for the survival of many banks and pharmacies and should be permitted!** (Mr. Robert Wintermeier, e-mail dated 11/24/03, pp. 1-2; emphasis in original; numbering added to facilitate responses)

Response:

1. The reduction in total buildable FAR of gateway properties is enacted to help the village achieve a number of the goals identified in the Comprehensive Plan. These goals include: preserving the historic, small-town character of the village; improving the visual quality of the village; and improving commercial areas. By reducing total FAR, the gateway legislation encourages new development and expansion appropriate in scale to a small, historic village. Furthermore, the enactment of standards that encourage visually appealing and appropriately-scaled development creates a more attractive and inviting shopping environment, leading to more successful commercial areas.
  
2. The DGEIS states on p. ii, "The reduction in the maximum allowable FAR should discourage the construction of parking decks as all required parking should be accommodated at grade." This is not a rationale for the FAR requirement but an added benefit of it. The FAR, as stated previously, is designed to encourage smaller-scale development. Similarly, as stated in the gateway legislation (§230-20.5-3), the open space requirement is designed "to enhance the appearance of the gateway areas and contribute to Croton's open space character."
  
3. Page ii of the DGEIS states, "Mixed use also will allow, in some instances, for 'shared parking.'" Shared parking can reduce the total number of required parking spaces by enabling property owners with different peak parking hours to use the same or overlapping parking resources. At no point does the DGEIS require property owners to share parking or to undertake a shared parking analysis. Rather, the DGEIS suggests in the footnote on page ii that a parking analysis should be undertaken by those property owners who are interested in exploring the shared parking option, to

determine the best way to meet both parking demand and the village's parking requirements.

4. Since the publication and circulation of the DGEIS and in response to comments received during the public comment period, the gateway legislation has been amended to remove the restriction on hours of operation.
5. It is incorrect to state that the gateway plan takes aim at greenmarkets, farmers markets and garden centers. These uses are not at present permitted in the underlying zoning districts, but have been permitted by special permit in the gateway areas because they are considered to have a beneficial impact on neighborhood character and to help meet commercial demand in the village. These uses will require special permits to ensure, " . . . that future greenmarkets farmers markets and garden centers are held to a high standard." (DGEIS p. iv). Automobile and other vehicle dealerships are prohibited uses in the proposed gateway legislation.
6. Unlike the other two gateway districts, whose underlying zoning is for commercial uses, the North End gateway area is zoned for office uses. It is a goal of the village, as stated in the 2003 Comprehensive Plan, "that no new rezonings occur that would permit commercial development outside of those areas currently zoned for commercial development . . . ." (Comprehensive Plan, p. 82). In specific reference to North End office district, the Comprehensive Plan states, "The Village should therefore ensure that future office development is appropriately sited and attractively designed and that generous landscape planting is provided *in order to maintain the rural quality of the area.*" (Comprehensive Plan, p. 94, emphasis added). It is clear therefore that a key village goal is to concentrate commercial development in districts already zoned for commercial uses, and to preserve the North End gateway's rural, low-scale quality. Permitting commercial development in this area would run contrary to the goals specified in the Comprehensive Plan.
7. As indicated in the Section 2.2 of this FGEIS, the gateway districts were selected on the basis of three criteria: 1) providing vehicular entry points to Croton from Routes 9 and 9A; 2) offering commercial or office uses principally accessed by automobile traffic; and 3) offering possibilities for development and redevelopment. The Municipal Place commercial district clearly meets these criteria and as such was designated a gateway district. The regulations set out in the gateway legislation are designed to upgrade the image and function of the gateway areas and improve the overall visual identity of the village and apply equally to all properties in the gateway districts.

8. The 8,000 square foot limitation will restrict the development of a future supermarket in the Municipal Place gateway. However, it will encourage a greater mix of uses, as more than one use will be able to occupy the space. Furthermore, village residents will continue to have access to two supermarkets, the Shop-Rite in the Harmon commercial district, and the A&P just outside the village's northern boundary.
9. Drive-through windows pose a number of problems, particularly for communities that want to improve the walkability and accessibility of their shopping areas. While a person who parks and walks to a bank or pharmacy is more likely to walk to other shopping amenities in the area, drive-throughs act as a disincentive to use other shopping amenities. Drive-through establishments also disrupt traffic flow within, entering and exiting parking lots. Furthermore, the idling of cars at drive-through establishments is a major source of air pollution. Providing adequate, close-by parking and implementing the walkway and crosswalk measures set out in the gateway legislation will improve the safety of pedestrians in shopping plaza parking lots.

**Comment #3.2.31: There is no evidence to support the claim that disaster would befall Croton if the Gateway Plan were not implemented. I'm being very generous when I describe these "scare tactics" as "poppycock"!!!!!!! (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 4)**

Response: The gateway legislation sets out regulations that are designed to help the village fulfill the goals identified in the 2003 Comprehensive Plan. These goals include improving the visual quality of Croton and encouraging lower-scale commercial and office development.

**Comment #3.2.32: There should be a regulation to outlaw drive-through windows at neighboring establishments. For example, it would be impossible for the Brown Cow, Wachovia and the dry cleaner to have drive-through window next to each other in the Van Wyck shopping lot! Only one should be allowed! (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 5)**

Response: The gateway legislation fully prohibits drive-through windows; therefore, no further regulations relating to drive-through windows in the gateway districts are necessary.

### 3.3 Natural Resources

**Comment #3.3.1: Set forth any environmental rationale for the 8,000 square foot retail building size limitation contained in literature or any empirical studies conducted by or on behalf of the Village. (Mr. Adam Wekstein, letter dated 11/3/03, p.13)**

Response: Since publication and circulation of the DGEIS and in response to public comments, the gateway legislation has been amended to limit *maximum*

*building size to 20,000 square feet and maximum size for single commercial uses to 8,000 square feet. These size limitations are based on the village goals, set out in the Comprehensive Plan and the gateway legislation, to encourage lower-scale development that is more appropriate to a small, historic village and to help preserve and enhance the village's green, open space qualities. While no environmental, i.e. natural resource, rationale is required for the enactment of a regulation, this proposed gateway legislation moves toward achieving these goals by encouraging improved landscaping, open space allotments, and smaller-scale design.*

**Comment #3.3.2: Where a site will allow development of building(s) with a gross square footage of greater than 8,000 square feet, what is the environmental rationale for requiring that no single building can be more than 8,000 square feet in area?**

**(a) Describe the studies for empirical research supporting this choice by the Village. (Mr. Adam Wekstein, letter dated 11/3/03, p.14)**

Response: See response to Comment #3.2.2.

### **3.4 Surface Water and Drainage**

**Comment #3.4.1: The automobile dealership will not have added impervious surface. The Village could require storm water runoff management instead [of prohibiting automobile dealerships]. (Mr. Adam Wekstein, Gateway Public Hearing, 11/3/03)**

Response: It is not clear which part of the DGEIS this statement refers to. Section 2.1 (p.16) mentions paved lots in reference to visual character. Section 2.2 (p.19) points out that under the proposed reduction in FAR there would be a corresponding reduction in the amount of required parking which in turn would require fewer impervious surfaces, which combined with the landscaping requirements would have a beneficial effect on stormwater runoff. Section 2.7 (p.39) states that the prohibited uses "require a large percentage of the lot to be paved", but this is in the context of the effects on neighborhood character, not in reference to stormwater.

**Comment #3.4.2: There seems to be a dearth of documentation about the issues of traffic and storm water drainage. (Mr. David Steinmetz, Gateway Public Hearing, 11/3/03).**

Response: Since the proposed gateway legislation will limit overall development potential and density, and will encourage pedestrian amenities, it will not create additional traffic volume or have an otherwise adverse impact on traffic flow. As traffic was not identified as a potential negative impact that may result from the proposed action, no further analysis of traffic impacts is required under SEQRA.

The DGEIS does not suggest that the purpose of the gateway legislation is to mitigate stormwater runoff (see above response), nor was stormwater runoff identified as a potential negative impact that may result from the proposed

action. Accordingly, a storm water drainage study is not required as part of the SEQR process.

**Comment #3.4.3: Has a comparative storm water analysis been done? (Mr. David Steinmetz, Gateway Public Hearing, 11/3/03).**

Response: See above response.

### 3.5 Traffic and Transportation

#### Traffic Generation

**Comment #3.5.1: Has any empirical data been gathered or any traffic study been performed comparing the traffic which would be generated by uses permitted in the C-2 zone generally versus those which will now be prohibited under the Gateway legislation? (Mr. Adam Wekstein, letter dated 11/3/03, p.12)**

Response: No. Traffic and transportation was not identified as a potential negative impact that may result from the proposed action and was therefore not analyzed. As the DGEIS states, the proposed zoning will reduce the maximum permitted FAR within two of the gateway districts. When compared to the higher densities permitted under the existing zoning, this reduction will have a long-term beneficial impact on traffic generation within the gateway areas.

**Comment #3.5.2: The two rationalizations for prohibiting automobile dealers in the Gateway zone which appear in the DGEIS are groundless. The DGEIS asserts that automobile dealerships create high volumes of automobile traffic, without citing any source material, studies or empirical evidence supportive of that statement.**

The attached excerpts from the Sixth Edition of the ITE Trip Generation Manual show that the average number of vehicle trips per 1,000 square feet of building during the peak hour traffic period generated by an automobile dealership is 2.80. In contrast, the corresponding number for a shopping center is 3.74 and for a supermarket is 11.51! (Mr. Adam Wekstein, letter dated 11/3/03, p.9; Mr. Adam Wekstein, Gateway Public Hearing, 11/3/03)

Response: This is taken out of context. In discussing the rationale for the prohibited uses under the proposed Gateway zoning, the DGEIS does not single out automobile dealers. Instead, in addition to automobile dealer uses, traffic generation is discussed in the context of all of the prohibited uses including commercial parking lots, automobile storage lots, fast food restaurants, automobile dealerships and drive-through windows. As with these other uses, automobile dealerships were deemed inappropriate land uses for the gateway areas. It is correct that the ITE traffic generation rate is relatively low for automobile dealerships. However, for other prohibited uses, such as fast food restaurants with drive-through windows, the Seventh Edition of the ITE Trip Generation Manual reveals a high average traffic generation

rate: the average daily trip generation rate per 1,000 square feet on a weekday is 496.12; the per-hour average generation rate during peak morning hours (per 1,000 square feet of gross floor area) is 53.11 and 34.64 during peak afternoon hours. (see appendix).

**Comment #3.5.3: What is the basis for asserting in the DGEIS that pedestrian traffic will increase and vehicular traffic will decrease if sidewalks are installed in the Municipal Place Gateway District, in light of the existing configuration of strip shopping centers and the fact that the proposed district includes two busy State highways?** (Mr. Adam Wekstein, letter dated 11/3/03, p.13)

Response: The DGEIS does not assert that the installation of sidewalks alone will increase pedestrian traffic and reduce vehicular traffic. Page iii of the DGEIS states that "In the long term, the reduction in density, retail size limitation and design improvements may increase the amount of foot traffic in the gateways and reduce the amount of vehicular traffic as compared to the development permitted under current zoning." The DGEIS simply suggests that pedestrian traffic may increase and vehicular traffic may decrease as a result of the combination of controls introduced as part of the proposed gateway zoning. These controls will improve pedestrian safety and amenities, thereby facilitating pedestrian access to the shopping area.

**Comment #3.5.4: How do the multi-use buildings which are encouraged by the Gateway Zoning text (through the provision of a greater FAR) compare in terms of traffic generation and other salient environmental impacts to single use buildings?** (Mr. Adam Wekstein, letter dated 11/3/03, p.14)

Response: As part of the proposed overlay, 0.35 FAR will be permitted for single-use properties and 0.40 FAR will be permitted for multi-use properties. The additional 0.05 FAR permitted for multi-use properties will encourage a greater mix of uses within the gateway areas, which will also have a beneficial impact on both the economic diversity and neighborhood character within the gateways. Mixed use also will allow, in some instances, for "shared parking<sup>2</sup>."

**Comment #3.5.5: Using the Katz property as a Community Center/Office Facility is fraught with the same traffic problem that we had when McDonald's tried to come to town. Another traffic light will be needed at the entrance to Wachovia and the Center.**

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<sup>2</sup> Shared parking is a term used to describe different uses sharing the same parking facility. The concept is that different uses have different peak characteristics for their parking demands and that this difference, in the timing of the peak demand, enables more efficient use of the same lot with minimal conflict. For example, office use generally requires its peak parking demand during the day, and residential use generally requires its peak parking in the evenings and at night. In this way, office and residential uses can be combined and can share their parking facility. The total parking supply required under the shared parking scenario would be less than the sum of the two parking that would need to be supplied by each use if they remained separate. The actual shared parking demand should be calculated through a shared parking analysis, in effect estimating the parking demand of each component use for various time periods (weekday am, midday, weekday pm, weekday evening, Saturday midday, etc).

Otherwise, eastbound will hold up traffic if they want to make a left hand turn into the Center. Even with a traffic light, there will be congestion at this junction especially when trucks enter to deliver at CVS. The only viable entrance to the suggested Center is from South Riverside and that means Katz will have to give up more property! Didn't we learn from our prior experience! (Mr. Robert Wintermeier, email letter dated 11/24/03, p.3)

Response: Neither the DGEIS nor this FGEIS requires or contemplates the use of the Katz property as a community center / office facility. That would be one of several permitted uses.

### Traffic Safety

**Comment #3.5.6: What study or empirical analysis was undertaken respecting the traffic safety consequences of requiring buildings to be located abutting the street frontage of a busy state road (such as Route 129) with regard to sight distance and road geometry?** (Mr. Adam Wekstein, letter dated 11/3/03, p.14)

Response: There are already several traffic safety measures in place in the Municipal Place area: one traffic light at the intersection of Municipal Place and Route 129 (Maple Street), a second light at the intersection of Municipal Place and South Riverside, and a third at the y-intersection of Route 129 and South Riverside.

Future development along the street frontage would not be expected to have any adverse impacts on sight distance. Since all commercial development is subject to site plan review, issues such as sight lines at corners or bends in the road will be analyzed and appropriate mitigation measures established as needed during the site plan review phase.

**Comment #3.5.7: Common sense should apply to the number and size of curb cuts. Pedestrians are rarely inconvenienced by curb cuts. Restricting the size and number of curb cuts leads to traffic tie-ups for cars entering or leaving parking areas. If curb cuts are reduced in size and quantity, the Village MUST be responsible for installing traffic lights or signage to control the traffic!** (Mr. Robert Wintermeier, email letter dated 11/24/03, p.3; emphasis in original)

Response: High curb cut density is at a minimum an inconvenience to pedestrians as it impedes pedestrian circulation and creates safety hazards. A high number of entry/egress points from a parking lot onto a road increases accidents rates as well as traffic congestion.

**Comment #3.5.8: A buffer of trees, ornamental shrubs and LOW stone walls will not shield parking areas and especially service stations from adjacent sidewalks and streets. In fact, these cosmetic facilities may make pedestrian traffic more hazardous by screening pedestrians from the view of drivers. (Page 34)** (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 4)

Response: Landscaping features such as trees, ornamental shrubs and low stone walls create a more attractive streetscape and mitigate any visually adverse

impacts of parking areas and service stations. Any such features would be designed so as not to block or interfere with the sight distances from vehicle entry/egress points and therefore would not make pedestrian traffic more hazardous.

**Comment #3.5.9. Tractor trailers delivering cars to Croton Dodge create a major traffic mess. At Croton Auto Park, there is no room to handle tractor-trailors and drivers need to change lanes to go around tractor trailers.** (Joanne Minnet, Gateway Public Hearing, 11/3/03).

Response: Current traffic and safety issues associated with deliveries should be referred to the village's traffic enforcement officers for review. The enforcement officers can address the issues with the business owners and develop mitigation measures as needed.

### Parking Facilities

**Comment #3.5.10: Describe the basis for the claim in the DGEIS that the reduction in FAR in the Gateway districts will reduce the likelihood of the development of structured parking facilities, when there are currently no structured parking facilities within the Village of Croton-on-Hudson.** (Mr. Adam Wekstein, letter dated 11/3/03, p.14)

Response: The DGEIS states on p. ii, "The reduction in the maximum allowable FAR should discourage the construction of parking decks as all required parking should be accommodated at grade." Parking decks are typically constructed to meet large-scale parking demand. The larger scale of development and related parking requirements permitted under the *current* zoning could lead to the construction of parking decks, if property owners choose to expand under the current zoning. The reduction in FAR will proportionately reduce the total number of required parking spaces for future development. Therefore, the parking requirements are more likely to be met through at-grade parking rather than parking decks.

### Pedestrian Networks and Sidewalks

**Comment #3.5.11: New pedestrian networks especially from schools, the library or recreation areas will not attract customers to the Municipal Gateway (who dreamed this one up). Streetscapes will certainly not make an impact either. (Page 8) You need a bevy of magnet services/businesses (Post Office, CVS, Wachovia, etc.) or a desirable teenage hangout (Brown Cow, Blockbuster, Dunkin Donuts, Cappriccio's, etc.) in order to attract visitors to Municipal Gateway!!! All day long, I watch kids and seniors walking down Radnor or Maple to the Duck Pond or the Municipal Gateway stores. Except for a connection from Radnor to Maple where sidewalks would enhance safety and a stairway to Croton Commons from the Route 129-Maple Street intersection to avoid the wasted time of walking west to enter the Commons by Dom's, the existing network is more than adequate.**

**In addition, pedestrian routes will not prevent customers from driving between Van Wyck and Croton Commons. If the author(s) of the Gateway Plan spent any time at**

**either shopping area they would see that the furthest parking spaces usually remain vacant as drivers queue up or drive around several times looking for closer spots to CVS or the Post Office. The reason...most folks don't like to walk!** (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 3)

Response: The stated preferences of Croton residents are the primary catalyst for the sidewalk recommendations made in the gateway legislation. Throughout the public participation process for the Comprehensive Plan, residents consistently cited their dissatisfaction with Croton's existing sidewalk network and the need to improve sidewalk connections, particularly in built-up areas. In the Resident Survey, conducted in the fall of 2000, sidewalk condition/lack of sidewalks was identified as the number one characteristic residents liked least about the village (39% of respondents). In the Commercial Areas workshop, conducted in January 2001, the inadequacy of sidewalks was again cited, particularly for the Croton Commons area. In this workshop, residents were asked to recommend solutions to the issues they identified; for the Municipal Place area, recommendations included:

- add sidewalks within different shopping centers, and create better pedestrian connections between them
- link this area via new sidewalks to Upper Village
- add pedestrian crossings for safety

Similar issues were identified for the South Riverside commercial area, for which residents recommended "providing safe, convenient pedestrian/bike links to nearby residential community" and "providing sidewalks in the Shop Rite area and on both sides of Croton Point Avenue."

Furthermore, the provision of pedestrian amenities such as well-maintained sidewalks and properly demarcated crosswalks improves access to commercial areas, improves safety, and in doing so, makes the commercial area more pedestrian-friendly.

**Comment #3.5.12: There is absolutely NO reason to ask Village residents to place a 3/10 of a mile sidewalk from Warren Road past the Poritzky property to the A&P shopping center other than some one possibly wants their personal jogging path. There are only 4 business establishments and one home that I could locate along this stretch and residents of Scenic Ridge already have a sidewalk from Warren Place to the Amberlands Plaza. The cost would be exorbitant especially when the Village faces brown water problems and decaying sewers. The Gateway Plan also shows a sidewalk on the same figure (Page 37) along the eastern side of this proposed pedestrian path. Both sidewalks should be removed from the diagram.** (Mr. Robert Wintermeier, email letter dated 11/24/03, p.4)

Response: The sidewalks recommended for the North End gateway will improve access to the existing business establishments and to future development along the road from nearby neighborhoods.

**Comment #3.5.13: There is no need to needlessly spend Village money for a sidewalk on the south side of Croton Point Avenue. The sidewalk on the northern side is more than adequate and safer!** (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 4)

Response: During the Comprehensive Plan public participation process, Croton residents expressed an interest in a sidewalk along the south side of Croton Point Avenue to facilitate access to and from the train station and improve links to the South Riverside commercial area.

**Comment #3.5.14: There are sidewalks connecting stores and landscaped islands in each of the shopping plazas. There is no reason to impose additional burdens of these property owners.** (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 4)

Response: The current sidewalk amenities in the shopping plazas are limited. Expanding the sidewalk connections within and between shopping plazas and improving landscaping will create a safer and more attractive environment for shoppers.

**Comment #3.5.15: A stairway from the Croton Point-South Riverside intersection to ShopRite Plaza would reduce the cost of a lengthy sidewalk and the resulting traffic congestion due to construction. (Add to Comprehensive Plan since this area is not in a Gateway)** (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 5)

Response: While a stairway could at some point be considered, it would not obviate the need to provide a sidewalk to serve as a pedestrian link to the shopping center. Furthermore, a stairway alone would limit access to seniors and others who would choose to walk but who have difficulty with the stairs.

**Comment #3.5.16: A stairway from the Route 129-Maple Street intersection to Croton Commons would reduce the cost of a lengthy sidewalk and the resulting traffic congestion due to construction.** (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 5)

Response: See above response.

### Traffic Analysis

**Comment #3.5.17: There should be a traffic count for cars coming into and out of the Village on Route 129 from the dam. I consider this to be the major Gateway into and out of Croton yet the authors of the Gateway concept ignored it! (Page 26)** (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 4)

Response: As indicated earlier in this FGEIS, the gateway districts were selected on the basis of three characteristics: vehicular entry point from *Routes 9 and 9A*; commercial or office uses principally accessed by automobile traffic; and possibilities for development and redevelopment. As this western portion of the village does not meet these characteristics, it was not included as a gateway area.

**Comment #3.5.18: Has the Village conducted a traffic analysis for shopping centers, municipal buildings or community centers?** (Mr. David Steinmetz, Gateway Public Hearing, 11/3/03).

Response: During the scoping and DGEIS for the gateway legislation, no adverse impacts on traffic volume or flow were identified. Therefore, a traffic analysis is not required.

### 3.6 Air Quality and Noise

No comments or questions relating to this topic were raised during the public comment period.

### 3.7 Socioeconomic / Neighborhood Character

**Comment #3.7.1: Fewer retail outlets mean less Village tax revenue and place a higher burden on residents. Talk to Linda Pugliese to find out how she kept Town taxes down by bringing in business since it is apparent that Croton doesn't have a clue! (Page 1)** (Mr. Robert Wintermeier, e-mail letter dated 11/24/03, p. 3)

Response: The proposed gateway legislation does not decrease the number of existing retail establishments and therefore will not decrease the tax revenues available from commercial properties. The legislation limits total permitted future development but still allows for expansion on existing properties and development on unimproved ones.

**Comment #3.7.2: Fewer retail outlets means less jobs for local residents especially teenagers and seniors. Experience has shown that low employment results in higher crime rates. (Page 1)** (Mr. Robert Wintermeier, e-mail letter dated 11/24/03, p. 3; emphasis in original)

Response: See response above. The proposed legislation will not decrease the number of existing retail establishments or jobs and will not prevent the future development of additional retail establishments.

**Comment #3.7.3: In order to pass laws that will maintain Croton's "Character", some one needs to define this character or the character we are trying to achieve. For me, Croton's character is a potpourri of districts ranging from late depression (North Riverside, Brook Street, etc.) to exclusive housing developments. Houses range from chicken shacks to mansions. Historically, Croton is an Indian village that became a Revolutionary hotbed before a winery, brickyard and magnificent dam were established. It is also a bedroom river community supporting a major railroad and city commuters. Which character(s) are we trying to promote?** (Mr. Robert Wintermeier, e-mail letter dated 11/24/03, p. 4; emphasis in original)

Response: As identified in the Comprehensive Plan, Croton residents wish to preserve and enhance Croton's small-town, historic scale and green, open space qualities. The measures contained in the proposed gateway legislation will help preserve this character by reducing the total permitted development density in commercial and office areas, improving pedestrian access, and

encouraging landscaping, streetscaping and other aesthetic features that will lend a more attractive, green quality to the gateway areas.

### 3.8 Community Services and Facilities

**Comment #3.8.1: What studies have been undertaken by the Village with respect to the appropriateness of using the Katz Property as a site for a community facility?**

**(a) Has the Village obtained or attempted to obtain funding for use or acquisition of the Katz Property?**

**(i) Describe all such efforts.** (Mr. Adam Wekstein, letter dated 11/3/03, p.14)

Response: No efforts have been made to date. The Katz property was identified as a potentially viable site for a community center during the comprehensive planning process after residents identified the need for a community center in the village. That is only one of several permitted uses on the property. See response to comment # 3.5.5.

**Comment #3.8.2: Describe any studies regarding the fiscal impacts on the Village of reducing the potential for commercial development in the Gateway Districts and corresponding impacts on the Village's ability to provide community services and maintain, repair and upgrade infrastructure.** (Mr. Adam Wekstein, letter dated 11/3/03, p.14)

Response: No studies have been undertaken or are required. Increased demand for community facilities and infrastructure corresponds to new development. By limiting the future development potential in the gateway areas, the proposed legislation also limits potential demand for additional infrastructure in these areas.

**Comment #3.8.3: The Gateway Plan (Page 25) emphasizes developing a Community Center/ Office Complex at Municipal Place, which will have a direct impact on community facilities!** (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 4)

Response: See responses to comments 3.5.5 and 3.8.1.

**Comment #3.8.4: The skate park is not getting much attention now. What makes anyone think that making it into a different recreation area will serve as a draw to Municipal Place? In addition, traffic in this area makes it a dangerous location for any type of recreation.** (Page 8) (Mr. Robert Wintermeier, email letter dated 11/24/03, p. 5)

Response: The skate park occupies only a portion of the Municipal Place site. Opportunities exist on the remainder of the site to provide additional recreation facilities and improve the overall appearance of the site.

**Comment #3.8.5: In previous board meetings and a recent article in the Gazette, the Gerrity-Miller report, etc, [Village] wells have NOT been described as "deep" but exactly the opposite. (One may be deep, the other two are not). In addition, the county is**

currently asserting – and as discussed in previous board meetings – that because our wells are not deep, it is “suspected” that Croton’s water supply “may be under the influence of surface water” for which the village is currently seeking a hydrogeologist. (Ms. Maria Cudequest, e-mail comments, 11/20/03).

Response: The village has three wells that are 60 to 70 feet deep and are therefore characterized as deep wells. The wells reach down to, but do not penetrate, the bedrock. The Geraghty and Miller reports also characterize these as “deep wells.” The village had one shallow, 20-foot deep well (well #2) that was taken out of service. As of the preparation of this FGEIS, the village was beginning the process for selecting a consultant to assess whether any surface water issues exist.

### **3.9 Construction Impacts**

No comments relating to this topic were raised during the public comment period.

## **APPENDIX**

- A. PROPOSED GATEWAY ORDINANCE: ORIGINAL AND REVISED TEXTS**
- B. COMMENTS ON THE DGEIS:  
PUBLIC HEARING RECORD  
LETTER FROM MR. ADAM WEKSTEIN, NOVEMBER 3, 2003  
E-MAIL LETTER FROM MS. MARIA CUDEQUEST, NOVEMBER 21, 2003  
E-MAIL LETTER FROM MR. ROBERT WINTERMEIER, NOVEMBER 24, 2003**
- C. BIG BOX RETAIL: EXPLANATORY TEXTS**
- D. ITE TRAFFIC GENERATION DATA ON DRIVE-THROUGH FAST FOOD ESTABLISHMENTS**

APPENDIX A:  
GATEWAY ORDINANCE

## Appendix A: Croton Gateway Legislation, Original and Revised Versions

### Summary of Revisions to Legislation

1. §230-20.3-3: The limitation on hours of operation has been deleted
2. §230-20.4-2: The maximum building square footage for any single building has been changed from 8,000 square feet to 20,000 square feet. The size limitation now applies to *any* single building, not just those buildings designed for retail use.
3. §230-20.4-3: A maximum square footage limitation has been established for any single commercial use. This restriction limits the maximum permissible square footage for any single commercial use by any single occupant or tenant to 8,000 square feet of gross floor area.
4. §230-20.5-3 (Open Space): The per-lot open space requirement has been *decreased to 15%*, from 25%.

Two additional corrective revisions have been made to the legislation.

1. §230-20.6 (Gateway Overlay District Design Guidelines): In the introductory paragraph, the word *unique* has been changed to *special*.
2. §230-20.6-1-b (design guidelines for South Riverside/Harmon): Landscaping guidelines have been established for the South Riverside/Harmon gateway district. These guidelines are consistent in scope with the landscaping guidelines for the North End and Municipal Place gateway districts set out in the gateway legislation. The guidelines reflect the improvements recommended in the Comprehensive Plan and shown in the concept drawing for South Riverside.

## *Local Law Filing*

### **DRAFT**

#### **Village of Croton-on-Hudson**

#### **Local Law Introductory No. 3 of the year 2003**

A local law establishing a gateway overlay district within the Zoning Law of the Village

Be it enacted by the Board of Trustees of the Village of Croton-on-Hudson as follows:

#### **Section 1. Amendment to Zoning Law, Chapter 230 of the Croton-on-Hudson Village Code**

A new Article IV.A entitled Gateway Overlay District shall be added to Chapter 230 and shall read as follows:

#### **Article IVA – Gateway Overlay District**

##### **§ 230-20.1 Purpose / Definition of Gateway Overlay District**

Croton's commercial gateways are the major entry points from surrounding municipalities and roads. The physical gateway areas are comprised of the roads and surrounding properties a motorist or pedestrian encounters when first entering the Village. These areas create a sense of arrival and connection to the Village, and establish an image and initial impression of the community.

The 2002 Comprehensive Plan identified three gateway areas in the Village, which currently share the following defining characteristics:

1. Vehicular entry points in Croton-on-Hudson from Route 9/9A
2. Commercial or office uses principally accessed by automobile traffic
3. Possibilities for development and redevelopment.

The purpose of the gateway overlay district is to establish standards that upgrade the image and function of gateway areas, strengthen the overall visual identity of the Village, and improve pedestrian linkages to adjacent residential neighborhoods.

##### **§ 230-20.2 - Location of Gateway Areas**

Croton-on-Hudson's three gateway areas are:

1. *Harmon / South Riverside*, running along Croton Point Avenue between Route 9 and South Riverside Avenue, and along South Riverside Avenue between Croton Point Avenue and Benedict Boulevard. The area is an important link to the train station via Croton Point Avenue and to the Harmon neighborhood. It also provides a connection to the historic Van Cortlandt Manor to the south.
2. *Municipal Place Shopping Area*, consisting of lots on the north and south sides of Municipal Place between Route 9 and Maple Street, and the commercially-zoned portion of the block on the east side of Maple Street, and the lots located between Route 9 and South Riverside Avenue from the Village-owned parcel to the north to the intersection of Maple and South Riverside to the south, as shown on Figure 3. The Municipal Place Shopping Area is an important entrance to the Village from Route 9. It connects to the Upper Village via Maple Street and to the surrounding neighborhoods.
3. *North End of the Village along Albany Post Road (9A)*, consisting of the eight lots between Routes 9 and 9A, and Village boundary and Warren Road. This area marks the entrance to the Village from the north along Routes 9 and 9A.

The locations of the gateway districts are shown in Figure 1.

#### § 230-20.3. Gateway Overlay District Use Regulations

1. *Special Permit Uses*. The uses permitted in the gateway districts shall correspond to the permitted and special permit uses set forth in the underlying zoning district. In addition, the following uses, when not otherwise authorized in the underlying zone, shall be permitted by a special permit granted by the Village Board of Trustees in the Gateway districts:
  - a. Farmers markets, greenmarkets or garden centers.
2. *Prohibited Uses*. Notwithstanding uses otherwise permitted by the underlying zoning district, the following uses shall be prohibited in the gateway districts:
  - a. Commercial parking lots
  - b. Automobile storage lots
  - c. Drive-through windows for commercial establishments
  - d. Automobile or other vehicle dealerships
  - e. Fast-food restaurants
3. *Hours of Operation*. No establishment shall be open for business for more than sixteen hours within any twenty-four hour period.

#### § 230-20.4 Gateway Overlay District Area and Bulk Regulations

##### 1. Maximum Allowable Floor Area Ratio

The maximum allowable Floor Area Ratio (FAR) standards that shall be adhered to for new development shall be the FAR listed for the underlying zone or the following, whichever is more restrictive:

- a. 0.35 for single-use properties, that is a property proposed for only one principal permitted use.
- b. 0.40 for multi-use properties, including combinations of retail and office, retail and residential uses or office and residential.

## 2. Maximum Building Square Footage

The maximum permissible square footage for any single building designed for retail use shall not exceed 8,000 square feet. This requirement is imposed in order to encourage a compact urban design of the gateway.

## § 230-20.5 Gateway Overlay District Design Regulations

### 1. Off-Street Parking Placement / Design.

All off-street parking shall be located along the side and in the rear of buildings, unless the applicant demonstrates to the Planning Board that site or business constraints prevent conformance with this requirement. In accordance with §230-52 of the Zoning Code, parking lots shall be landscaped.

### 2. Curb Cuts and Sidewalks.

a. *Vehicular Curb Cuts.* Properties within the gateway areas shall be permitted a maximum of one (1) vehicular curb cut per lot per street frontage, unless the property owner can demonstrate to the Planning Board that this standard either cannot be achieved or is not appropriate to the specific site. Where the owner of a developed property with more than one curb cut applies for a change of use, a site plan and/or amendment to a site plan, the property owner shall be required to meet the conditions of this paragraph. Curb cut consolidation plans shall be presented to the Planning Board as part of the site plan application. Where possible, curb cuts shall be shared among adjoining properties.

b. *Sidewalks.* All sidewalks shall be properly maintained in accordance with Village regulations. All new property developments must provide sidewalks along any property lines that front on public streets. Internal sidewalks will be provided as deemed appropriate by the Planning Board.

### 3. Open Space.

To enhance the appearance of the gateway areas and contribute to Croton's open space character, a minimum of twenty-five percent (25%) of the lot area shall be set aside as open space. Applicants will be required to submit a landscape plan as part of the site plan application.

a. This open space allotment shall either be left in its natural state or appropriately landscaped and open to the air, and may include:

1. Landscaped or planted building setbacks
2. Landscaped or planted islands in parking lots
3. Grass or planted areas on the lot.

b. The open space allotment may not include parking lots, buildings or sidewalks.

c. Where a lot has frontage on a street or sidewalk, the planting of trees, shrubs and other landscaping shall be designed to provide an attractive, green buffer between the building and the sidewalk and the sidewalk and the street.

d. A buffer of street trees, ornamental shrubs or low stone walls shall be required to screen parking areas and auto service stations from adjacent sidewalks and streets. The effectiveness of the buffer including its width height and length shall be determined during site plan review by the Planning Board.

### 4. Signage.

All signs in the gateway districts must conform to the Village's signage regulations set forth in §230-44 of the Zoning Code. In addition, no sign in a gateway district shall exceed 48 square feet in area.

5. Lighting

- a. All applicants shall be required to submit a lighting diagram at the time of site plan application showing the location of lights on buildings and in parking lots, and the actual areas of illumination.
- b. The illumination glare from building and parking lot lights shall not be permitted to spill over into any adjoining lots.
- c. *Parking Lot Lighting.* Free-standing lighting in parking lots shall not be higher than 20 feet.

6. Building Orientation

In order to discourage parking lots in front of buildings New buildings shall be oriented with the building front facing the street and situated close to the front property line to create a more continuous street wall.

§ 230-20.6 Gateway Overlay District Design Guidelines

Each of the gateway areas should have a unique character that should be preserved and enhanced. Accordingly, in addition to the Design Regulations set forth above in § 230-20.5 of this ordinance, design guidelines have been established in the 2002 Comprehensive Plan for each of the three gateway areas that build upon the individual features of each district. The design guidelines for each gateway district are depicted in Figures 2, 3, and 4 of this ordinance and described below.

1. South Riverside/Harmon.

New development, landscaping and streetscaping in the South Riverside/Harmon district shall be designed to enhance the district's small-scale character and to improve connections between the railroad station and the South Riverside/Harmon shopping area.

- a. *Pedestrian and Bicycle Networks.* To improve safety and accessibility in the Harmon/South Riverside area, the installation of sidewalks and bikeways along the south side of Croton Point Avenue shall be required as practicable. Any new sidewalks shall include paving treatments that are consistent with the sidewalk design incorporated in the commercial areas on South Riverside between Benedict Boulevard and Oneida Avenue.
- b. *Streetscape.* The Planning Board shall require the use of pedestrian-scale lighting and other streetscape features similar to those used in the North Riverside and Upper Village commercial areas, to visually link this district to other commercial areas and to create a more attractive and accessible pedestrian environment.
- c. *Signage.* All signage within the district shall conform to the signage regulations set forth in the Zoning Code. In addition, to reinforce the area's role as a major gateway, the Planning Board shall encourage the design and placement of a distinctive gateway feature such as a clock or sculpture near the corner of Croton Point Avenue and South Riverside Avenue.

2. **Municipal Place.**

- a. *Pedestrian Networks.* A network of pedestrian routes would provide safe and attractive links between the shopping plazas and other commercial sites, as well as to other major destination points such as schools, the library and recreation areas. In site plan applications the following shall be implemented wherever it is deemed practicable by the Planning Board:
  - 1) The installation of sidewalks in the following locations within the gateway districts:
    - The west side of Maple Street along the parcel with the following tax map designation: 78-12-3-3
    - The east side of Maple Street from Municipal Place to Hudson Street
    - The north and south sides of Municipal Place between South Riverside Avenue and Maple Street
  - 2) The installation of sidewalks within each shopping plaza. These routes shall link directly to store entrances and to pedestrian crosswalks, and shall include landscaping, signage and seating areas that encourage pedestrian activity.
  - 3) Any new sidewalks shall include paving treatments that are consistent with the sidewalk design incorporated in the North Riverside at Brook Street and Upper Village commercial areas.
- b. *Landscaping.* Landscaping in the Municipal Place gateway district shall conform to the regulations set forth in §230-20.5 (3) of this ordinance and Section 230-71 of the Zoning Code. In addition, landscaped islands, including ornamental trees and shrubs, shall be incorporated as practicable for the plaza parking lots.
- c. *Streetscape.* The Planning Board shall require the use of pedestrian-scale lighting and other streetscape features similar to those used in the North Riverside at Brook Street or Upper Village commercial areas, to visually link this district to other commercial areas and to create a more attractive and accessible pedestrian environment.

d. *Signage.* All signage within the district shall conform to the signage regulations set forth in the Zoning Code.

3. North End.

New development, landscaping and streetscaping in the North End gateway district shall be designed to preserve the district's residential and rural feel, connect the district to the neighborhoods to the south, and provide a more defined entrance into the Village.

a. *Pedestrian Networks.* The installation of sidewalks along the Route 9 side of Route 9A, approximately from the village boundary line to the properties immediately south of Warren Road, and the installation of sidewalks on Warren Road between Route 9 and Route 9A shall be incorporated into site plans as practicable. Any new sidewalks along Route 9A shall include paving treatments that are consistent with the sidewalk design incorporated in the North Riverside at Brook Street and Upper Village commercial areas.

b. *Landscaping.* Landscaping in the North End gateway district shall conform to the regulations set forth in §230-20.5 (3) of this ordinance and Section 230-71 of the Zoning Code. In addition, street trees and ornamental shrubs shall also be planted on the east side of Route 9 and the west side of Route 9A to form a buffer between these roads and the North End gateway properties.

c. *Stone Walls.* The use of low stone walls consistent with existing built walls along property lines to screen parking, to provide a special identity for this district, and to visually link the district to similar features south of Warren Road shall be preferred in considering site plans.

§ 230-20.7 Compliance with Gateway District Regulations

All site plan, change of use and special permit applications within a Gateway Overlay District shall provide a design guidelines compliance chart or drawing which shall show how the application conforms to the gateway improvement plans set forth in the 2002 Comprehensive Plan and described in § 230-20.6 of this ordinance. The Planning Board shall use such compliance chart or drawing in its review of the application. The applicant shall indicate to the Planning Board reasons for any non-compliance with the gateway improvement plans.

Section 2. Zoning Overlays

A. South Riverside/Harmon Zoning District

The following parcels having the following Village tax map designations hereby comprise the South Riverside/Harmon Zoning District

- 79.13-2-5
- 79.13-2-6
- 79.13-2-18
- 79.13-2-19
- 79.13-2-20
- 79.13-2-21
- 79.13-2-22
- 79.13-2-22.1
- 79.13-2-23

79.13-2-24  
79.13-2-25  
79.13-2-26  
79.13-2-27  
79.13-2-28  
79.13-2-29  
79.13-2-30  
79.13-2-31  
79.13-2-32  
79.13-2-33

**B. Municipal Place**

The following parcels having the following Village tax map designations hereby comprise the Municipal Place Zoning District

78.12-3-4  
78.12-3-5  
78.12-3-6  
78.12-3-7  
78.12-3-3  
78.12-3-2  
78.12-3-8  
78.12-3-9  
78.12-3-10  
79.9-1-30  
79.9-1-77  
79.9-1-66  
79.9-1-67

**C. North End**

The following parcels having the following Village tax map designations hereby comprise the North End Zoning District

67.10-2-11  
67.10-2-12  
67.10-2-13  
67.10-2-14  
67.10-2-15  
67.10-2-16  
67.10-2-17  
67.10-2-1

Section 3. This Local Law shall be effective upon filing in the office of the Secretary of State.

The following definition shall be added to the definitions section of the code, 230-4  
"Terms Defined"

**Fast Food Restaurant:** An establishment primarily engaged in the sale of ready-to-consume food and beverages, generally served in disposable or prepackaged containers or wrappers, in which patrons usually select their orders from a posted menu offering a limited number of specialized items such as but not limited to hamburgers, chicken, fish and chips, pizza, tacos and hot dogs; these items are prepared according to standardized procedures for consumption either on or off the premises in a facility where a substantial portion of the sales to the public is by drive-in or stand-up service and primary cleanup is generally performed by the customer. The term "fast-food restaurant" shall not be considered to include restaurant, delicatessen, take-out establishment, bakery, coffee shop, or ice cream/confectionary store.

Revised 12-10-03

## Local Law Filing

### DRAFT

Village of Croton-on-Hudson

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#### Article IVA – Gateway Overlay District

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##### § 230-20.2 - Location of Gateway Areas

Croton-on-Hudson's three gateway areas are:

1. *Harmon / South Riverside*, running along Croton Point Avenue between Route 9 and South Riverside Avenue, and along South Riverside Avenue between Croton Point Avenue and Benedict Boulevard. The area is an important link to the train station via Croton Point Avenue and to the Harmon neighborhood. It also provides a connection to the historic Van Cortlandt Manor to the south.
2. *Municipal Place Shopping Area*, consisting of lots on the north and south sides of Municipal Place between Route 9 and Maple Street, and the commercially-zoned portion of the block on the east side of Maple Street, and the lots located between Route 9 and South Riverside Avenue from the Village-owned parcel to the north to the intersection of Maple and South Riverside to the south, as shown on Figure 3. The Municipal Place Shopping Area is an important entrance to the Village from Route 9. It connects to the Upper Village via Maple Street and to the surrounding neighborhoods.
3. *North End of the Village along Albany Post Road (9A)*, consisting of the eight lots between Routes 9 and 9A, and Village boundary and Warren Road. This area marks the entrance to the Village from the north along Routes 9 and 9A.

The locations of the gateway districts are shown in Figure 1.

#### § 230-20.3. Gateway Overlay District Use Regulations

1. *Special Permit Uses*. The uses permitted in the gateway districts shall correspond to the permitted and special permit uses set forth in the underlying zoning district. In addition, the following uses, when not otherwise authorized in the underlying zone, shall be permitted by a special permit granted by the Village Board of Trustees in the Gateway districts:
  - a. Farmers markets, greenmarkets or garden centers.
2. *Prohibited Uses*. Notwithstanding uses otherwise permitted by the underlying zoning district, the following uses shall be prohibited in the gateway districts:
  - a. Commercial parking lots
  - b. Automobile storage lots
  - c. Drive-through windows for commercial establishments
  - d. Automobile or other vehicle dealerships
  - e. Fast-food restaurants

#### § 230-20.4 Gateway Overlay District Area and Bulk Regulations

##### 1. Maximum Allowable Floor Area Ratio

The maximum allowable Floor Area Ratio (FAR) standards that shall be adhered to for new development shall be the FAR listed for the underlying zone or the following, whichever is more restrictive:

- a. 0.35 for single-use properties, that is a property proposed for only one principal permitted use.
- b. 0.40 for multi-use properties, including combinations of retail and office, retail and residential uses or office and residential.

##### 2. Maximum Building Square Footage

The maximum permissible square footage for any single building shall not exceed 20,000 square feet. This requirement is imposed in order to encourage a compact urban design of the gateway.

Maximum Permitted Square Footage for Any Single Commercial Use.

The maximum permissible square footage for any single commercial use by any single occupant or tenant shall not exceed 8,000 square feet of gross floor area.

230-20.5 Gateway Overlay District Design Regulations

1. Off-Street Parking Placement / Design.

All off-street parking shall be located along the side and in the rear of buildings, unless the applicant demonstrates to the Planning Board that site or business constraints prevent conformance with this requirement. In accordance with §230-52 of the Zoning Code, parking lots shall be landscaped.

2. Curb Cuts and Sidewalks.

a. *Vehicular Curb Cuts.* Properties within the gateway areas shall be permitted a maximum of one (1) vehicular curb cut per lot per street frontage, unless the property owner can demonstrate to the Planning Board that this standard either cannot be achieved or is not appropriate to the specific site. Where the owner of a developed property with more than one curb cut applies for a change of use, a site plan and/or amendment to a site plan, the property owner shall be required to meet the conditions of this paragraph. Curb cut consolidation plans shall be presented to the Planning Board as part of the site plan application. Where possible, curb cuts shall be shared among adjoining properties.

b. *Sidewalks.* All sidewalks shall be properly maintained in accordance with Village regulations. All new property developments must provide sidewalks along any property lines that front on public streets, unless this requirement is waived by the Planning Board due to the special circumstances of a particular site. Internal sidewalks will be provided as deemed appropriate by the Planning Board.

3. Open Space.

To enhance the appearance of the gateway areas and contribute to Croton's open space character, a minimum of fifteen percent (15%) of the lot area shall be set aside as open space. Applicants will be required to submit a landscape plan as part of the site plan application.

a. This open space allotment shall either be left in its natural state or appropriately landscaped and open to the air, and may include:

1. Landscaped or planted building setbacks
2. Landscaped or planted islands in parking lots
3. Grass or planted areas on the lot.

b. The open space allotment may not include parking lots, buildings or sidewalks.

c. Where a lot has frontage on a street or sidewalk, the planting of trees, shrubs and other landscaping shall be designed to provide an attractive, green buffer between the building and the sidewalk and the sidewalk and the street.

d. A buffer of street trees, ornamental shrubs or low stone walls shall be required to screen parking areas and auto service stations from adjacent sidewalks and streets. The

effectiveness of the buffer including its width height and length shall be determined during site plan review by the Planning Board.

4. Signage.

All signs in the gateway districts must conform to the Village's signage regulations set forth in §230-44 of the Zoning Code. In addition, no sign in a gateway district shall exceed 48 square feet in area.

Lighting

- a. All applicants shall be required to submit a lighting diagram at the time of site plan application showing the location of lights on buildings and in parking lots, and the actual areas of illumination.
- b. The illumination glare from building and parking lot lights shall not be permitted to spill over into any adjoining lots.
- c. *Parking Lot Lighting.* Free-standing lighting in parking lots shall not be higher than 20 feet.

3. Building Orientation

In order to discourage parking lots in front of buildings new buildings shall be oriented with the building front facing the street and situated close to the front property line to create a more continuous street wall.

§ 230-20.6 Gateway Overlay District Design Guidelines

Each of the gateway areas should have a special character that should be preserved and enhanced. Accordingly, in addition to the Design Regulations set forth above in § 230-20.5 of this ordinance, design guidelines have been established in the 2002 Comprehensive Plan for each of the three gateway areas that build upon the individual features of each district. The design guidelines for each gateway district are depicted in Figures 2, 3, and 4 of this ordinance and described below.

1. South Riverside/Harmon.

New development, landscaping and streetscaping in the South Riverside/Harmon district shall be designed to enhance the district's small-scale character and to improve connections between the railroad station and the South Riverside/Harmon shopping area.

- a. *Pedestrian and Bicycle Networks.* To improve safety and accessibility in the Harmon/South Riverside area, the installation of sidewalks and bikeways along the south side of Croton Point Avenue shall be required as practicable. Any new sidewalks shall include paving treatments that are consistent with the sidewalk design incorporated in the commercial areas on South Riverside between Benedict Boulevard and Oneida Avenue.
- b. *Landscaping.* Landscaping in the South Riverside/Harmon gateway district shall conform to the regulations set forth in §230-20.5 (3) of this ordinance and §230-52 of the Zoning Code. In addition, street trees and ornamental shrubs shall be planted on the east and west sides of South Riverside Avenue to enhance the appearance of this corridor and create a more attractive entrance to the Village.
- c. *Streetscape.* The Planning Board shall require the use of pedestrian-scale lighting and other streetscape features similar to those used in the North Riverside and Upper Village commercial areas, to visually link this district to other commercial areas and to create a more attractive and accessible pedestrian environment.
- d. *Signage.* All signage within the district shall conform to the signage regulations set forth in the Zoning Code. In addition, to reinforce the area's role as a major gateway, the Planning Board shall encourage the design and placement of a distinctive gateway feature such as a clock or sculpture near the corner of Croton Point Avenue and South Riverside Avenue.

2. Municipal Place.

- a. *Pedestrian Networks.* A network of pedestrian routes would provide safe and attractive links between the shopping plazas and other commercial sites, as well as to other major destination points such as schools, the library and recreation areas. In site plan applications the following shall be implemented wherever it is deemed practicable by the Planning Board:
  - 1) The installation of sidewalks in the following locations within the gateway districts:
    - The west side of Maple Street along the parcel with the following tax map designation: 78-12-3-3
    - The east side of Maple Street from Municipal Place to Hudson Street
    - The north and south sides of Municipal Place between South Riverside Avenue and Maple Street
  - 2) The installation of sidewalks within each shopping plaza. These routes shall link directly to store entrances and to pedestrian crosswalks, and shall include landscaping, signage and seating areas that encourage pedestrian activity.
  - 3) Any new sidewalks shall include paving treatments that are consistent with the sidewalk design incorporated in the North Riverside at Brook Street and Upper Village commercial areas.
- b. *Landscaping.* Landscaping in the Municipal Place gateway district shall conform to the regulations set forth in §230-20.5 (3) of this ordinance and §230-52 of the Zoning Code. In addition, landscaped islands, including ornamental trees and shrubs, shall be incorporated as practicable for the plaza parking lots.

- c. *Streetscape.* The Planning Board shall require the use of pedestrian-scale lighting and other streetscape features similar to those used in the North Riverside at Brook Street or Upper Village commercial areas, to visually link this district to other commercial areas and to create a more attractive and accessible pedestrian environment.
- d. *Signage.* All signage within the district shall conform to the signage regulations set forth in the Zoning Code.

3. North End.

New development, landscaping and streetscaping in the North End gateway district shall be designed to preserve the district's residential and rural feel, connect the district to the neighborhoods to the south, and provide a more defined entrance into the Village.

- a. *Pedestrian Networks.* The installation of sidewalks along the Route 9 side of Route 9A, approximately from the village boundary line to the properties immediately south of Warren Road, and the installation of sidewalks on Warren Road between Route 9 and Route 9A shall be incorporated into site plans as practicable. Any new sidewalks along Route 9A shall include paving treatments that are consistent with the sidewalk design incorporated in the North Riverside at Brook Street and Upper Village commercial areas.
- b. *Landscaping.* Landscaping in the North End gateway district shall conform to the regulations set forth in §230-20.5 (3) of this ordinance and §230-52 of the Zoning Code. In addition, street trees and ornamental shrubs shall also be planted on the east side of Route 9 and the west side of Route 9A to form a buffer between these roads and the North End gateway properties.
- c. *Stone Walls.* The use of low stone walls consistent with existing built walls along property lines to screen parking, to provide a special identity for this district, and to visually link the district to similar features south of Warren Road shall be preferred in considering site plans.

§ 230-20.7 Compliance with Gateway District Regulations

All site plan, change of use and special permit applications within a Gateway Overlay District shall provide a design guidelines compliance chart or drawing which shall show how the application conforms to the gateway improvement plans set forth in the 2002 Comprehensive Plan and described in § 230-20.6 of this ordinance. The Planning Board shall use such compliance chart or drawing in its review of the application. The applicant shall indicate to the Planning Board reasons for any non-compliance with the gateway improvement plans.

Section 2. Zoning Overlays

A. South Riverside/Harmon Zoning District

The following parcels having the following Village tax map designations hereby comprise the South Riverside/Harmon Zoning District

- 79.13-2-5
- 79.13-2-6
- 79.13-2-18

79.13-2-19  
79.13-2-20  
79.13-2-21  
79.13-2-22  
79.13-2-22.1  
79.13-2-23  
79.13-2-24  
79.13-2-25  
79.13-2-26  
79.13-2-27  
79.13-2-28  
79.13-2-29  
79.13-2-30  
79.13-2-31  
79.13-2-32  
79.13-2-33

B. Municipal Place

The following parcels having the following Village tax map designations hereby comprise the Municipal Place Zoning District

78.12-3-4  
78.12-3-5  
78.12-3-6  
78.12-3-7  
78.12-3-3  
78.12-3-2  
78.12-3-8  
78.12-3-9  
78.12-3-10  
79.9-1-30  
79.9-1-77  
79.9-1-66  
79.9-1-67

C. North End

The following parcels having the following Village tax map designations hereby comprise the North End Zoning District

67.10-2-11  
67.10-2-12  
67.10-2-13  
67.10-2-14  
67.10-2-15  
67.10-2-16  
67.10-2-17  
67.10-2-1

Section 3. This Local Law shall be effective upon filing in the office of the Secretary of State.

The following definition shall be added to the definitions section of the code, 230-4  
"Terms Defined"

**Fast Food Restaurant:** An establishment primarily engaged in the sale of ready-to-consume food and beverages, generally served in disposable or prepackaged containers or wrappers, in which patrons usually select their orders from a posted menu offering a limited number of specialized items such as but not limited to hamburgers, chicken, fish and chips, pizza, tacos and hot dogs; these items are prepared according to standardized procedures for consumption either on or off the premises in a facility where a substantial portion of the sales to the public is by drive-in or stand-up service and primary cleanup is generally performed by the customer. The term "fast-food restaurant" shall not be considered to include restaurant, delicatessen, take-out establishment, bakery, coffee shop, or ice cream/confectionary store.

APPENDIX B:  
DGEIS PUBLIC COMMENTS

A Regular Meeting of the Board of Trustees of the Village of Croton-on-Hudson, NY was held on Monday, November 3, 2003 at the Municipal Building, Van Wyck Street, Croton-on-Hudson, NY 10520.

The following officials were present:

Mayor Elliott	Trustee Grant
Village Manager Herbek	Trustee McCarthy
Treasurer Reardon	Trustee Schmidt
Village Attorney Waldman	Absent: Trustee Wiegman

**1. CALL TO ORDER:**

Mayor Elliott called the meeting to order at 8:00 p.m. Everyone joined in the Pledge of Allegiance.

**2. APPROVAL OF VOUCHERS:**

Trustee Schmidt made a motion to approve the vouchers as follows, subject to review by the Audit Committee. The motion was seconded by Trustee Grant and approved unanimously.

General Fund	\$ 29,606.32
Water Fund	5,449.32
Capital Accounts	88,555.75
Trust & Agency	<u>245.00</u>
	\$123,856.39

**3. PUBLIC HEARING:**

Ann Gallelli, Planning Board Chair, introduced members of the Comprehensive Planning Committee. Ms. Gallelli stated that in January 2003, the Village Board adopted the Comprehensive Plan for the Village, three Gateway districts have been identified; a zoning law has been developed along with Buckhurst Fish & Jacquemart; Frank Fish, one of the principals of Buckhurst Fish & Jacquemart reviewed the components of the Gateway district and the zoning law and procedures. The FEIS will be prepared to address comments brought forward. Mr. Fish highlighted briefly what was in the law; the purpose of which is to upgrade the image and function of the 3 gateway areas, to strengthen their visual identity and improve pedestrian linkage from the gateway areas to the surrounding areas to the Village. He spoke about the major features including floor area ratio requirements, design requirements and guidelines related to sidewalks, landscaping & lighting areas, open space requirement and maximum building size requirement.

Mayor Elliott opened the Public Hearing. Village Manager Herbek referred to three letters submitted thus far from the Planning Board with their recommendations and approvals, from WestEx Associates, Inc. and a fax from the firm of Shamberg Marwell Hocherman Davis and Hollis, P.C. signed by Adam Wekstein of that firm.

- a) Adam Wekstein, representing Strickland Realty which has 2 properties in the gateway overlay district, stated that the Village's planning policies and this law in particular have targeted his client's property; they did file an earlier protest petition and the Village now can

only implement gateway rezoning by supermajority vote of the Board. He added that the Comprehensive Plan & EAF repeatedly recommend this one piece of property to rezone for public use. He stated that his client is under contract with Eckerd Drug Store to develop the vacant piece of property; they had submitted plans for the drug store to the Planning Board that they believed complied with the then proposed Gateway zoning requirements; the new gateway plan imposes further restrictions; however, identity and internal operation of a business cannot be regulated under NY State law. He added that there is no reasonable planning basis for putting a façade against the street when the rest of the area has parking in front and businesses set far back; the 16 hour restriction is illegal, makes no sense and singles out his client. Mr. Wekstein added that the automobile dealership produces less traffic than most retail uses; will not have added impervious surface and automobile dealerships should not be singled out; the Village could require storm water runoff management instead. He added that the Gateway overlay rezoning violates Village Law; the Board has no authority to enact it; it leaves underlying zones intact, but imposes different area, use, operation, dimensional and design criteria in portions of that district; his client's property in the C2 zone is subject to different regulations than properties in the C2 zone elsewhere. He added that his letter includes extensive comments on the DGEIS itself.

- b) David Steinmetz, representing Louis Giordano, who has two businesses in the Village-Croton Auto Park and Croton Dodge, he is speaking toward the interest of the tenant; Mr. Wekstein is representing the owner of the property but he endorses Mr. Wekstein's comments. Mr. Steinmetz stated that his client has concerns about the impact on his businesses with the proposed land uses; his client would not be able to rebuild if a fire caused more than 50% of business to cease; it also could not expand if the Comprehensive Plan and Gateway Overlay was imposed. Mr. Steinmetz stated that they had concerns about the issues of traffic & storm water drainage and there seems to be a dearth of documentation; has the Village conducted a traffic analysis for shopping centers, municipals buildings or community centers, they need some data to support this; on the issue of storm water, has a comparative storm water analysis been done. Mr. Steinmetz asked if an analysis of the impact of converting two of the largest productive businesses in the Village to pre-existing non-conforming status has been done. He added that Croton Dodge has an outdoor storage area which will become an unlawful use and they could not expand or alter the business; Mr. Giordano encourages rethinking the singling out of these two businesses and Mr. Steinmetz asked the Board to keep the Public Hearing open and prepare a Comprehensive FEIS and afford the community to discuss this further.
- c) Joanne Minnet, 5 Van Cortland Place, stated when the tractor-trailers bring in cars for Croton Dodge, their parking leaves a major traffic mess. She added that though Croton Auto Park has more room for these tractor-trailers, drivers still have to go in other lanes to go around them. She added that the only issue she has is that there is no room to handle these tractor-trailers and they should not be allowed to sit there; it is a real concern and a safety issue.

Mayor Elliot closed the Public Hearing, but they will continue to receive comments for the next 17 days; then they will take these comments and prepare a FGEIS.

## SHAMBERG MARWELL HOCHERMAN DAVIS &amp; HOLLIS, P. C.

ATTORNEYS AT LAW  
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 (914) 866-2800  
 FAX (914) 866-8067

November 3, 2003

**VIA FACSIMILE AND HAND DELIVERY**

Hon. Robert W. Elliott, Mayor,  
 and Members of the Board of Trustees  
 Village of Croton-on-Hudson  
 Municipal Building  
 Van Wyck Street  
 Croton-on-Hudson, New York 10520

Re: *Local Law Introductory No. 3 of 2003*

Dear Mayor Elliott and Members of the Board:

As you are aware, we represent Striclin Realty, LLC ("Striclin" or "our client"), the owner of two parcels of real property designated as lots 7R.12-3-2 and 7R.12-3-3 on the Village of Croton-on-Hudson Tax Map, which are located in the proposed Municipal Place Gateway Overlay District. As you also know, one of these lots is improved with a car dealership (the "Dealership Lot") which has been located thereon for more than 30 years, while the other is vacant and has generally been referred to by the Village of Croton-on-Hudson (the "Village") in its various planning documents as the "Katz Property."<sup>1</sup> We are writing to express our client's strong opposition to the above-referenced Local Law to the extent it will create the Municipal Place Gateway Overlay District and to comment on the Draft Generic Environmental Impact Statement ("DGIS") which has been prepared in connection with the proposed Gateway rezonings.<sup>2</sup>

If enacted, the proposed Gateway law, which impermissibly discriminates against our client and targets the Katz Property to achieve the Village's oft-stated goal of using that lot as the site for a municipal community center and park, would be unconstitutional<sup>3</sup> and contravene State

<sup>1</sup> This designation has been applied to the lot because Irwin Katz is a principal of Striclin. This letter will follow the convention utilized by the Village and refer to the vacant 2.4-acre parcel as the "Katz Property."

<sup>2</sup> Striclin has already filed a valid protest petition with respect to Local Law No. 3 which, under Section 7-708 of the Village Law, triggers the requirement that the proposed rezoning can only be approved by a two-thirds vote of your Board.

<sup>3</sup> To survive constitutional due process scrutiny a land use regulation: "(1) . . . must have been enacted in furtherance of a legitimate governmental purpose, and (2) there must be a 'reasonable relation between the end sought to be achieved by the regulation, and the means used to achieve that end' . . ." (citation omitted); *McKinn v. Town of Oyster Bay*, 66 N.Y.2d 544, 498 N.Y.S.2d 128 (1985) (invalidating a provision in a zoning ordinance as violating the due process clause of the Constitution because it failed to bear a reasonable relationship to legitimate zoning purposes). A regulation also constitutes a taking without just compensation in violation of the Fifth and Fourteenth Amendments to the United States Constitution and Article 1, Section 7, of the New York State

SEANPARK & MADWELL HOCHERMAN DAVIS & HOLLES, P.C.

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Law. It lacks a reasonable planning basis, both in general and in its disparate treatment of Stricklin. If enacted, Local Law No. 3 would undoubtedly expose the Village to liability for substantial damages and legal fees.

### BACKGROUND

The constitutional and legal infirmities of the proposed Gateway rezoning of Stricklin's land must be placed in historical context. Stricklin purchased the Dealership Lot from the Village in the 1960's. That 4.9-acre lot had previously been used by the Village as a dump and the site of a municipal garage. The purchase was expressly made contingent on the Village's grant of a rezoning of the Dealership Lot to allow it to serve as the site for an automobile dealership. Such a rezoning was, in fact, effectuated and, in reliance thereon, our client filled, rehabilitated and developed the site at substantial expense.

The Katz Property has been coveted by the Village for public use as a community center and park. As will be discussed below, the Village's intention to achieve its goal in this regard, whether by acquisition or illegal zoning measures, is evidenced by the express language contained in the planning documents produced by the Village and by the official minutes of the meetings of Village boards and committees.<sup>4</sup> Even before the Village's intentions with respect to the Katz Property became clear, it treated our client in an inequitable fashion. For example, the McDonalds restaurant chain sought to acquire the Katz Property for development with a McDonalds restaurant, a use then permitted as of right under the Village Code. Our client's principal, Mr. Irwin Katz, met with Village officials who expressed their opposition to a fast food restaurant and asked that Mr. Katz abandon the plan, assuring him that if Stricklin did not pursue its deal, the Village would not impose obstacles to development of the Katz Property in accordance with zoning. It has become apparent that the Village's assurance lacked both sincerity and substance.

In 2001 the Village rezoned the Katz Property from the C-1 to the C-2 zoning designation and changed the requirements in the C-2 district to make all retail use of the Katz Property, which had previously been permitted as of right, uses requiring a special permit from the Village Board.

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Constitution, where it fails to advance substantially a legitimate state interest. See *Seawall Associates v. City of New York*, 74 N.Y.2d 92, 544 N.Y.S.2d 542 (1989), *cert denied*, 493 U.S. 976 (1989). Here, because there is no reasonable nexus between the Gateway Rezoning of the Municipal Place Area and any legitimate state interest and because the proposed legislation fails to advance such an interest, it would be unconstitutional. It is also submitted that application of the Gateway Ordinance to our client's property violates the equal protection clause of the State and Federal Constitutions because there exists no rational basis for the discriminatory treatment of Stricklin. See *Countryman v. Schmitt*, 176 Misc. 2d 765, 673, N.Y.S.2d 521 (Sup. Ct. Monroe Co. 1998).

<sup>4</sup> Here, the Village's attempt to place the burden of providing a community facility on Stricklin is just the type of action foreclosed by the takings clause of the Constitution. The United States Supreme Court and the New York State Court of Appeals have repeatedly recognized that "the constitutional guarantee against uncompensated takings is violated when the adjustment of rights for the public good becomes so disproportionate that it can be said that the governmental action is forcing some people alone to bear public burdens which in all fairness and justice should be borne by the public as a whole' . . ." *Seawall Associates v. City of New York*, 74 N.Y.2d at 107, 544 N.Y.S.2d at 548 (citation omitted).

STRADDERS MARWELL HOCHEMANN DAVID & HALLIS, S.C.

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In the Summer of 2002, Striclin was approached representatives of the Eckerd drugstore chain about development of the Katz Property with an Eckerd store and entered a contract to convey the lot for in excess of \$1.2 million, contingent on the acquisition of the necessary zoning approvals. In September of 2002, Mr. Katz and his architect met with representatives of the Village about the proposed use of the Katz Property by Eckerd for a drugstore with a drive-through facility. The proposal was greeted with a look of enthusiasm by the Village's representatives.

In the months that followed, the Village rushed the process of adopting the so-called Gateway District rezoning, which encompasses our client's property, advancing what was designated as Local Law No. 8 of 2002 rapidly to a public hearing. The Village completed an environmental assessment form for the proposed legislation in November 2002, but never undertook any meaningful SEQRA analysis of the action which entailed the creation of the overlay districts cumulatively encompassing 28.5 acres of land.<sup>3</sup> While the creation of Gateway Districts had been recommended in the Draft Comprehensive Plan, the Village's action in scheduling hearings on the Gateway rezoning, even though it had not yet adopted the comprehensive plan or concluded any SEQRA review with respect to the plan, shows that it was proceeding with undue haste in response to the Eckerd proposal.

Local Law No. 8 of 2002 would have created a Municipal Place Gateway District encompassing our client's lots. Among other things, as then proposed the Gateway Law left the underlying C-2 zoning intact, but: (1) reduced the permissible floor area ratio, (2) imposed a 70,000 square foot maximum floor area limit for any single building; (3) prohibited drive-through windows; (4) prohibited automobile dealerships and automobile storage yards; (5) required compliance with a specific conceptual site plan for the Katz Property that, in turn, showed a community center with office facilities and a landscaped plaza to be used as a park; and (6) created design guidelines requiring buildings to be located close to and facing the street with parking to be sited behind any buildings.

In January of this year, Striclin's counsel appeared at the public hearings on Local Law No. 8 of 2002, filed a protest petition with respect thereto, noted the Board's lack of compliance with SEQRA in segmenting its review of the Gateway Rezoning from that conducted in connection with the Comprehensive Plan (which itself received a negative declaration and was the subject of only cursory review) and opposed the rezoning.

In an effort to obviate the need to challenge proposed Local Law No. 8 of 2002 judicially, Striclin submitted to the Village's representatives a revised site plan for an Eckerd pharmacy on the Katz Property with a footprint of almost 14,000 square feet, which complied in all material respects with the design guidelines established for the Municipal Place Gateway District and closely paralleled the site plans included in the proposed Gateway zoning legislation and the Comprehensive Plan. Striclin merely asked the Village's representatives to acknowledge that the proposed site plan was consistent with the legislation's design requirements for the Katz Property and that the Village afford the Eckerd proposal a fair review and eliminate the prohibition of automobile dealerships from any Gateway legislation.

<sup>3</sup> Under 6 N.Y.C.R.R. 617.4(6)2 the proposed Gateway rezoning is a "Type I" action under SEQRA, meaning that it is an action that is likely to require an Environmental Impact Statement and presumed to have a significant adverse environmental impact. See 6 N.Y.C.R.R. 617.4(e).

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Although representatives of the Village acknowledged that the Eckerd Site plan was consistent with the design requirements of the proposed Gateway Rezoning and the Comprehensive Plan, rather than responding affirmatively to Striclin's proposal, in the Summer of this year the Village introduced Local Law No. 3 of 2003, which shared many features with its predecessor, but was even more onerous and carefully tailored to preclude development of the Katz Property with the Eckerd store. Apparently apprehending that Striclin's prior proposal for the Katz Property would have complied with the design requirements of the earlier Gateway proposal, the Village proposed the new law which would impose a maximum size limit for retail buildings of 8,000 square feet (down from the 70,000 square foot limitation contained in the prior law), therefore precluding an Eckerd drugstore. Also newly appearing in the proposed legislation is a restriction on the hours of operation of any business in a Gateway zone to 16 hours in any 24-hour period.

**LOCAL LAW NO. 3 UNCONSTITUTIONALLY SINGLES OUT  
STRICLIN REALTY'S PROPERTY BY IMPOSING ONEROUS  
ZONING TO FORCE THE USE OF THE KATZ PROPERTY FOR  
PUBLIC PURPOSES WITHOUT ANY SOUND PLANNING RATIONALE**

The Village's own planning documents establish that the Village has long coveted the Katz Property as a site for a community center/public park. The studies recommend that, if necessary, the Katz Property be impressed with such a public use by means of zoning. The Gateway Rezoning appears to be the latest attempt by the Village to make development of the lot difficult and devalue it in order to force Striclin into devoting the lot to public use.

What is more, the Village's proposed course of action lacks any legitimate basis. Consideration of the existing pattern of development in the Municipal Place Gateway Area (which, other than the Katz Property, is fully improved) shows that it is comprised of substantial commercial buildings and is bisected by two major and heavily traveled state roads, and, accordingly, that the legislation being considered would require Striclin to develop the Katz Property inconsistently with all other land use in the Municipal Place Area. It does so under the pretext of advancing the Village's purported goal of creating an area which looks and functions as if it were a traditional village main street. However, the area is characterized by shopping centers which are not oriented to the street and large paved parking lots between the buildings and the street. The buildings themselves are substantial retail structures (at least two exceeding 20,000 square feet in area) which are not integrated with each other in any meaningful fashion. Certainly, the Municipal Place area is completely unlike the pedestrian-friendly existing central Village in Croton. Even if one were to accept the Village's statement of the purpose for imposing the proposed design requirements, because, as a practical matter, they affect only the undeveloped Katz Property, such requirements would impermissibly place the entire burden on Striclin to achieve an unattainable goal of converting the Municipal Place Area into a traditional village center. Such an approach is unreasonable on its face.

Indeed, a review of the record in this matter would lead any rational and objective third party (such as a court) to conclude that the Katz Property has long been targeted by the Village's planning policies as a site for a community center, and that the Village is willing to accomplish its goal through an illegal use of its police power, rather than the legitimate means of purchasing the land. For example, the Village's recently adopted a Comprehensive Plan itself states that the Katz Lot should be used as a community center and that, if necessary, the Village should employ

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zoning to accomplish this goal. Specifically, on page 88, the Village's Comprehensive Plan reads as follows:

- **Katz Property**

Significant upgrading of this gateway area could create an opportunity to develop needed community facilities, and the Village could consider purchase of this 2.4 acre site. Developing a portion of the site as a community center, possibly coupled with an office use, would help establish this area as a mixed-use center. In addition the development of a landscaped park would result in a conveniently located meeting place for Village residents. Figure 4.3 shows one possible layout for the site, incorporating community facilities and office uses, parking and a landscaped park. *To the extent necessary, this property should be re-zoned to promote these recommended uses. (Emphasis added.)*

Figure 4.3, cited in the above-quoted passage from the Comprehensive Plan, depicts a layout of the Katz Property which includes community facility space and a landscaped park. The Gateway rezoning legislation itself requires adherence to such plans absent an explanation of why deviation therefrom is necessary. Page 66 of the Comprehensive Plan states that "the Katz Property creates an important opportunity to create a focal point . . ." for the district and that it could "be established as a new center for the Village." On page 111 the Comprehensive Plan identifies the Katz Property as a location for a community center.

Not are these excerpts from the Comprehensive Plan isolated indications of the Village's intent to convert the Katz Property to public use without compensating the landowner. In discussing the Municipal Place Gateway District, the October 2002 environmental assessment form prepared on behalf of this Board with respect to the Comprehensive Plan states the following as to the Katz Property:

The following site improvements to the Municipal shopping area are recommended:

- Village purchase of the vacant property across from Van Wyck Plaza. *Rezone to the extent necessary, to allow community facilities and office uses, parking, and a landscaped park. (Emphasis added)*

The Minutes of the Village Board's meeting of December 2, 2002 expressly target the Katz Property as an appropriate site for a community center. The minutes of the meetings of the Comprehensive Plan Committee also show a similar pattern. For example, at its public hearing on the Comprehensive Plan of September 30, 2002, the Committee heard a presentation by the Village's Planning Consultant stating that the plan included recommendations to develop the Katz Property with uses including an arts and community center. At its meeting of October 4, 2001, the Board agreed that the Katz Property should be identified as a site for a community center. At its meeting of July 12, 2001, the Committee again stated that the Village should consider purchasing the Katz Property for "senior/arts/mixed use development; to include Village

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park area." The minutes of the meeting of March 26, 2001 reflect that the Committee agreed that the plan should recommend acquisition of the Katz Property by the municipality.

In short, the Village has consistently sought to convert the Katz Property to its own use and the enactment of the Gateway rezoning would be an illegal step to effectuate its purposes.

**THE GATEWAY REZONING OF THE MUNICIPAL PLACE AREA  
WOULD FAIL TO WITHSTAND CONSTITUTIONAL SCRUTINY**

There is no reasonable or rational basis for creating the proposed Municipal Place Overlay Zone. As mentioned above, if a zoning or land use regulations fails to advance substantially a legitimate state interest or lacks a reasonable relationship to that interest, it is unconstitutional. In this case the restrictions of the Gateway rezoning as applied to the Katz Property fail these tests.

***The Retail Building Size Restriction Lacks a Rational Basis***

As discussed above, although the initial Gateway rezoning proposal imposed a 70,000 square foot maximum size for all buildings within the Gateway Districts, Local Law No. 3 of 2003 contains an 8,000 square foot limitation for retail buildings - a reduction of almost ninety percent. It is respectfully submitted that this dramatic change is anything but coincidental. As also discussed above, in early 2003 the site plan for the 13,800 square foot drugstore proposed for the Katz Property was submitted to the Village. The design was consistent with the Conceptual Site Plans for that lot depicted in the Comprehensive Plan and the then proposed version of the Gateway legislation. Upon recognizing that the proposed building complied with the design guidelines for the Municipal Place Gateway District the Village responded by revising the proposed zoning text to reduce drastically the size limit for retail buildings in a fashion that would preclude Eckerd from developing the site.

In addition to appearing to have been directly designed to prevent development of the Katz Property by Striclin's contract vendor, the currently proposed 8,000 square foot limitation lacks any rational basis in the context of the Municipal Place Gateway District and in its application to the Katz Property. It will do nothing to create a "village center streetscape" in light of the existing pattern of development in the area. Although the DGEIS is quick to point out that there allegedly are only nine commercial buildings in the Village with floor areas in excess of 8,000 square feet, a survey which is Appendix C in the DGEIS, as well as the environmental assessment form prepared in connection with Local Law No. 3 of 2003, establish that at least four such buildings are sited within the limited confines of the proposed Municipal Place Gateway District. Accordingly, the development in the district is overwhelmingly characterized by buildings with floor areas exceeding 8,000 square feet, and several exceeding 20,000 square feet. In this context, where the only privately-owned undeveloped parcel in the Municipal Place area is the Katz Property, the 8,000 square foot restriction makes no sense. Singling out one parcel for the 8,000 square foot limit does nothing to preserve character of a neighborhood that already contains a series of large retail buildings.

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\* The retail field survey included in the DGEIS shows that the building located at 40 Myrtle Street is 26,300 square feet in area, 171-187 South Riverside is 19,830 square feet in area, 1 Municipal Place is 20,000 square feet in area and 20-30 Municipal Place is 9,000 square feet in area.

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Further, because the 8,000 square foot limitation does not apply to non-retail uses, under the .35 FAR proposed in the Gateway legislation for single use buildings, the Katz Property could be developed with a building of up to 36,000 square feet designed for any of the non-retail uses permitted in the C-2 zone, such as hotels, office buildings, bowling alleys, restaurants and theaters. Under the Gateway law, the Katz Property could also conceivably be developed with up to four separate 8,000 square foot retail buildings. Under such circumstances, it cannot be contended seriously that the size limitation in the Gateway legislation has any relation to the putative goal of improving (or even maintaining) the character of the Municipal Place area.

Nor can the rationale which is prominently stated in the DGEIS as the basis for the 8,000 square foot retail limit - discouraging national retail chains from locating their stores within the Gateway area - serve as a legal basis for zoning regulation.<sup>7</sup> A zoning restriction designed to foreclose development by national retail chains of otherwise permitted land uses is illegal under New York law. Only the impacts of a given land use, not the identity of the user or owner of the property which is being regulated, are a legitimate concern of zoning. New York's highest court has repeatedly reinforced this bedrock principle of land use law and invalidated any attempts to regulate the identity of the land user or owner. See *FGL&L Property Corp. v. City of Rye*, 66 N.Y.2d 111, 116, 495 N.Y.S.2d 321, 324 (1985) ("the cases are legion, in this State and elsewhere which hold that 'zoning . . . in the very nature of things has reference to land rather than to owner . . . and that it is a 'fundamental rule that zoning deals basically with land use and not with the person who owns or occupies it.'" [citations omitted]); *Dexter v. Town Board of Town of Gates*, 36 N.Y.2d 107, 365 N.Y.S.2d 506 (1975) (invalidating a change of zone inuring to the benefit of one particular landowner based on "the fundamental rule that zoning deals basically with land use and not with the person who owns or occupies it."). Equally well settled is that regulation of the internal operations of a business is not a legitimate subject of zoning. *Old Country Burgers Co., Inc. v. Town Board of Town of Oyster Bay*, 160 A.D.2d 503, 553 N.Y.S.2d 845 (2d Dep't 1990); *Summit School v. Neugent*, 82 A.D.2d 463, 442 N.Y.S.2d 73 (2d Dep't 1981).

Clearly the question of whether a store is operated by a local merchant or a national retailer goes to the identity of the business owner or operator and the nature of internal business operations. Therefore, the fact that a retail establishment may be part of a popular national chain is not a legitimate subject of regulation. That the Village may not like the "image" of national chain stores or hopes to shield local merchants from competition with such enterprises, is not a legally cognizable basis for the 8,000 square foot size limitation, particularly in an area that is otherwise characterized by substantially larger retail buildings. Of course, the fact that on page 40 the DGEIS itself lists Eckard as one of the chain stores that would be excluded from the Gateway Districts by the 8,000 square foot limitation, speaks volumes as to the Village's true motivation!

Equally unavailing is the reliance of the DGEIS on Mount Kisco's Zoning Ordinance as a model for the 8,000 square foot size limit. The provisions quoted from the Mount Kisco Ordinance are taken out of context. Even on its face, Mount Kisco's CB-1 zoning only regulates

<sup>7</sup> Curiously, it points the DGEIS states that a goal of the retail size limit is to exclude big box retailers from the Gateway District. Under general planning precepts, however, stores with floor areas ranging from 70,000 square feet to 200,000 square feet are considered big box retailers. Clearly an 8,000 square foot limitation lacks any tangible connection to excluding big box retailers such as a Home Depot or Walmart. It does have a direct relation, however, to prescribing Brich's proposed use of the Katz Property.

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the size of stores or other business establishments over 8,000 square feet. It does not prohibit them but merely requires a special permit for larger stores or commercial establishments. See Comprehensive Plan, Appendix D.<sup>1</sup> Of course, in the C-2 District in which the Katz Property is located, all retail uses already require a special permit. The text in the Mount Kisco Code also appears to impose no limit on the size of buildings, such as that included in the proposed Gateway legislation, but just on the size of the spaces occupied by the businesses therein.

Furthermore, the CB-1 district applies only in a small area of downtown Mount Kisco and is designed to maintain an existing streetscape where multiple small storefronts already line the sidewalks which abut the street. It applies to preserve existing conditions in an area where those conditions do not even remotely resemble those in the proposed Municipal Place Gateway District. The CB-1 zoned area in Mount Kisco, however, is more analogous to the central village area in Croton, which, ironically, is not proposed to be designated a Gateway District.

Finally, anyone familiar with Mount Kisco knows that while that municipality has retained a Village-like character, its retail sector is populated with chain stores, many in buildings with square footages substantially in excess of 8,000 square feet. For example, large chain stores in Mount Kisco include Borders Books, Staples, CVS, Rite Aid, Annie Sez, T.J. Max, Blockbuster Video, a Stop & Shop Supermarket and the Gap. Recently approved and currently under development in Mount Kisco are a Target Store exceeding 100,000 square feet in area and a new A & P Supermarket with a floor area of more than 50,000 square feet. Other chain stores and restaurants in Mount Kisco include Chloos, Banana Republic, Victoria's Secret, Applebees, Friendlies, Burger King, Sam Goody, Subway, Dunkin Donuts, Starbucks, Mrs. Greens Natural Market and Ben & Jerry's. This, of course, does not count the substantial number of automobile dealerships situated in Mount Kisco with buildings exceeding 8,000 square feet in size. It is hard to imagine how Mount Kisco could serve as the model for Croton's proposal.

*In the Municipal Place Area the Front-yard Setback Requirements  
Have No Reasonable Relation to a Legitimate State Interest*

One of the stated aims of the Gateway zoning guidelines, as set forth in both the DGEIS and the Comprehensive Plan, is to create a so-called "streetscape" where the facades of stores are located along sidewalks lining the edge of the street. However, in the context of the proposed Municipal Place Gateway District there is no rational basis for imposing such a requirement. None of the stores in this largely-developed area are located along the street and there is no "streetscape." On page 66 the Village's Comprehensive Plan describes the area as follows: "(t)he complex of shopping plazas along Maple Street are characterized by groups of single-story buildings set back from the street and fronted by surface parking lots." The DGEIS recognizes the "fragmented nature of the various plazas and adjoining commercial sites which lack a coordinated pedestrian network and/or consistent street scape treatment." (DGEIS, p. 8). Photographs and plans included in both the Comprehensive Plan and the DGEIS also depict the nature of the development in Municipal Place area - in essence strip retail development with substantial buildings separated from the street by expansive paved parking lots.

<sup>1</sup> The provision of the Village of Mamaroneck Code on which the DGEIS relies also merely requires a special permit for stores in excess of 3,000 square feet. Of course, under the existing regulations in the C-2 zone all retail uses require a special permit and, therefore, the Mamaroneck code is actually less restrictive as to store size than the regulations proposed for the Gateway Districts.

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Imposing a new requirement that buildings must abut sidewalks lining major state roads will merely ensure that any building(s) erected on the Katz Property will have a facade close to the street. The remainder of development in the district will remain as it is -- a series of disjointed retail centers with large paved parking lots located in their front yards. Far from creating a traditional Village streetscape, the Gateway rezoning would merely single out the Katz Property and make any potential development thereof stick out like the proverbial "sore thumb." No matter how much wishful thinking may have underlain the Comprehensive Plan Committee's visions for the Municipal Place District, the fact is that requiring the installation of a few sidewalks along two heavily-traveled state roads and forcing one building on the only remaining privately-owned vacant lot to be situated close to the street lines will fail to create a traditional pedestrian-friendly village center. Such a requirement lacks any rational basis.

*The Automobile Dealership Prohibition Illegally Singles out Stricklin and Otherwise Lacks a Reasonable Basis*

The only automobile dealership in the Municipal Place Gateway District is, of course, located on the Dealership Lot. It is, in fact, the only automobile dealer in any of the proposed Gateway Districts. The automobile dealership prohibition is targeted directly at Stricklin's property. No recommendation appears in the Comprehensive Plan suggesting that automobile dealerships should be banned, and no coherent planning rationale can be found anywhere for eliminating Stricklin's property rights in such a drastic fashion. A disinterested observer would once again conclude that the Village was imposing the restriction as leverage to help advance its aim of forcing Stricklin to devote the Katz Property to public use.

Needless to say, the automobile dealership restriction will have a substantial negative impact on the value of Stricklin's land, as it would render the existing use thereof nonconforming. As a result, Croton's zoning would foreclose any structural alteration or expansion of the dealership building and would prohibit the reestablishment of the facility in the event of its destruction by fire or other casualty. No discernable planning rationale justifies the severe impact of the proscription of car dealers in one small area of the Village on Stricklin.

The two rationalizations for prohibiting automobile dealers in the Gateway zone which appear in the DGEIS are groundless. The DGEIS asserts that automobile dealerships create high volumes of automobile traffic, without citing any source material, studies or empirical evidence supportive of that statement. On the contrary, the opposite is true. The Institute of Transportation Engineers ("ITE"), which compiles and publishes vehicle trip data for various land uses that is virtually universally relied upon in the environmental analysis of traffic generation of proposed development, indicates in its most recent traffic generation manual that automobile dealerships produce substantially less peak hour traffic than do most retail uses. The attached excerpts from the Sixth Edition of the ITE Trip Generation Manual show that the average number of vehicle trips per 1,000 square feet of building during the peak hour traffic period generated by an automobile dealership is 2.80. In contrast, the corresponding number for a shopping center is 3.74 and for a supermarket it is 11.51!

The second rationalization in the DGEIS for the dealership prohibition fails no better. Without any support, the DGEIS asserts that automobile dealerships often have large areas of impervious surface which create stormwater runoff issues. Even if that were the case, such an issue is addressed only tangentially, if at all, by the prohibition. If stormwater runoff and proliferation of impervious surface were a true concern of the Village it could impose a universal

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limitation on the percentage of land which can be covered by impervious surface. The Village could also require, through regulation, that stormwater management measures be implemented in connection with any development so that new development will not increase the peak rate of water runoff or degrade the quality of such runoff (such requirements are already imposed by the New York State Department of Environmental Conservation and many municipalities). Additionally, an automobile dealer can easily address concerns about impervious surface by utilizing pervious cover material for areas where cars are parked or even store cars offsite in a zone which permits such a use or in an entirely different community to minimize the amount of impervious cover onsite.

Accordingly, there is no basis whatsoever for the automobile dealership prohibition, which is just another transparent attempt to pressure Stricklin Realty into giving up valuable property rights in the Katz Property.

#### *The Limitation on Hours of Operation Is Illegal*

Local Law No. 3 of 2003 includes a provision limiting the operations of any business within Gateway districts to 15 hours in any 24-hour time period. This provision is an addition found in the latest iteration of the Gateway zoning proposal that had not been present in the prior draft. As Stricklin was proposing a chain drugstore, which are now normally open 24 hours a day, this provision would seem to have been conceived as yet another impediment to the Eckerd proposal.

Controlling law makes clear that the proposed limitation on hours of operation would be illegal. Just two months ago, in two separate cases the Appellate Division, Second Department, the intermediate appellate court with jurisdiction over Westchester County, expressly invalidated a zoning restriction proscribing overnight business operations. *Westbury Trombo, Inc. v. Board of Trustees of the Village of Westbury*, 307 A.D.2d 1043, 763 N.Y.S.2d 674 (2d Dep't August 25, 2003) and *Louhal Properties, Inc. v. Strada*, 307 A.D.2d 1029, 763 N.Y.S.2d 773 (2d Dep't August 25, 2003). Both cases invalidated a Local Law requiring businesses within a certain distance of residential districts to close between the hours of 11 p.m. and 6 a.m. In both cases the court expressly stated that, at minimum, such a restriction must be supported by empirical evidence showing negative impacts of operations outside the permitted hours in order to withstand scrutiny. See *Westbury Trombo* (holding that there was insufficient evidence to support the conclusion that the existence of a retail business (a fast food restaurant) which operates 24 hours a day in the vicinity of residential area has any detrimental impact on the health, safety, welfare, or morals of the community.); *Louhal Properties* (reaching the same conclusion with respect to a convenience store); see also *Old Country Burgers Co., Inc., supra* (invalidating a condition of a special permit which prohibited operation of a drive-through window at a fast food restaurant between the hours of 8 a.m. and 9:30 a.m., 12 noon and 1:30 p.m. and 5 p.m. and 6:30 p.m., as an impermissible attempt to regulate the internal operations of a business).

Here, where the Gateway District legislation does not even specify the hours during which the business must close, there is even less of a justification for the regulatory intrusion into the internal operations of businesses than there was with respect to the regulations invalidated by the Second Department. Significantly, nothing in the DGEIS supports the limitation on hours of operation and the record is devoid of the requisite empirical evidence or studies necessary to support such a restriction in the Gateway Districts.

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**THE GATEWAY DISTRICT LEGISLATION VIOLATES THE  
UNIFORMITY REQUIREMENT OF SECTION 7-702 OF THE VILLAGE LAW**

Village Law Section 7-702 reads as follows:

... the Board of Trustees may divide the Village into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this article; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. *All such regulations shall be uniform for each class or kind of buildings throughout each district but the regulations in one district may differ from those in other districts.*

Village Law Section 7-702 (Emphasis added.)

This rule prohibits the municipalities from imposing varied dimensional or use requirements to different parts of the same zoning district. Here the use and area restrictions of the Gateway Overlay Legislation mean that different regulations apply in some portions of the underlying zoning districts than in other parts of the same districts. If Striellin's property, which is in a C-2 district, were to be placed in the Gateway overlay zone, it would be subject to a different set of design guidelines, use restrictions, building size restrictions, and limitations on hours of operation, than land uses throughout the remainder of the C-2 zone.

Such disparate treatment is precisely what is proscribed by Section 7-702.<sup>9</sup> The dissenting opinion in *Augenblick v. Town of Cortlandt*, 104 A.D.2d 806, 480 N.Y.S.2d 232 (2d Dep't 1984), *rev'd on dissenting opinion*, 67 N.Y.2d 647, 499 N.Y.S.2d 1031 (1986), which was adopted by the Court of Appeals as the basis to invalidate a zoning ordinance for violating the uniformity requirement of the Town Law, explains as much. It describes the basis for the rule as follows:

[t]he uniformity requirement is intended to assure property owners that all owners in the same district will be treated alike and that there will be no improper discrimination...[t]he likelihood of overreaching is thus reduced because the legislative body pre-approves the uses permitted in a district without reference to particular owners....Uniformity requirements may transcend mere statute, however, for it has been held that the Constitution requires that all land in similar circumstances be treated alike....

*Augenblick*, 104 A.D.2d at 814, 480 N.Y.S.2d at 239 (citations omitted).

The Courts have not hesitated to invalidate provisions in zoning ordinances which apply different rules in one part of a district than in other areas thereof. See *Augenblick*, (annulling an amendment to the Town of Cortlandt Zoning Ordinance allowing an asphalt plant to operate on a

<sup>9</sup> The variation between the rules imposed within the Gateway Districts may also violate the uniformity requirement.

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specific property); *Klebetz v. Town of Ramapo*, 109 Misc. 2d 952, 441 N.Y.S.2d 216 (Sup. Ct. Rockland Co. 1981) (invalidating a Town zoning law which permitted two family homes in one portion of a single family residential district as violating the uniformity requirement); *Callanan Road Improvement Company v. Town of Newburgh*, 6 Misc. 2d 1071, 167 N.Y.S.2d 780 (Sup. Ct. Ulster Co. 1957), *aff'd on other grounds*, 5 A.D.2d 1003, 123 N.Y.S.2d 780 (2d Dep't 1958) (invalidating a zoning ordinance which allowed quarrying in only one portion of a business and industrial district but not in other segments thereof as violative of the uniformity requirement). In this instance, for all the reasons discussed above, if the Gateway Legislation is enacted the Village would be engaging in just the type of overreaching and discrimination against Striella which the *Avgenblick* court stated the uniformity requirement is designed to prevent.

In short, the Gateway Legislation is unconstitutional and illegal on its face and as applied to Striella.

### ADDITIONAL DGEIS COMMENT

In addition to summarizing some of the fatal constitutional and legal deficiencies with the proposed Gateway rezoning, this letter notes that the DGEIS is woefully insufficient. Substituted for the real environmental analysis, study and empirical data required of an EIS by SEQRA is the repeated statement that because the proposed rezoning will allow no development and reduces development potential, it will have no environmental impacts. Had a developer who was a proponent of a rezoning submitted such a superficial DGEIS, your Board undoubtedly would have summarily rejected it.

Some of the flawed planning assumptions and the lack of empirical data or meaningful analysis which permeate the DGEIS have been pointed out above. We would respectfully request that should your Board not immediately reject the proposed Gateway amendments and abandon the SEQRA review thereof (as would be appropriate under governing law), but proceed with that review, the comments submitted above should be addressed meaningfully in a Final Generic Environmental Impact Statement ("FGEIS") before any further action is taken.

The following is a list of additional questions and comments regarding the DGEIS to which responses must be provided in an FGEIS:

1. Has any empirical data been gathered or any traffic study been performed comparing the traffic which would be generated by uses permitted in the C-2 zone generally versus those which will now be prohibited under the Gateway legislation?
2. Is there any sound planning basis for concluding that reducing the maximum size of any retail building within the Municipal Place Gateway District to 8,000 square feet will serve a useful purpose when the Katz Property is the only vacant privately-held parcel therein and most of the remaining properties are developed with retail buildings far in excess of that size?
3. What is the rationale for imposing an 8000 square foot limitation on the size of retail buildings in the Gateway Districts while imposing no similar limitation on buildings designed for other permitted uses?
  - (a) Describe any studies or empirical data which would support this double standard.

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4. What is the basis for concluding that requiring buildings in the Municipal Place Gateway District to be designed with facades abutting their frontage and requiring the installation of sidewalks will create a downtown "village-like" feel or a "streetscape," when there is only one undeveloped privately-held property in the area and all other lots that would be subject to the regulation are improved with buildings that are well set back from their frontage and perpendicular to the road and include parking lots in their front yards?

5. What is the basis for asserting in the DGEIS that pedestrian traffic will increase and vehicular traffic will decrease if sidewalks are installed in the Municipal Place Gateway District, in light of the existing configuration of strip shopping centers and the fact that the proposed district includes two busy State highways?

6. The DGEIS cites the regulations in certain zoning districts in the Village of Mount Kisco and the Village of Mamaroneck as providing examples supporting the proposed 8,000 square foot size limitation in the Gateway rezoning.

(a) Has the preparer of the DGEIS studied other zoning districts in those communities?

(b) Describe the zoning rules applicable to areas in those communities that are analogous to the proposed Municipal Place Gateway district - areas which are physically separated from an existing village center and are already populated by strip-type shopping centers and include heavily-traveled State roads.

7. What is the planning rationale for discouraging national retail chains from locating in Croton-on-Hudson?

8. The DGEIS States that the 8,000 square foot limitation is designed to exclude big box retail stores.

(a) Describe what constitutes a "big box" retail store with reference to any pertinent planning literature or studies.

(b) Explain why the 8,000 square foot limitation is not an overly restrictive size limit to accomplish this purpose?.

9. Set forth any environmental rationale for the 8,000 square foot retail building size limitation contained in literature or any empirical studies conducted by or on behalf of the Village.

10. With reference to any empirical data, relevant literature and site-specific studies, what is the planning basis for the imposition of a 16-hour a day restriction on business operations in the municipal place area?

11. Why is the limitation on hours of operation proposed in the Gateway Zones, but not in other commercial centers within the Village?

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12. Describe the genesis of the site plan for the Katz Property which is Figure 4.3 in the Master Plan, and Figure 9b in the DGEIS.

- (a) Were any studies performed as the basis for this design?
- (b) With respect to the site plan, explain what uses were contemplated within the building and on the remainder of the Katz Property.
- (c) State the size of the building depicted on the conceptual site plan for the Katz Property.

13. What study or empirical analysis was undertaken respecting the traffic safety consequences of requiring buildings to be located abutting the street frontage of a busy state road (such as Route 129) with regard to sight distance and road geometry?

14. What studies have been undertaken by the Village with respect to the appropriateness of using the Katz Property as a site for a community facility?

(a) Has the Village obtained or attempted to obtain funding for use or acquisition of the Katz Property?

(i) Describe all such efforts.

15. Define the meaning of the term "multi-use" building as used in the proposed Gateway Legislation and DGEIS.

16. How do the multi-use buildings which are encouraged by the Gateway Zoning text (through the provision of a greater FAR) compare in terms of traffic generation and other salient environmental impacts to single use buildings?

17. Where a site will allow development of building(s) with a gross square footage of greater than 8,000 square feet, what is the environmental rationale for requiring that no single building can be more than 8,000 square feet in area?

(a) Describe the studies or empirical research supporting this choice by the Village.

18. Describe the basis for the claim in the DGEIS that the reduction in FAR in the Gateway districts will reduce the likelihood of the development structured parking facilities, when there are currently no structured parking facilities within the Village of Croton-on-Hudson.

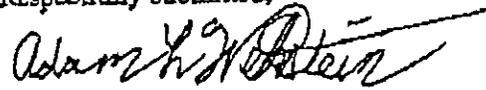
19. Describe any studies regarding the fiscal impacts on the Village of reducing the potential for commercial development in the Gateway Districts and corresponding impacts on the Village's ability to provide community services and maintain, repair and upgrade infrastructure.

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CONCLUSION

Based on the foregoing, it is respectfully submitted that your Board should decline to adopt the Gateway zoning legislation for the Municipal Place District because it is unconstitutional, contrary to State law and impermissibly singles out and discriminates against our client and would otherwise subject the Village to substantial liability for damages and attorneys fees under federal civil rights law.

Respectfully submitted,



Adam L. Wekstein

ALW/dcm  
Enclosure

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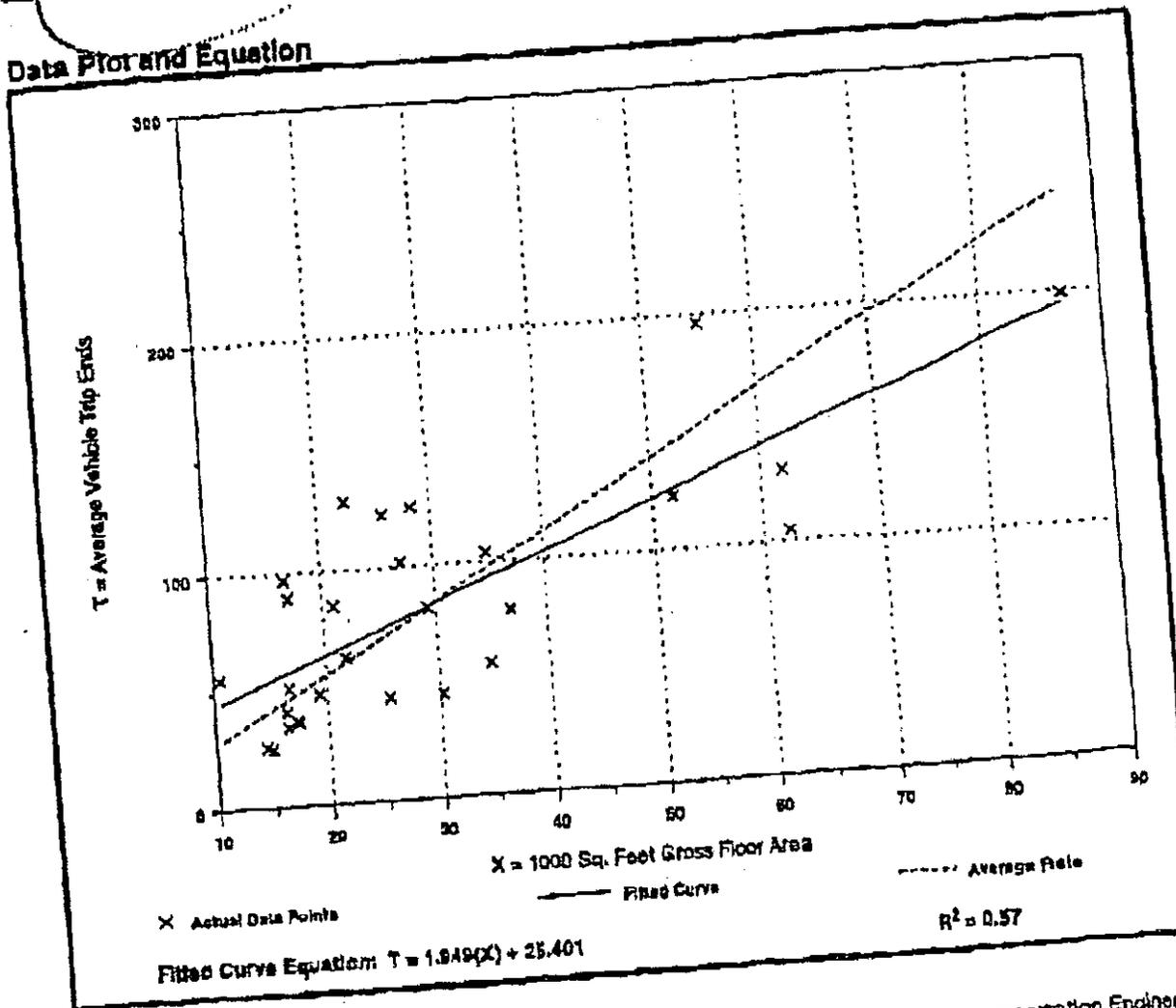
# New Car Sales (841)

Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area  
 On a: Weekday,  
 Peak Hour of Adjacent Street Traffic,  
 One Hour Between 4 and 6 p.m.

Number of Studies: 28  
 Average 1000 Sq. Feet GFA: 30  
 Directional Distribution: 40% entering, 60% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area		Standard Deviation
Average Rate	Range of Rates	2.02
2.90	1.49 - 5.81	

## Data Fit and Equation



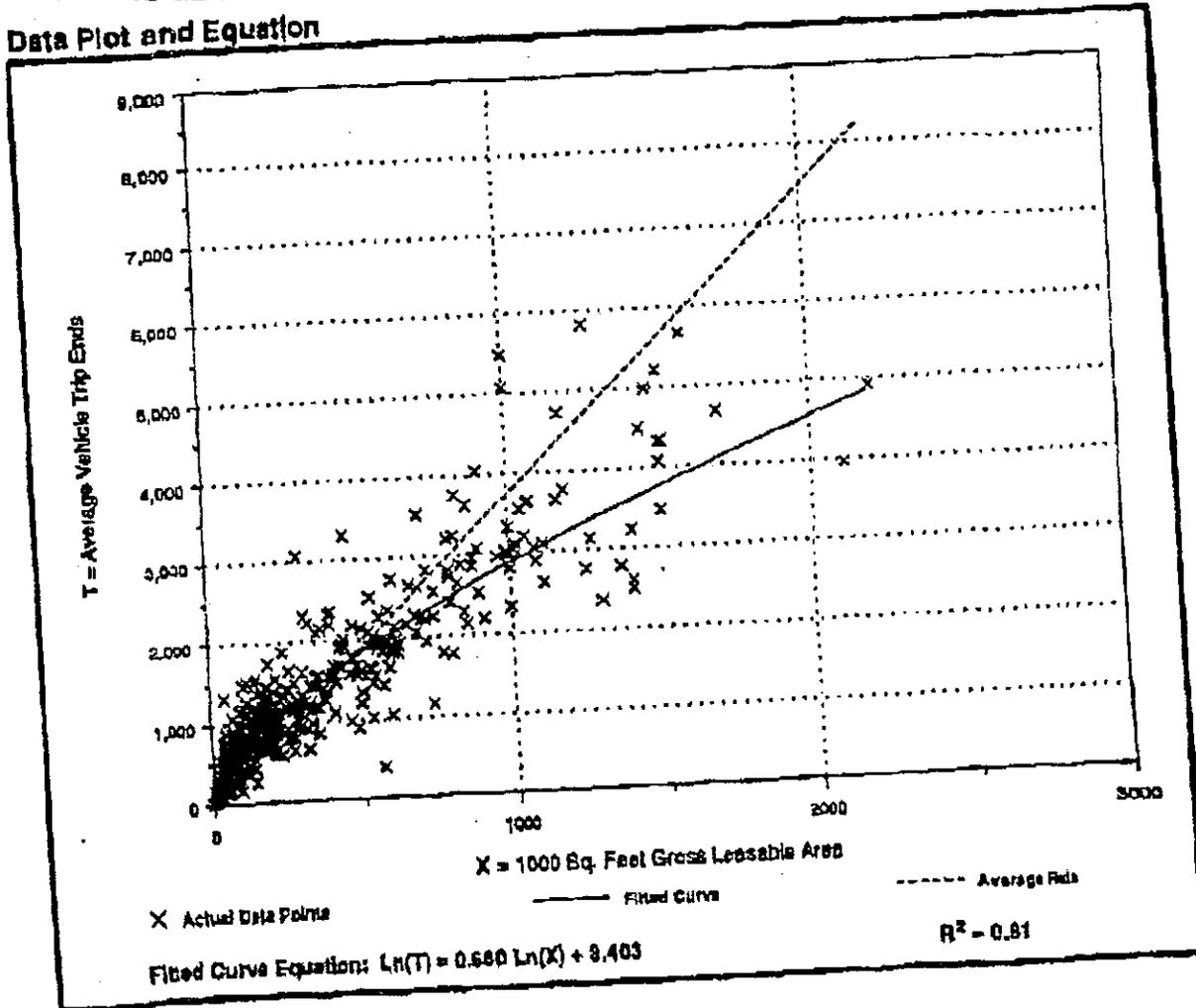
# Shopping Center (820)

Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Leasable Area  
 On a: Weekday,  
 Peak Hour of Adjacent Street Traffic,  
 One Hour Between 4 and 6 p.m.

Number of Studies: 401  
 Average 1000 Sq. Feet GLA: 989  
 Directional Distribution: 48% entering, 52% exiting

Trip Generation per 1000 Sq. Feet Gross Leasable Area		
Average Rate	Range of Rates	Standard Deviation
9.74	0.68 - 29.27	2.78

### Data Plot and Equation



# Supermarket (850)

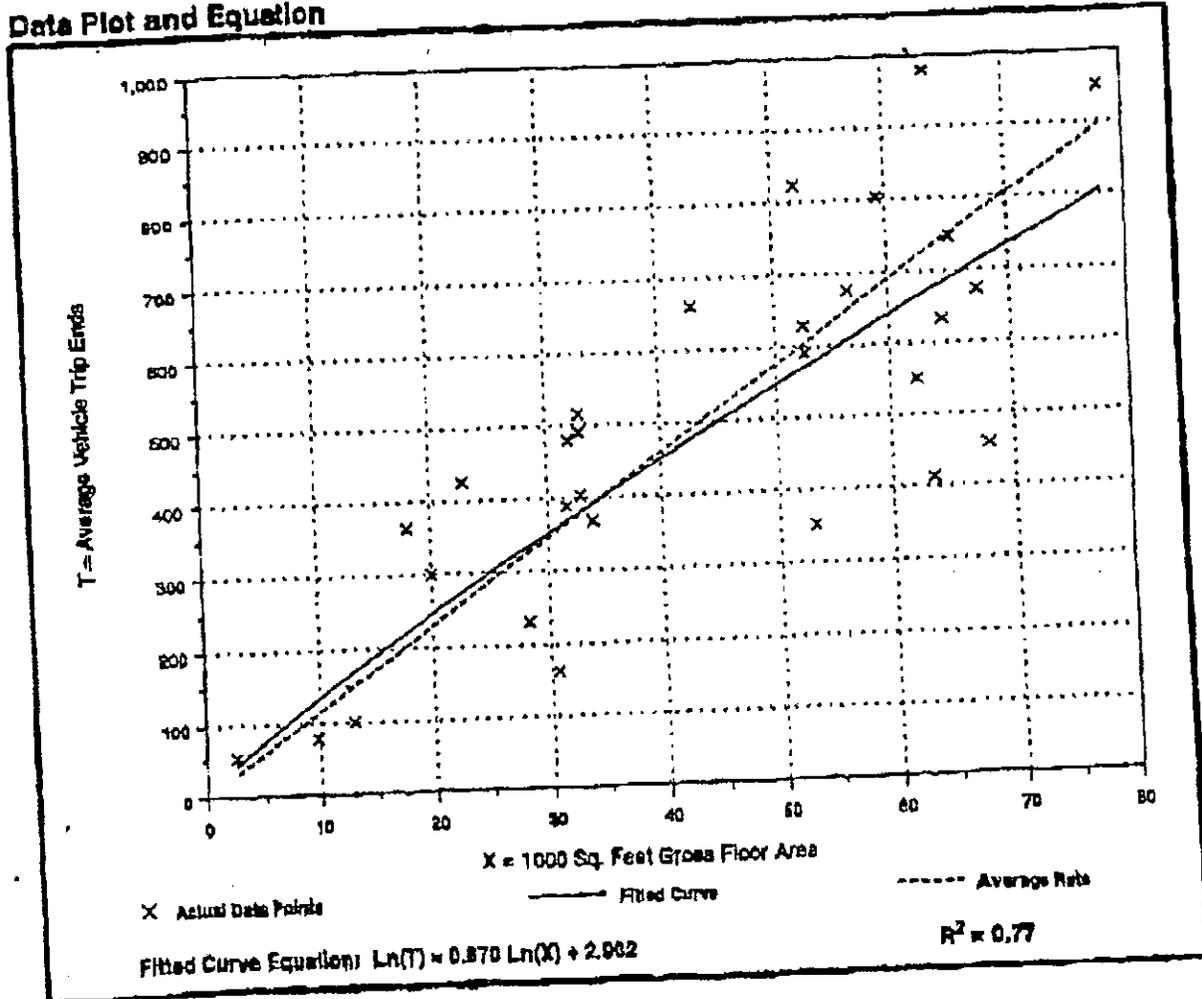
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area  
 On: Weekday,  
 Peak Hour of Adjacent Street Traffic,  
 One Hour Between 4 and 6 p.m.

Number of Studies: 29  
 Average 1000 Sq. Feet GFA: 43  
 Directional Distribution: 51% entering, 49% exiting

## Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
11.51	5.32 - 20.25	4.76

## Data Plot and Equation



To the board:

Please be advised that there appears to be an error/inconsistency in the DGEIS regarding the proposed gateway law. Specifically on page 24, under PUBLIC UTILITIES:

#### PUBLIC UTILITIES

Water Resources: Water supply comes directly from sand and gravel aquifers pumped from three deep wells under the Croton River Basin. Well water provides a very pure source of water because it requires only a minimum amount of treatment and avoids the potential problems with pollution run-off that are associated with surface water from the reservoir system.

Please note that in previous board meetings and a recent article in the Gazette, the Gerrity-Miller report, etc., our wells have NOT been described as "deep" but exactly the opposite. (One may be deep, the other two are not.) In addition, the county is currently asserting--and as discussed in previous board meetings--that because our wells are not deep, it is "suspected" that Croton's water supply "may be under the influence of surface water", for which the village is currently seeking a hydrogeologist. Please address this error/inconsistency. Thank you.

Maria Cudequest

43 Radnor Ave.  
Croton on Hudson, NY 10520-2629  
(914) 271-9796  
E-mail: [wintermeier@prodigy.net](mailto:wintermeier@prodigy.net)  
November 24, 2003

Rick Herbek, Village Manager  
Municipal Building  
Croton-on-Hudson, NY 10520

Dear Rick:

The Gateway Plan that I reviewed is an improvement over the Gateway Proposal that was included with the Comprehensive Plan in that an attempt is made to provide a rationale for some of the regulations being proposed for the Gateways. I still find it onerous for commercial property owners and oppose its full implementation for the reasons outlined in the attached document.

Attached are my comments.

Sincerely,

Robert Wintermeier

# Village of Croton-on-Hudson Gateway Zoning DGEIS

## Errors

1. On page 4, there is a chart that portrays the North End Gateway Zoning as O-3. In the paragraph above the chart and on page 6, this gateway is described as O-1.
2. Sidewalk improvements to South Riverside south of Croton Point Avenue do not belong in the Gateway Plan since this area is not part of any Gateway (Page 9). It should remain in the Comprehensive Plan!
3. Change "ordnance" to "ordnances" (Page 16).
4. The bullets after "...Planning Board:" on Page 33 are missing OR the bullets that follow should be indented.
5. There is a sidewalk on the east side of Maple Street from Municipal Place to Hudson Street. Unfortunately, it is usually used for parking so pedestrians are forced to walk around it. Enforcement is needed!

## Comments

1. Additional properties that should be included in the Gateway areas if approved are:
  - Albert Realty & Poritzky properties West of Route 9.
  - The entire stretch on South Riverside from Benedict Boulevard north to the Municipal Gateway.
  - The entire stretch on South Riverside from Croton Point Avenue south to the Croton River.
  - The entire stretch of South/North Riverside from Route 129 north to Prospect. The facade of stores in this area is a blight on the appearance of Croton and the only view that many passersby on Route 9, Riverside or the railroad ever have of our Village. There is plenty of land available here for development also.
  - The Upper Village including Grand Street from Kennedy Realty to the Municipal Building and Old Post Road from the South side of Maple to Grand Street. It should include the Kennedy Realty and Grant ice cream businesses after "grandfathering" since they already provide attractive frontage. This Eastern Gateway was ignored for some strange reason. If the Gateway concept is so good, this area needs to most help!
2. The added bureaucratic Gateway Zoning regulations serve no useful purpose. Instead, they expose the Village to law suits by reducing the value of retail property, making it harder to attract new businesses or to do business in Croton. For example:

- **Floor Area Ratios (FAR) are reduced from 50% to 35% for single use retail purposes and 40% for multi-use purposes at the Municipal and Harmon Gateways, thereby reducing the property owners' rental potential by 20%-30%.**
- **On top of this burden, property owners are also asked to donate an additional 25% of their property for open space and the maintenance thereof. The remainder, 40% for single use purposes and 35% for multi-use purposes, is graciously provided to the owner for parking. For single use, the owner has more property (40%) for parking than for his building (35%)!!!**

**The rationale for the Village's generosity is that this will "reduce parking decks." This is utter nonsense since we don't have parking decks in the Village and it is highly unlikely that we will have any given the small amount of land available for commercial use. If we don't want parking decks, create a zoning law to outlaw them instead of penalizing all property owners.**

- **Placing another burden on the commercial property user to provide a "shared parking analysis" (Page ii) only increases the cost of establishing a business in Croton and will drive new businesses away.**
- **The 16-hour business limit (Page iii) impacts gas stations, convenience stores, diners and gas station operations, and their ability to make a profit. It may also have an impact on banks (24-hour ATMs) but the Gateway proposal did not address this for new businesses. It is outrageous for this Village to dictate when a small business owner can make a profit. If there are no local demands for their services, business owners will close of their own volition. Many services are needed 24 hours per day due to the working hours of residents! If the Village allows 16-hour operation outside the Gateway, it must allow them inside the Gateway or the regulation appears capricious. Once again, there is no valid reason for this regulation and it opens the Village to lawsuits due to its whimsical nature!**
- **The Gateway Plan takes aim at selected business such as greenmarkets, farmers markets, garden centers and auto dealers by requiring special permits without describing the reason for doing so or the problems that need to be solved. We could use a good nursery in this area.**
- **The North Gateway is close to the fastest growing segment of Croton's residential districts and will require more retail outlets. The Gateway Plan discriminates against this zone since it restricts buildings to 20% of the property. Because the regulations (FAR, special permits, etc.) in the Northern Gateway are the most restrictive, there is little likelihood that any business development will ever take place here! At a minimum, the FAR in the North Gateway should be increased to the same proportions as the other Gateways and there should be no need for special permits for agricultural establishments.**
- **On the other hand, since both the Comprehensive Plan and the Gateway Plan (Page 8) specifically take aim at the use of the Katz property for community purposes, it could also be legally argued that the Village of Croton set up the Municipal Gateway as a nefarious tactic to force Mr. Katz to relinquish this property to the Village. Regardless, I suspect there will be lawsuits over these bureaucratic restrictions! (Pages iv, 1 and 8)**

- 8000 square foot limitation restricts the establishment of a future supermarket in Municipal Gateway where many Croton residents still miss the convenience of the Grand Union. (Page iv)
  - Drive-through windows are a modern convenience needed by seniors, handicapped and parents with kids in cars (a key safety factor that allows the parent to perform their chores without unbuckling/rebuckling their children to accompany them in dangerous parking lots). They also reduce the number of parking spaces needed and the time spent by drivers in a parking lot. They are essential for the survival of many banks and pharmacies and should be permitted!
3. Fewer retail outlets mean less Village tax revenue and place a higher burden on residents. Talk to Linda Pugliese to find out how she kept Town taxes down by bringing in business since it is apparent that Croton doesn't have a clue! (Page 1)
  4. Fewer retail outlets means less jobs for local residents especially teenagers and seniors. Experience has shown that low employment results in higher crime rates. (Page 1)
  5. Common sense should apply to the number and size of curb cuts. Pedestrians are rarely inconvenienced by curb cuts. Restricting the size and number of curb cuts leads to traffic tie-ups for cars entering or leaving parking areas. If curb cuts are reduced in size and quantity, the Village MUST be responsible for installing traffic lights or signage to control the traffic!
  6. New pedestrian networks especially from schools, the library or recreation areas will not attract customers to the Municipal Gateway (who dreamed this one up). Streetscapes will certainly not make an impact either. (Page 8) You need a bevy of magnet services/businesses (Post Office, CVS, Wachovia, etc.) or a desirable teenage hangout (Brown Cow, Blockbuster, Dunkin Donuts, Cappriccio's, etc.) in order to attract visitors to Municipal Gateway!!! All day long, I watch kids and seniors walking down Radnor or Maple to the Duck Pond or the Municipal Gateway stores. Except for a connection from Radnor to Maple where sidewalks would enhance safety and a stairway to Croton Commons from the Route 129-Maple Street intersection to avoid the wasted time of walking west to enter the Commons by Dom's, the existing network is more than adequate.

In addition, pedestrian routes will not prevent customers from driving between Van Wyck and Croton Commons. If the author(s) of the Gateway Plan spent any time at either shopping area they would see that the furthest parking spaces usually remain vacant as drivers queue up or drive around several times looking for closer spots to CVS or the Post Office. The reason...most folks don't like to walk!

7. Using the Katz property as a Community Center/Office Facility is fraught with the same traffic problem that we had when McDonald's tried to come to town. Another traffic light will be needed at the entrance to Wachovia and the Center. Otherwise, eastbound will hold up traffic if they want to make a left hand turn into the Center. Even with a traffic light, there will be congestion at this junction especially when trucks enter to deliver at CVS. The only viable entrance to the suggested Center is from South Riverside and that means Katz will have to give up more property! Didn't we learn from our prior experience!

8. In order to pass laws that will maintain Croton's "Character", some one needs to define this character or the character we are trying to achieve. For me, Croton's character is a potpourri of districts ranging from late depression (North Riverside, Brook Street, etc.) to exclusive housing developments. Houses range from chicken shacks to mansions. Historically, Croton is an Indian village that became a Revolutionary hotbed before a winery, brickyard and magnificent dam were established. It is also a bedroom river community supporting a major railroad and city commuters. Which character(s) are we trying to promote?
9. There is absolutely NO reason to ask Village residents to place a 3/10 of a mile sidewalk from Warren Road past the Poritzky property to the A&P shopping center other than some one possibly wants their personal jogging path. There are only 4 business establishments and one home that I could locate along this stretch and residents of Scenic Ridge already have a sidewalk from Warren Place to the Amberlands Plaza. The cost would be exorbitant especially when the Village faces brown water problems and decaying sewers. The Gateway Plan also shows a sidewalk on the same figure (Page 37) along the eastern side of this proposed pedestrian path. Both sidewalks should be removed from the diagram.
10. The Gateway Plan (Page 25) emphasizes developing a Community Center/ Office Complex at Municipal Place, which will have a direct impact on community facilities!
11. There should be a traffic count for cars coming into and out of the Village on Route 129 from the dam. I consider this to be the major Gateway into and out of Croton yet the authors of the Gateway concept ignored it! (Page 26)
12. Van Cortlandt Manor will not benefit from any Gateway regulations since it is on South Riverside south of Croton Point Avenue. If the Gateway concept is so wonderful, this area should be included. (Page 31)
13. A buffer of trees, ornamental shrubs and LOW stone walls will not shield parking areas and especially service stations from adjacent sidewalks and streets. In fact, these cosmetic facilities may make pedestrian traffic more hazardous by screening pedestrians from the view of drivers. (Page 34)
14. There is no need to needlessly spend Village money for a sidewalk on the south side of Croton Point Avenue. The sidewalk on the northern side is more than adequate and safer!
15. There are sidewalks connecting stores and landscaped islands in each of the shopping plazas. There is no reason to impose additional burdens of these property owners.
16. Illuminating glare restrictions to prevent parking lights from spilling over into adjacent lots is ridiculous and another burden on the property owner. I've never heard anyone complain about this problem! Why was it hidden in the SEQR (Page 4)
17. There is no evidence to support the claim that disaster would befall Croton if the Gateway Plan were not implemented. I'm being very generous when I describe these "scare tactics" as "poppycock"!!!!!!

### Suggestions

1. Most upscale shopping areas throughout the country contain a fountain in a central location which has sufficient space for small entertainment events such as a small concert, magic show, etc. that families can enjoy after a dinner at one of the shopping area restaurants.
2. A stairway from the Croton Point-South Riverside intersection to ShopRite Plaza would reduce the cost of a lengthy sidewalk and the resulting traffic congestion due to construction. (Add to Comprehensive Plan since this area is not in a Gateway)
3. A stairway from the Route 129-Maple Street intersection to Croton Commons would reduce the cost of a lengthy sidewalk and the resulting traffic congestion due to construction.
4. There should be a regulation to outlaw drive-through windows at neighboring establishments. For example, it would be impossible for the Brown Cow, Wachovia and the dry cleaner to have drive-through window next to each other in the Van Wyck shopping lot! Only one should be allowed!
5. Orienting buildings close to the front property line (Page 9) may place an undue burden on the merchant to have a rear and unnecessary frontal entrance. This is especially true in large areas like Van Wyck shopping areas where parking would be at the rear. Due to slopes, it would be impossible at Croton Commons or Shop-Rite (if Shop-Rite were included in the Gateway). In addition, two entrances in these instances minimize the useful retail space for the merchant. The only place that I've seen this arrangement is at Mohegan Lake where customers usually enter from the rear. The regulation only makes sense in smaller areas like the shops at the western end of Maple. In this situation, parking between the store and sidewalk is the best option. Common sense, not strict regulations should prevail!

### Unsubstantiated Assumptions

1. The skate park is not getting much attention now. What makes anyone think that making it into a different recreation area will serve as a draw to Municipal Place? In addition, traffic in this area makes it a dangerous location for any type of recreation. (Page 8)
2. There is no quantitative evidence provided that reduced FARs will produce multi-use properties OR that "this may result in a greater mix and diversity of uses within the gateway areas of Croton-on-Hudson" OR that "A greater diversity of uses MAY encourage greater number of visitors which will in turn stimulate the local economy".
3. There is no quantitative evidence provided that:
  - "With reduced density and reduced hours of operation, fewer trips will be generated than under the current zoning and it is likely that most trips will be during the day and not late at night or early in the morning" (Page iii). Most shopping is done before 9:00am or after 5:00pm. Seniors, kids and soccer Mom's/Dad's shop between these hours. Nothing will change these patterns, certainly not reduced density and/or hours.

- **“The reduction of the maximum density permitted in the gateway areas will effectively limit the potential impact on community facilities and services as compared to existing zoning...”(Page iii). If it doesn’t apply to the non-Gateway areas, it shouldn’t apply to Gateway zones.**
  
- **“In the long term, the reduction in density, retail size limitation, and design improvements MAY increase the amount of foot traffic and reduce the amount of vehicular traffic as compared to development under current zoning” (Page iii).**

APPENDIX C:  
BIG BOX RETAIL:  
EXPLANATORY TEXTS

*Managing  
Maryland's Growth:  
Models and Guidelines*

‘Big-Box’ Retail  
Development

Maryland Department of Planning

State of Maryland  
Parris N. Glendening, *Governor*  
Kathleen Kennedy Townsend, *Lieutenant Governor*

Maryland Department of Planning  
Roy Kienitz, *Secretary*  
Ronald N. Young, *Deputy Secretary*

October, 2001



This booklet was written by Theodis L. Perry, Jr. under the direction of James T. Noonan. Production and graphic designs were provided by Gail Fields and Mark Praetorius.

Additional copies are available from the Maryland Department of Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365. Phone: 410.767.4550. Fax: 410.767.4480. Also, visit our website at [www.mdp.state.md.us](http://www.mdp.state.md.us).

## Introduction

Cities, towns and rural areas have changed dramatically over the past decade. The proliferation of discount, general merchandise stores such as Target, Wal-Mart and Kmart have had a significant impact on our urban and rural landscapes, affecting the way we shop, live, work and play. While changes in consumer buying habits are often linked to changes in the retail industry, communities are increasingly becoming more aware of both the positive and negative aspects of large-scale retail facilities— often called “big-boxes,” “megastores” or “superstores.” In this report, the term big-box(es) will be used.

What is a big-box retail development?

Big-box retail facilities are large, industrial-style buildings or stores with footprints that generally range from 20,000 square feet to 200,000 square feet. While most big-boxes operate as a single-story structure, they typically have a three-story mass that stands more than 30 feet tall.<sup>1</sup> The definition, or perhaps the description of a big-box store can be better understood through its product category. For example, book retailers like Barnes & Noble generally range from 25,000 square feet to 50,000 square feet, whereas in the general merchandise category, big-boxes like Wal-Mart range from 80,000 square feet to 130,000 square feet.

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<sup>1</sup>State of New Jersey, Office of Planning, *Creating Communities of Place*. New Jersey, December 1995.



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[Recent Releases](#) | [Industry Benchmarks/Data](#) | [GIS and Strategic Decision Making](#) | [Supply Side Trends and Innovations](#) |  
[Commercial Structure of the GTA](#) | [Trends in National Markets](#) | [Trends in Metropolitan and Non-Metropolitan Markets](#) |  
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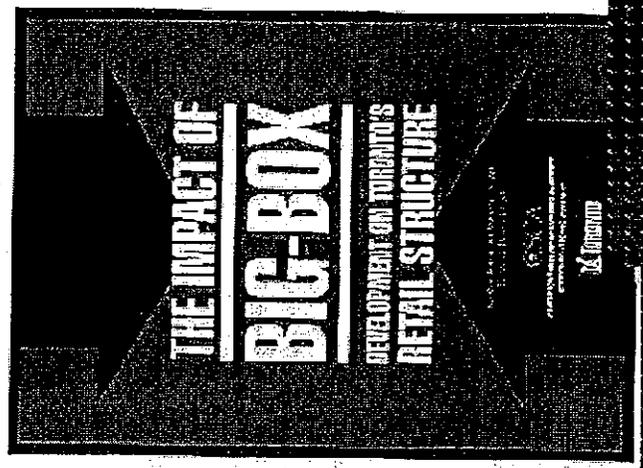
## The Impact of Big Box Development on Toronto's Retail Structure

by Ken Jones and Michael Doucet  
January 1999

This report examines the impact of big-box retailing on the retail structure of the Toronto area. The most significant structural change to the urban retail economy in recent years has been the introduction of a variety of new retail formats - normally called "big boxes" or "category killers," and often grouped together in new aggregations known as "power centres/power nodes". These large-scale retail operations incorporate various information technologies into fundamental areas of retail management such as logistics, inventory control, ordering, category management, product scanning, relational marketing, and advertising. The integration and application of these technologies permit big-box retail outlets to generate lower product prices and margins, while still maintaining an acceptable level of profit. These retail formats have introduced a new form of competition to almost every retail category. For the consumer, a new set of destination retailers has been introduced to the retail landscape (e.g. Price Club, Home Depot, Superstores, IKEA, Toys R Us, Office Depot, Chapters, Michaels). Collectively, they have significantly altered the map of Canadian retailing. The introduction and growth of the big-box/power centre phenomenon has been systematically tracked and quantified by the Centre for the Study of Commercial Activity at Ryerson Polytechnic University since the early 1990s. This research interest has resulted in the development of an extensive retail database and the publication of two reports - New Formats in the Canadian Retail Economy (Jones, Evans, and Smith, 1994) and The Big Box, The Big Screen, The Flagship and Beyond (Jones and Doucet, 1998).

Before one attempts to analyze the impact of big boxes on more traditional retail forms, it is important to define the term "big-box retailing." In general terms, the big boxes are large-format stores that typically range in size from 20,000 to over 150,000 square feet. The definition of "big" is, however, relative, and must be related to the product category in question. For the supermarket/grocery sector, a big-box superstore normally must be in the 50,000 to 100,000 square foot range. For warehouse operations, such as PriceCostco, big boxes normally contain 120,000 square feet. In contrast, for book retailers, 25,000 to 50,000 square feet would qualify as a big-box operation. For other specialty retail categories, for example, eye glasses, a 5,000 square-foot store would qualify as a "big box." The key point is that "big-box, category-killer" stores are several times the size of a traditional outlet in their category. Table 1.1 provides some comparative data from the Toronto experience to illustrate this point.

Table 1.1 The Big-Box Size Spectrum



APPENDIX D:  
ITE TRAFFIC GENERATION  
DATA  
(DRIVE-THROUGH FAST-FOOD ESTABLISHMENTS)

# Fast-Food Restaurant with Drive-Through Window (934)

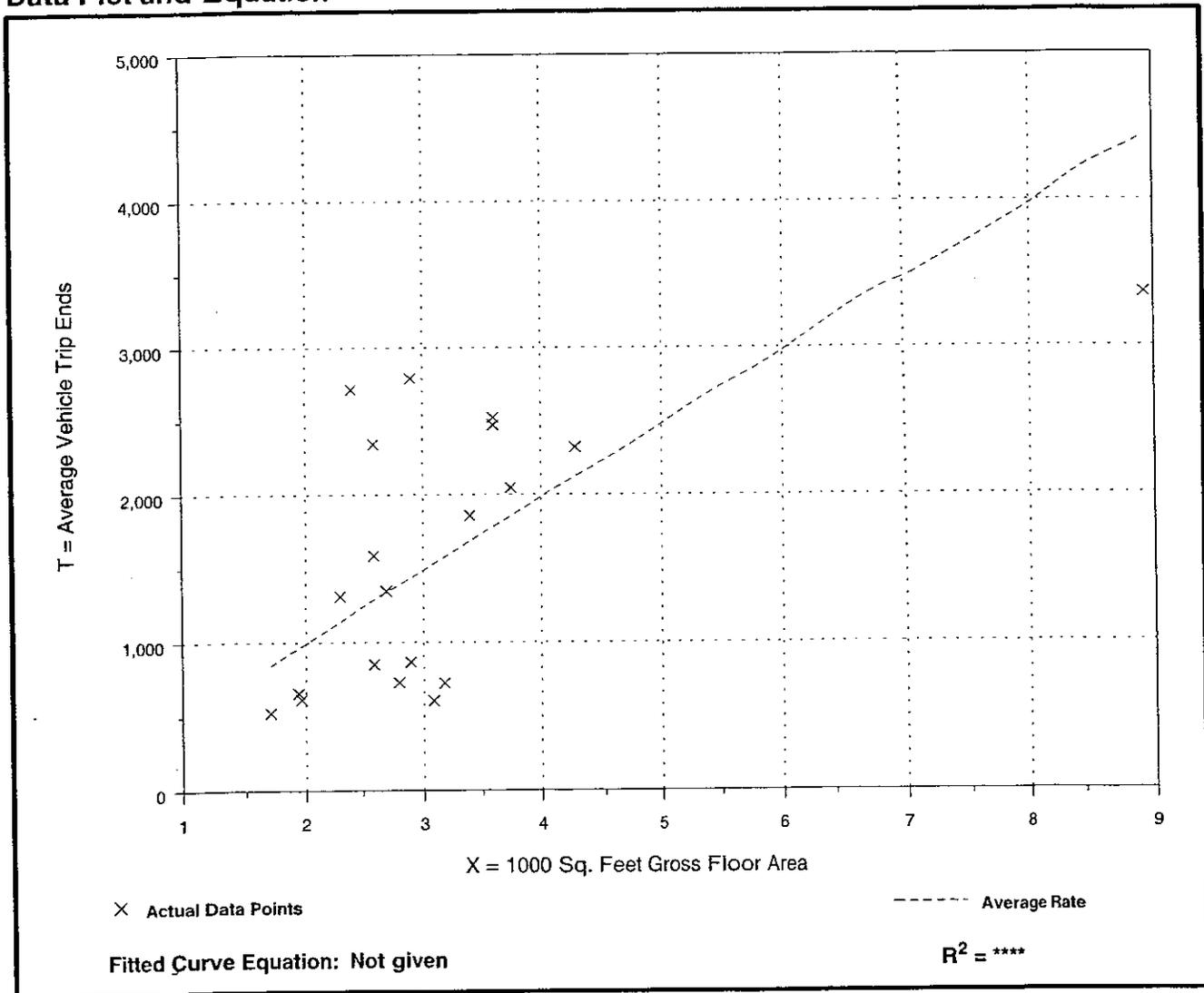
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area  
On a: Weekday

Number of Studies: 21  
Average 1000 Sq. Feet GFA: 3  
Directional Distribution: 50% entering, 50% exiting

## Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
496.12	195.98 - 1132.92	242.52

## Data Plot and Equation



# Fast-Food Restaurant with Drive-Through Window (934)

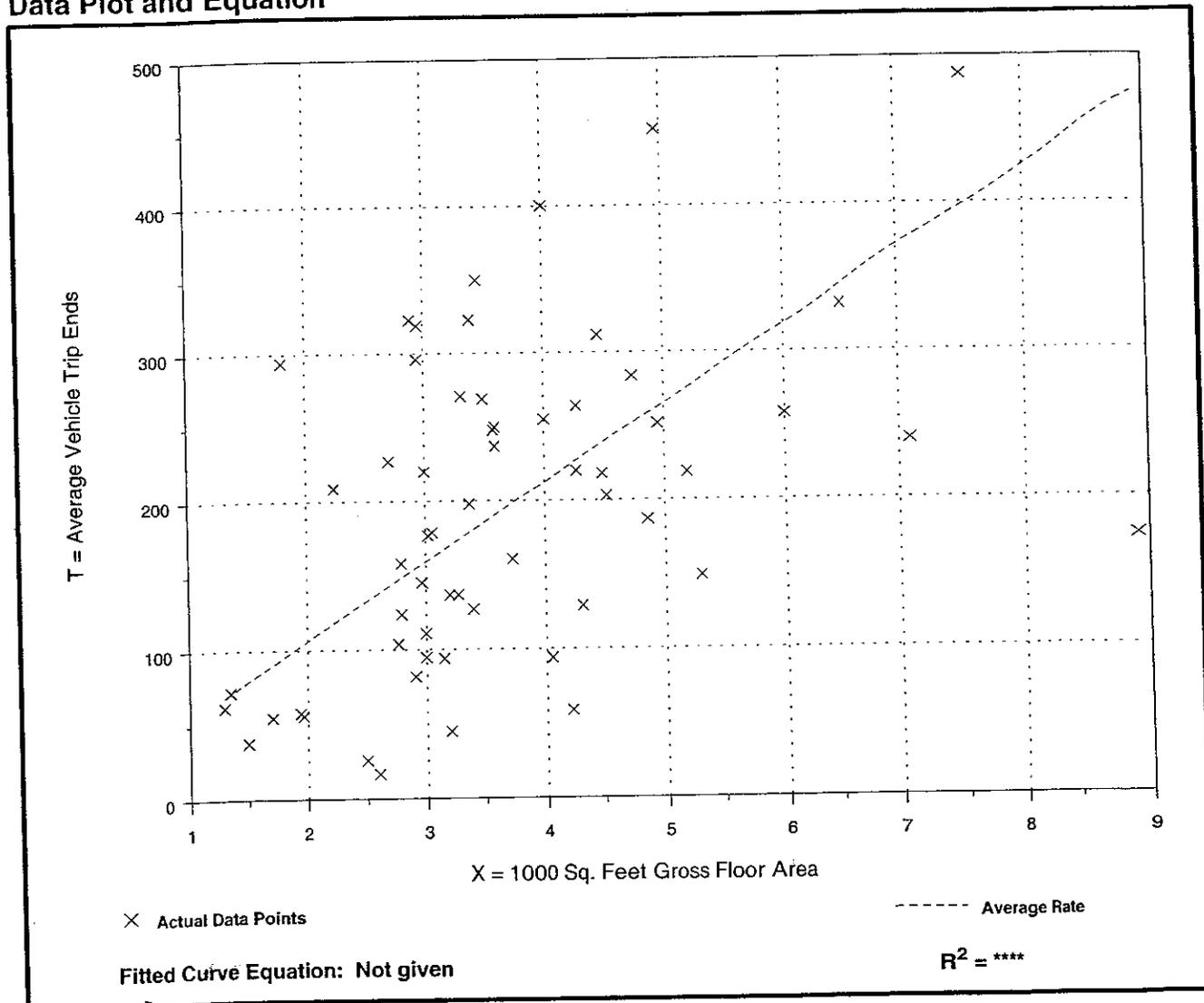
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area  
On a: Weekday,  
Peak Hour of Adjacent Street Traffic,  
One Hour Between 7 and 9 a.m.

Number of Studies: 59  
Average 1000 Sq. Feet GFA: 4  
Directional Distribution: 51% entering, 49% exiting

## Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
53.11	6.54 - 163.33	27.51

## Data Plot and Equation



# Fast-Food Restaurant with Drive-Through Window (934)

Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area  
 On a: Weekday,  
 Peak Hour of Adjacent Street Traffic,  
 One Hour Between 4 and 6 p.m.

Number of Studies: 110  
 Average 1000 Sq. Feet GFA: 3  
 Directional Distribution: 52% entering, 48% exiting

## Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
34.64	8.15 - 117.15	20.15

## Data Plot and Equation

