

**VILLAGE OF PORT CHESTER
BOARD OF TRUSTEES
Meeting, Saturday, April 12, 2014
Regular Meeting: 9:00 A.M.
VILLAGE HALL CONFERENCE ROOM
222 Grace Church Street
Port Chester, New York
AGENDA**

TIME: 9:00 A.M.

I	WORKSHOP	ACTION
1	State Environmental Quality Review Act (SEQRA) Process and Implementation.	
2	Southern Gateway Mixed Use Overlay District.	
3	Zoning Code §345-16 Building height and floor area bonus program.	

WORKSHOP



VILLAGE OF PORT CHESTER

DEPARTMENT OF PLANNING & DEVELOPMENT

222 Grace Church Street, Rm. 202

Port Chester, NY 10573

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Christopher Gomez, AICP, Director
Jessica Youngblood, MCP, Planner
Constance Phillips, Planning Secretary

To: Mayor Pagano and Board of Trustees

From: Christopher Gomez, AICP, Director of Planning and Development

Re: SEQRA Workshop

CC: C. Steers, T. Cerreto, P. Miley, J. Richards, J. Youngblood, D. Knauer

Date: April 10, 2014

Please find the enclosed agenda and back-up materials for Saturday's special board workshop. Steve Barshov Esq. of Sive, Paget & Riesel P.C. will be in attendance to provide an overview of New York State SEQRA law and practical implementation for legislative bodies. The focus will be on the board's role in the process including Lead Agency status, classification of actions, scoping, and preparation of environmental impact statements.

Staff will give a follow-up presentation on the conceptual Southern Gateway Mixed Use and Byram Riverfront overlay districts as well as zoning code §345-16: Building height and floor area bonus program that was adopted by the board in March 2013. Town Assessor Denise Knauer will also be in attendance to provide guidance and answer any questions.

The SEQR Cookbook

A Step-by-Step Discussion of the Basic SEQR Process



State Environmental Quality Review Act
New York State Department of Environmental Conservation
Division of Environmental Permits

Revised 2004



The SEQR Cookbook

A Step-by-Step Discussion of the Basic SEQR Process

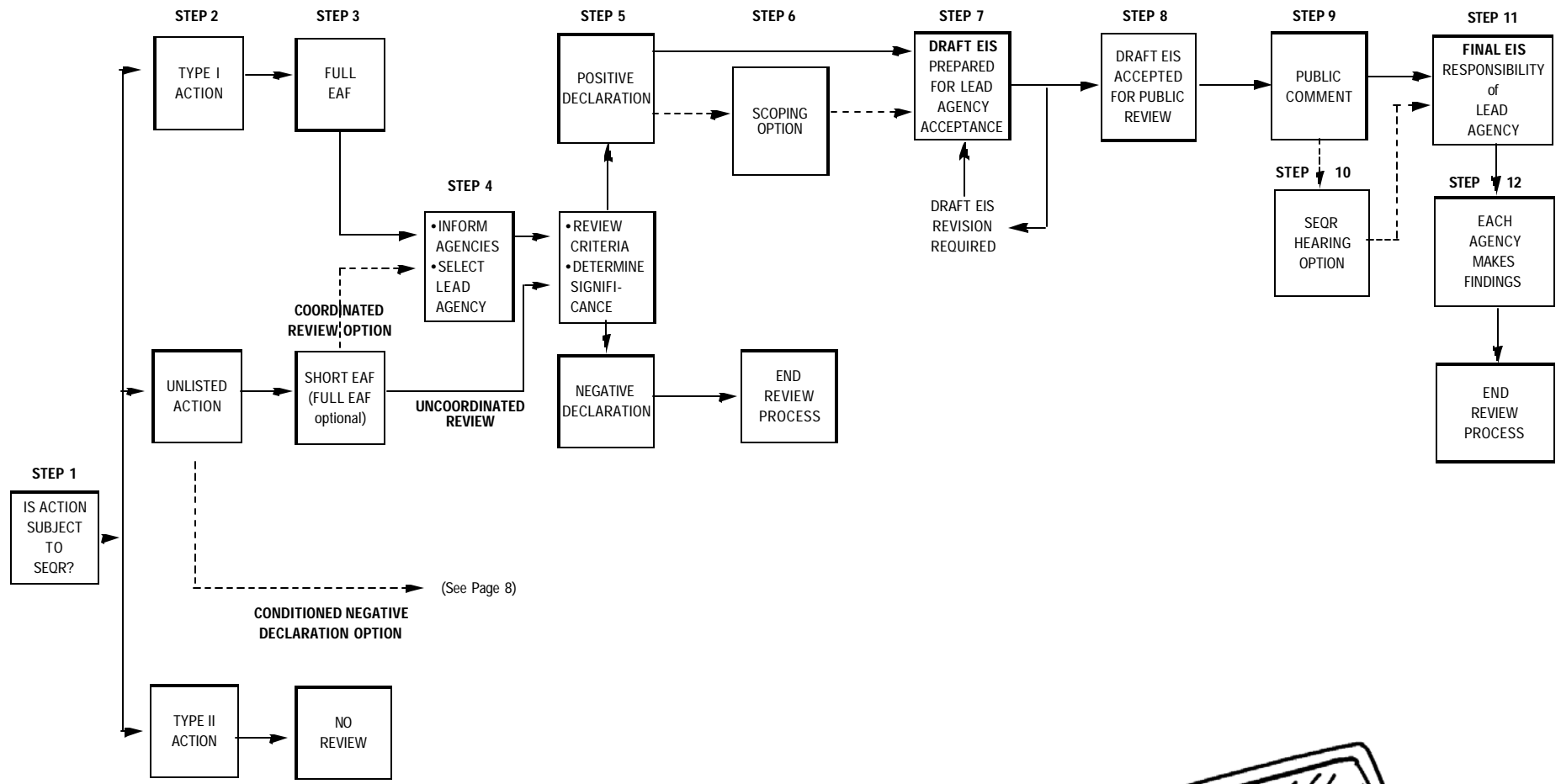


The Department of Environmental Conservation received rave reviews on the *SEQR Cookbook*. This version reflects changes to the statewide SEQR Regulations, 6 NYCRR Part 617, effective in January 1996 and DEC address changes that have occurred since the last printing. The Cookbook takes the reader through the SEQR process step-by-step. However, the Cookbook is not intended to serve as the sole source of information about SEQR. For this reason, each step of the Cookbook refers to the appropriate section of Part 617. Definitions of terms can be found in 6 NYCRR Section 617.2.

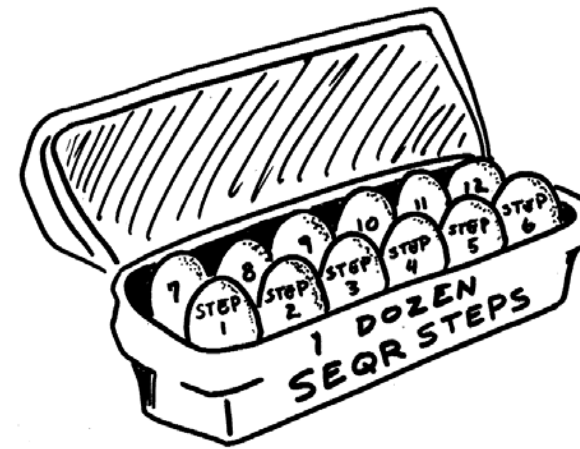
Information about SEQR, including an on-line version of this Cookbook, can also be found on the DEC website: <http://www.dec.state.ny.us/website/dcs/seqr>

The following Department staff contributed their efforts to the production of this edition of the revised SEQR Cookbook:

Jack Nasca, Betty Ann Hughes, and Andrea Bergstrom, Division of Environmental Permits
Bob deVilleneuve and Helen Paruolo, Division of Public Affairs
Jeffrey Sama prepared the "SEQR Chef" illustrations found throughout the Cookbook.



The SEQR Process



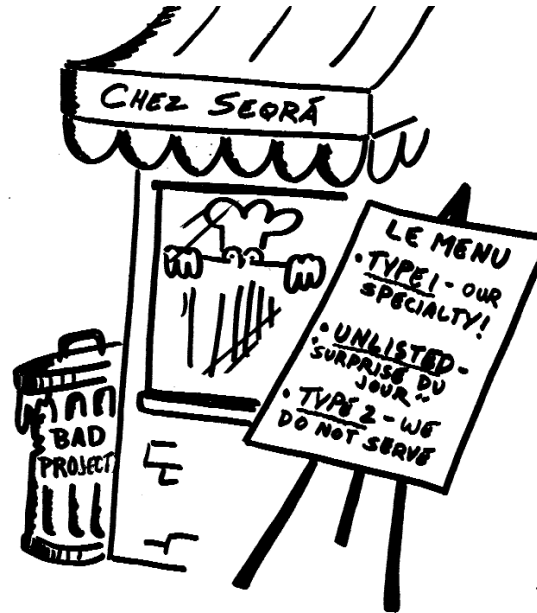
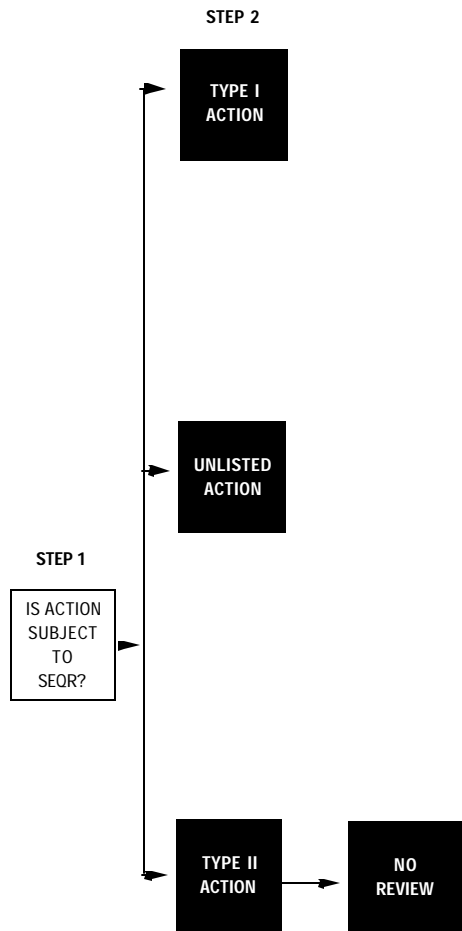
STEP 1

IS ACTION
SUBJECT
TO
SEQR?



Step 1. Is the Action Subject to SEQR?

An action is subject to review under SEQR if any state or local agency has the authority to issue a discretionary permit, license or other type of approval for that action. SEQR also applies if an agency funds or directly undertakes a project, or adopts a resource management plan, rule or policy that affects the environment. If the proposed action does not require a discretionary decision, there is no requirement for review under SEQR. If the proposed action requires a discretionary approval, proceed to Step 2.



Step 2. Classify the Action

The next step in the SEQR process is to classify the action.

a. Actions Requiring No Further Review Under SEQR

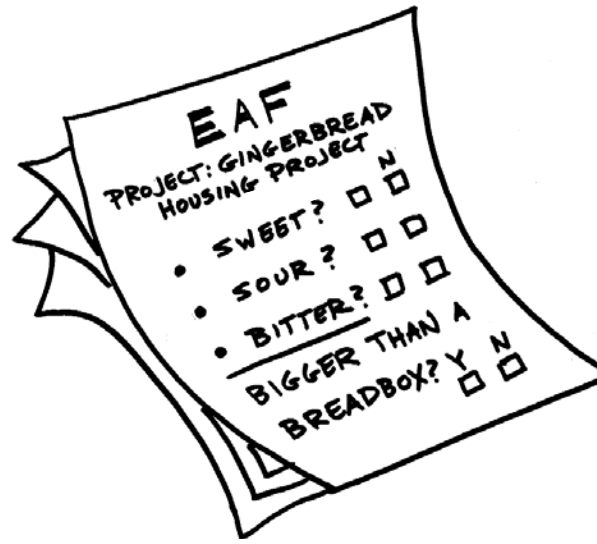
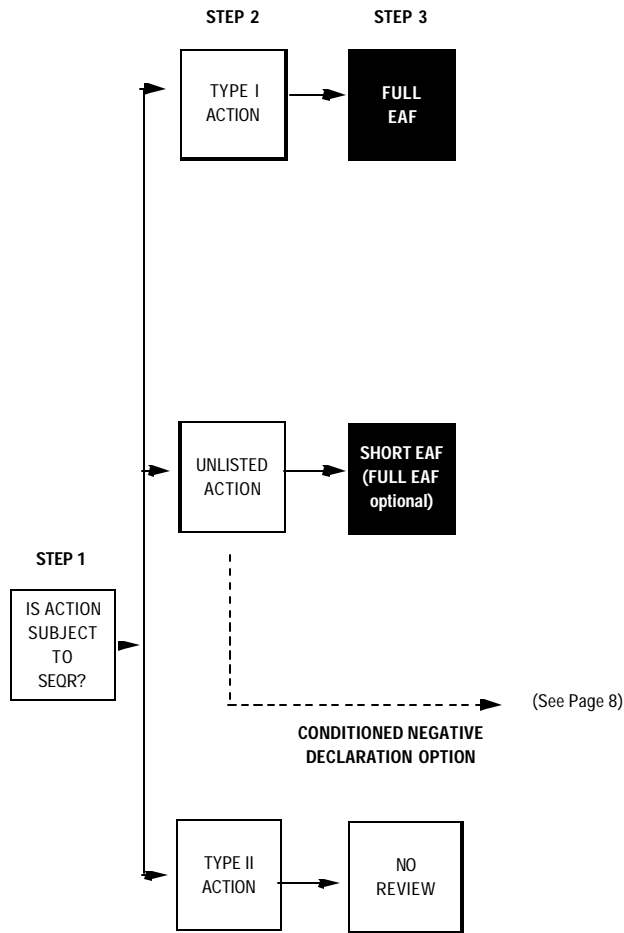
- Type II—An action contained on the list in section 617.5 or on an agency's locally adopted Type II list. Type II actions have been determined not to have a significant impact or are otherwise precluded from environmental review under SEQR. Type II actions never require the preparation of a determination of significance or a draft environmental impact statement (EIS).

If an action is classified as Type II, review under SEQR is completed. Although not required, an agency may choose to provide documentation in the project file that the action has been classified as Type II.

b. Actions Which Require Further Review Under SEQR

- Type I—An action that meets or exceeds a threshold contained on the list in section 617.4 or one that is on an agency's locally adopted Type I list. Type I actions are more likely to have a significant adverse impact on the environment than Unlisted actions and may require the preparation of a draft EIS.
- Unlisted—An action that does not meet or exceed the thresholds contained on the Type I list and is not contained on the Type II list. An Unlisted action requires a determination of significance and may require the preparation of a draft EIS.

If the action is classified as a Type I action, proceed to Step 3a. If the action is classified as an Unlisted action, proceed to Step 3b.



Step 3. Complete Environmental Assessment Forms (EAF)

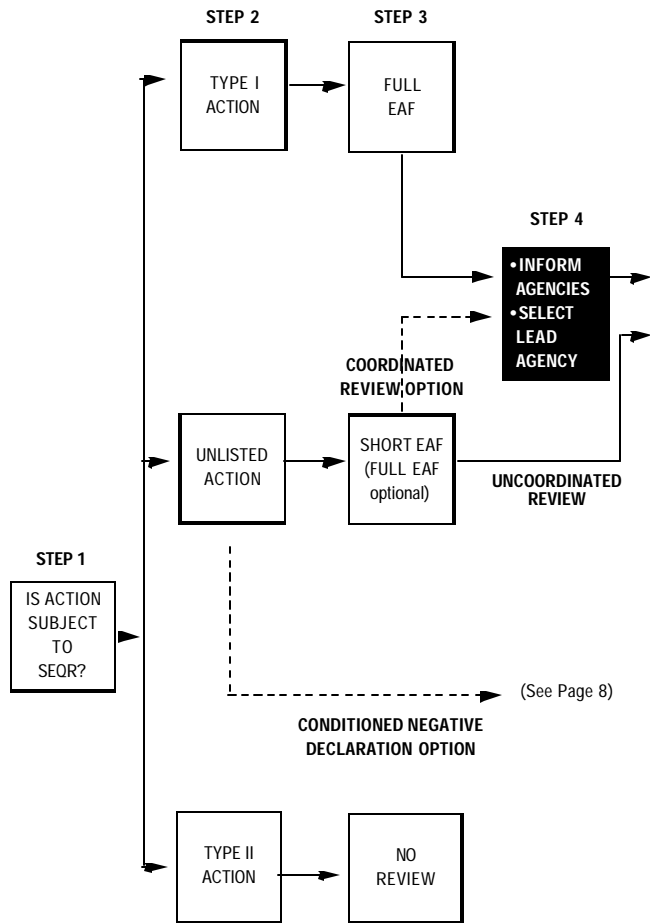
a. Type I Actions

A full Environmental Assessment Form (full EAF) must be prepared for all Type I actions (617.20 Appendix A). The project sponsor/applicant completes Part I of the form and submits it to an involved agency together with any other applications that are required. When the lead agency is established (see step 4), that agency is responsible for completing Part 2 of the EAF and, as needed, Part 3. The requirement for a full EAF may be waived if a draft EIS is prepared and submitted with the application. Proceed to Step 4a.

b. Unlisted Actions

A short Environmental Assessment Form (short EAF) must, at a minimum, be completed for all Unlisted actions (617.20 Appendix C). The project sponsor/applicant completes Part 1 of the form and submits it to an involved agency together with any other applications that are required. When the lead agency is established (see Step 4), that agency is responsible for completing Part 2 and, as needed, Part 3. An agency may require a full EAF if the short EAF will not provide sufficient information, or it may waive the requirement for an EAF if a draft EIS is prepared and submitted with the application.

Unlisted actions range from very minor activities to actions falling just below Type I thresholds. Coordinated review is not required for Unlisted actions. Proceed to step 4b.



Step 4. Coordinate Review

a. Type I Actions

Coordinated review is required for all Type I actions. The involved agency that initially receives an application for approval circulates to the other involved agencies the completed Part 1 of the full EAF and any other information supplied by the applicant. The involved agencies should be identified by the applicant in the full EAF (Part 1,B, questions 24 & 25).

If there is only one agency approving, funding or directly undertaking an action, that agency is automatically the lead agency. If there are two or more involved agencies, a lead agency must be established by agreement of the agencies within 30 calendar days. If any involved agency desires to be lead agency, it can indicate in the coordination request its willingness to act as lead agency and state that, if no response is received within 30 calendar days, it will assume the role of lead agency. If the lead agency cannot be agreed on within 30 calendar days, any of the involved agencies or the applicant can ask the Commissioner of the Department of Environmental Conservation to resolve the dispute and designate the lead agency [see 617.6(b)(5)]. When the lead agency has been established/designated, proceed to Step 5.

b. Unlisted Actions

- *Coordinated Review Option*

If any involved agency decides to coordinate the review, or intends to require a draft EIS, that agency must contact the other involved agencies informing them of the decision to coordinate. The involved agencies should be identified by the applicant in either the short EAF, (Part 1, question 10) or the full EAF (Part 1,B, questions 24 & 25).

Coordination then occurs using the procedures for coordinating a Type I action (return to Step 4a). The only difference in coordinating review for an Unlisted action is that either a short EAF or a full EAF may be used.

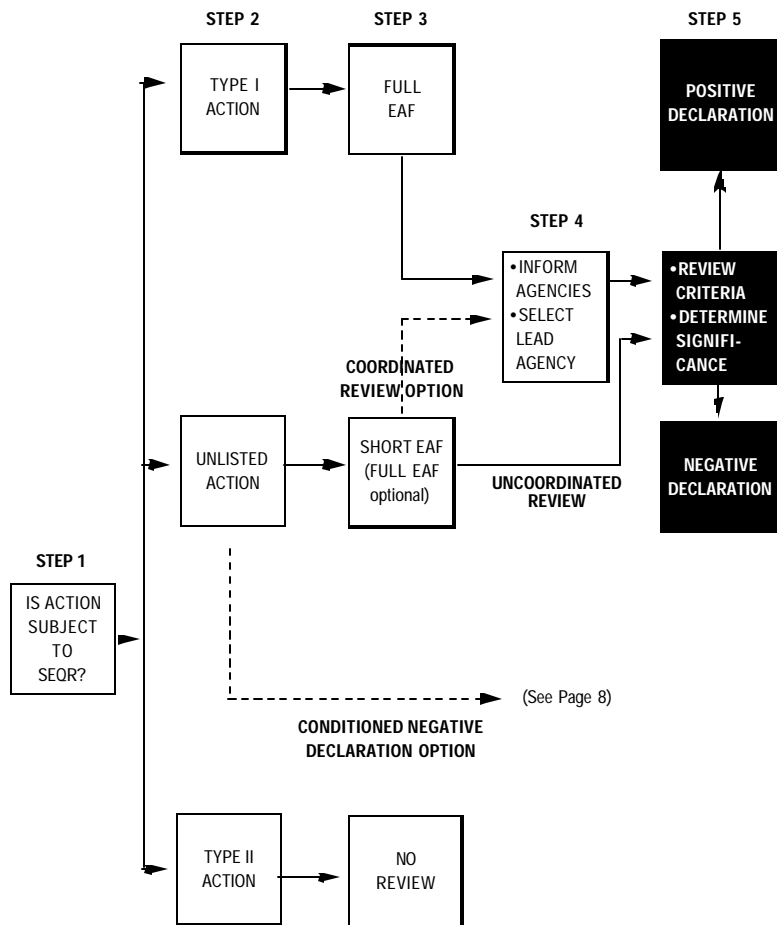
For Unlisted actions only, there is an option to not coordinate review.

- *Uncoordinated Review Option*

Each involved agency acts as a lead agency and independently conducts an environmental review and determines the significance of the action (go to Step 5). If all involved agencies issue negative declarations, the project may go forward. If any of the involved agencies issues a positive declaration, requiring an EIS, all the other determinations of non-significance are superseded and a coordinated review must commence.

- *Conditioned Negative Declaration Option*

If, during the review of an application and the EAF submitted by an applicant on an Unlisted action, an involved agency determines that the potentially significant impact(s) could be eliminated or reduced to a non-significant level through imposed conditions, the agency may consider using the Conditioned Negative Declaration (CND) process. The use of the CND process requires a full EAF and coordinated review. For a brief discussion of the CND process, see Step 5b.



Step 5. Determine Significance

The lead agency has 20 calendar days to make its determination of significance. If the lead agency finds that it does not have sufficient information to make this determination, it may request that the applicant provide it. The lead agency must make its determination within 20 days of receipt of all the information it reasonably needs. In determining significance, the lead agency must consider:

- the whole action and the criteria [see 617.7(c)];
- the EAF and any other information provided by the applicant;
- involved agency input, where applicable; and
- public input, if any.

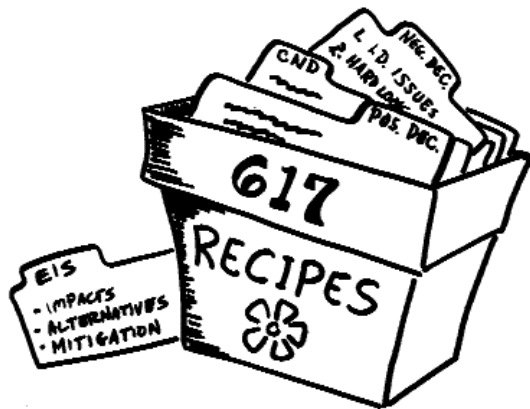
If the lead agency has determined that the proposed action will not have a significant adverse impact on the environment (Negative Declaration), proceed to Step 5a. If the proposed action is an Unlisted action involving an applicant and it will not have a significant adverse impact on the environment due to imposed conditions, proceed to Step 5b. If the proposed action may have a significant adverse impact on the environment (Positive Declaration), proceed to Step 5c.

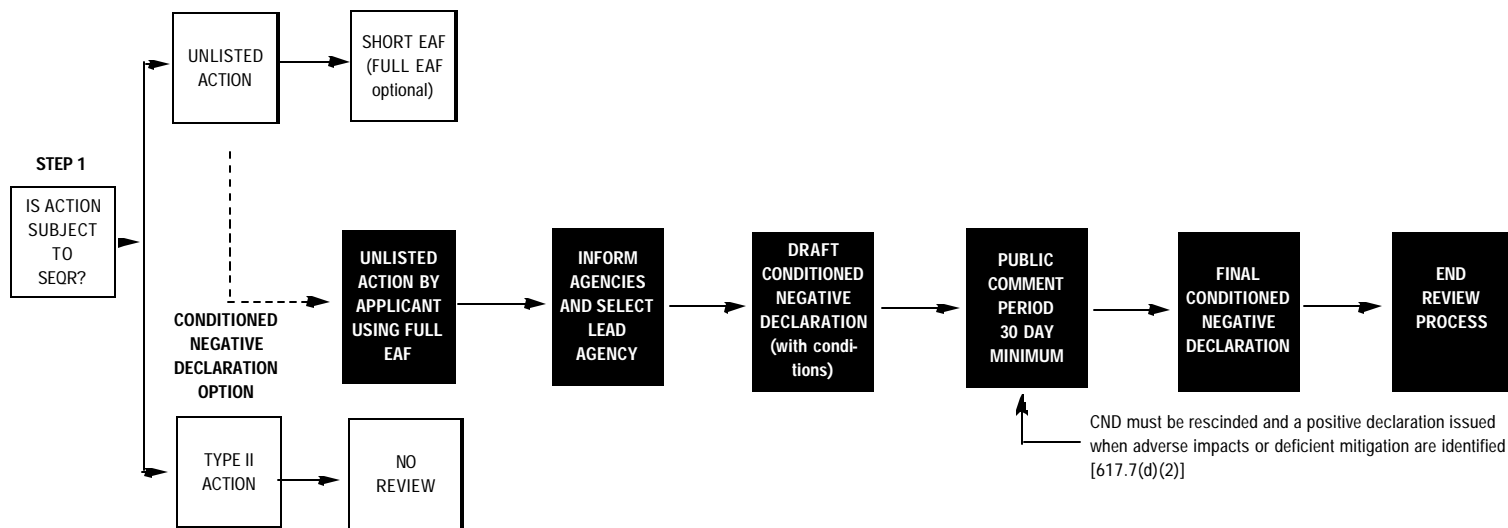
a. Type I Action and Unlisted Action Negative Declarations

Every negative declaration must:

- identify the relevant areas of environmental concern;
- thoroughly analyze the relevant concerns; and
- document the determination, in writing, showing the reasons why the environmental concerns that were identified and analyzed will not be significant.

Unsupported statements such as “the action will not have a significant impact” or “no significant impacts were identified in the EAF” are assertions that are not legally sufficient for a negative declaration. Such statements must be supported with adequate detail to explain why there will be no significant impacts. For a Type I action, the agency must, in addition to maintaining a file that is readily accessible to the public, prepare, file, publish and distribute the Negative Declaration as described in section 617.12. For an Unlisted action, the reviewing agency must maintain a file readily accessible to the public containing the Negative Declaration.



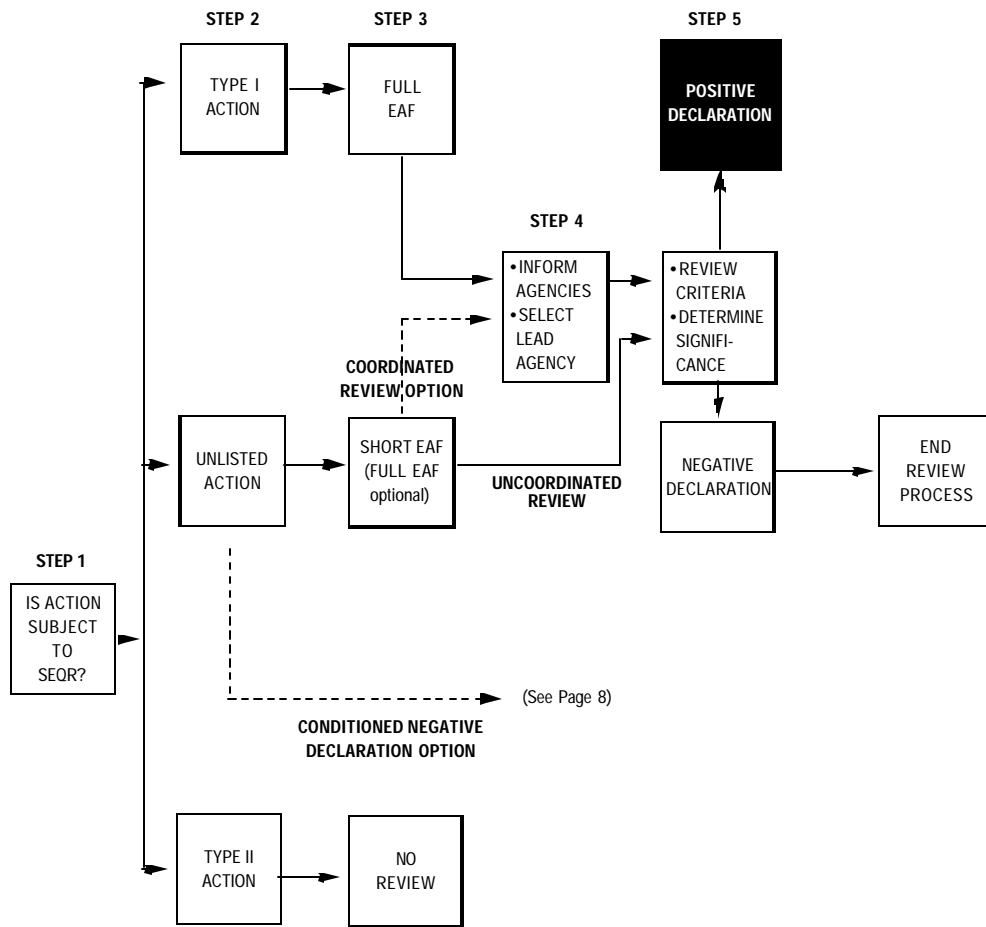


b. Conditioned Negative Declarations (CND)

For Unlisted actions that involve an applicant, the lead agency can choose to use the CND procedure. The following elements are necessary to support the use of a CND:

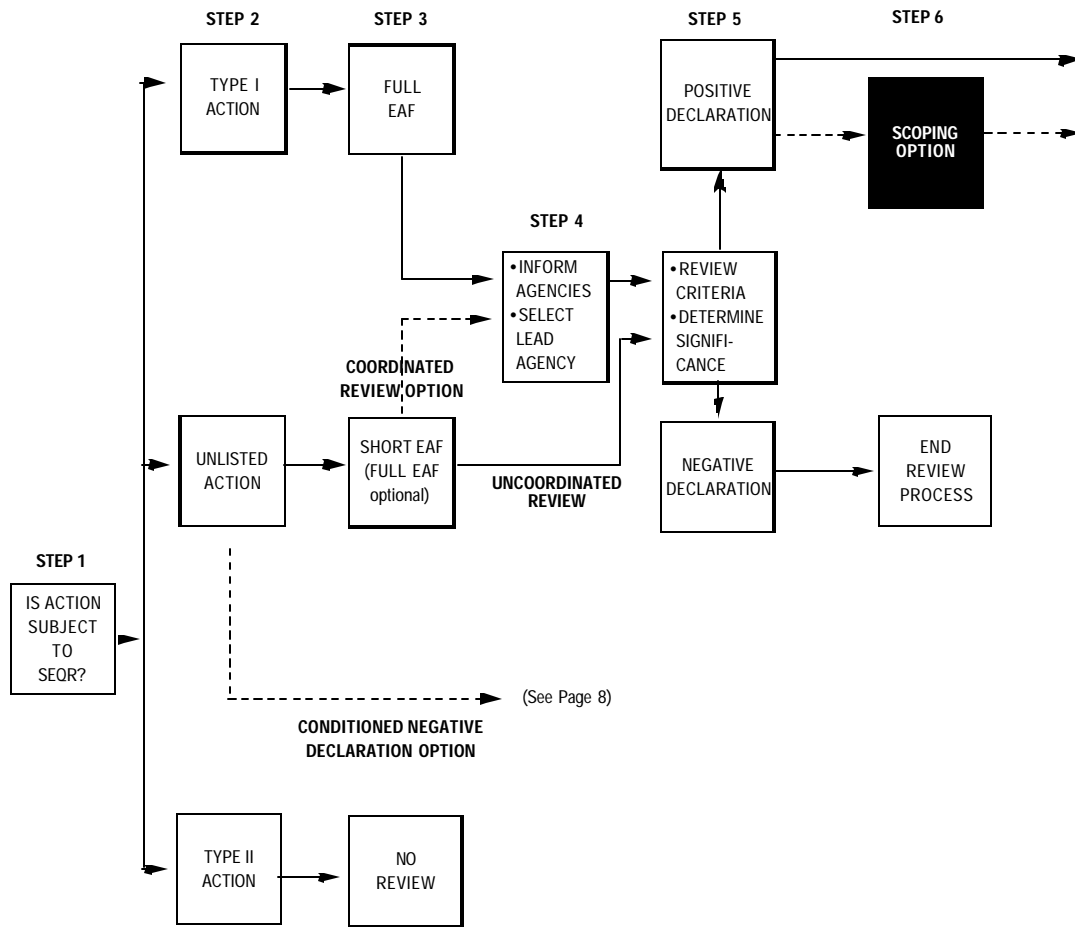
- a full EAF has been prepared;
- a coordinated review has been completed [see 617.6(b)(3)];
- the SEQR conditions imposed [see 617.3(b) and 617.7(d)(1)(iii)] have eliminated or reduced the identified potentially significant adverse impact(s) to a non-significant level;
- the notice is filed and published the same as for Type I actions [see 617.12(b) and (c)];
- a 30 day minimum public comment period has been provided (commencing with the appearance of the notice in the “Environmental Notice Bulletin”) stating what conditions have been imposed.

The conditions appropriate for use in a CND are those outside the normal jurisdiction of the agency. A condition that requires analysis of the results of a future study is inappropriate. This information must be available prior to determining significance. If comments are received that, in the lead agency’s judgment, would support the preparation of a draft EIS, or if the applicant requests an EIS, proceed to Step 6.



c. Positive Declarations

If the lead agency has determined that the proposed action may result in a significant adverse impact and, therefore, will require the preparation of an environmental impact statement, it must prepare and file a notice of that determination known as a Positive Declaration. The Positive Declaration must be prepared, filed, distributed and published as prescribed in section 617.12 and it must state whether scoping will be conducted. Proceed to Step 6.



Scoping may be initiated either by the lead agency or at the request of the applicant. The project sponsor must provide the lead agency with a draft scope that contains the items identified in paragraphs 617.8(f)(1) through (5).

The lead agency must provide a copy of the draft scope to all involved agencies and make it available to anyone who has written to express an interest in the project. If the action involves an applicant, within 60 days of the receipt of the draft scope, the lead agency must supply a final written scope of issues to be addressed in the draft EIS to the applicant, all involved agencies and any individual who has expressed an interest in writing. If the lead agency fails to provide a final written scope to the applicant within 60 days, the applicant may prepare and submit a draft EIS consistent with the submitted draft scope.

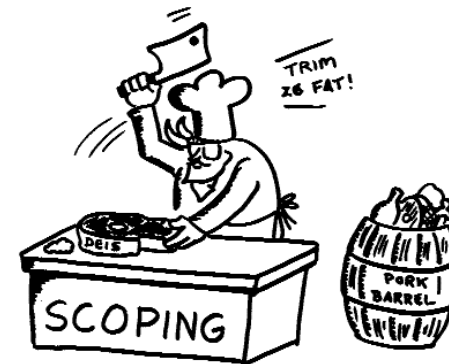
Involved agencies should participate in the scoping process, alerting the lead agency of their agency's concerns, jurisdiction(s) and information they will need to make their SEQR findings. The lead agency must provide a reasonable opportunity for the public and other interested agencies to participate in the scoping process. The DEC suggests that a minimum 20-day period for public review of the draft scope would be reasonable under most circumstances. Public participation can be accomplished by meetings, exchanges of written material or other methods. Proceed to Step 7.

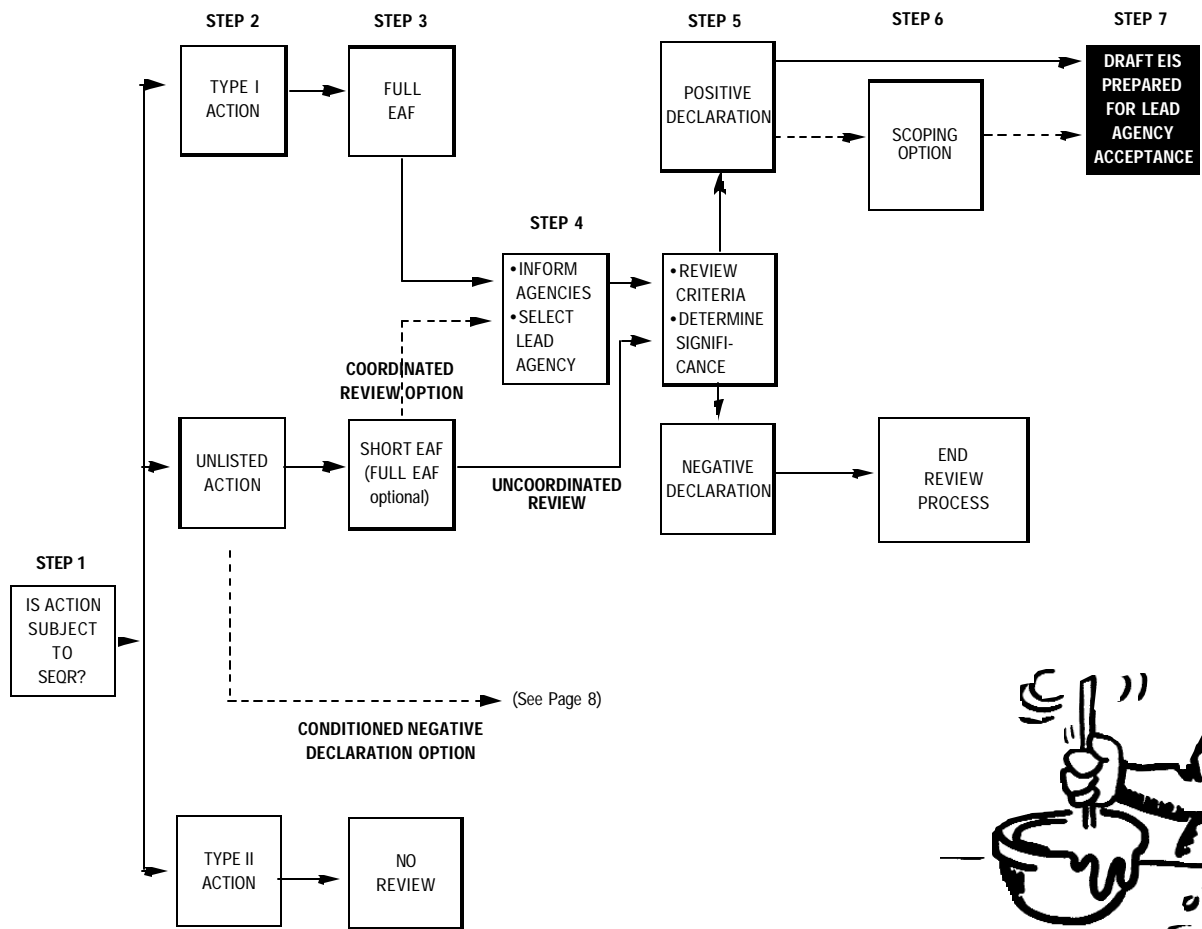
Step 6. Scope Draft Environmental Impact Statement (Draft EIS)

Scoping is the process by which the issues to be addressed in the draft EIS are identified. While scoping is not required by Part 617, it is highly recommended for all draft EIS's.

The scoping process has six objectives:

- focus the draft EIS on the potentially significant adverse environmental impacts;
- eliminate non-significant and non-relevant issues;
- identify the extent and quality of information needed;
- identify the range of reasonable alternatives to be discussed;
- provide an initial identification of mitigation measures; and
- provide the public with an opportunity to participate in the identification of impacts.

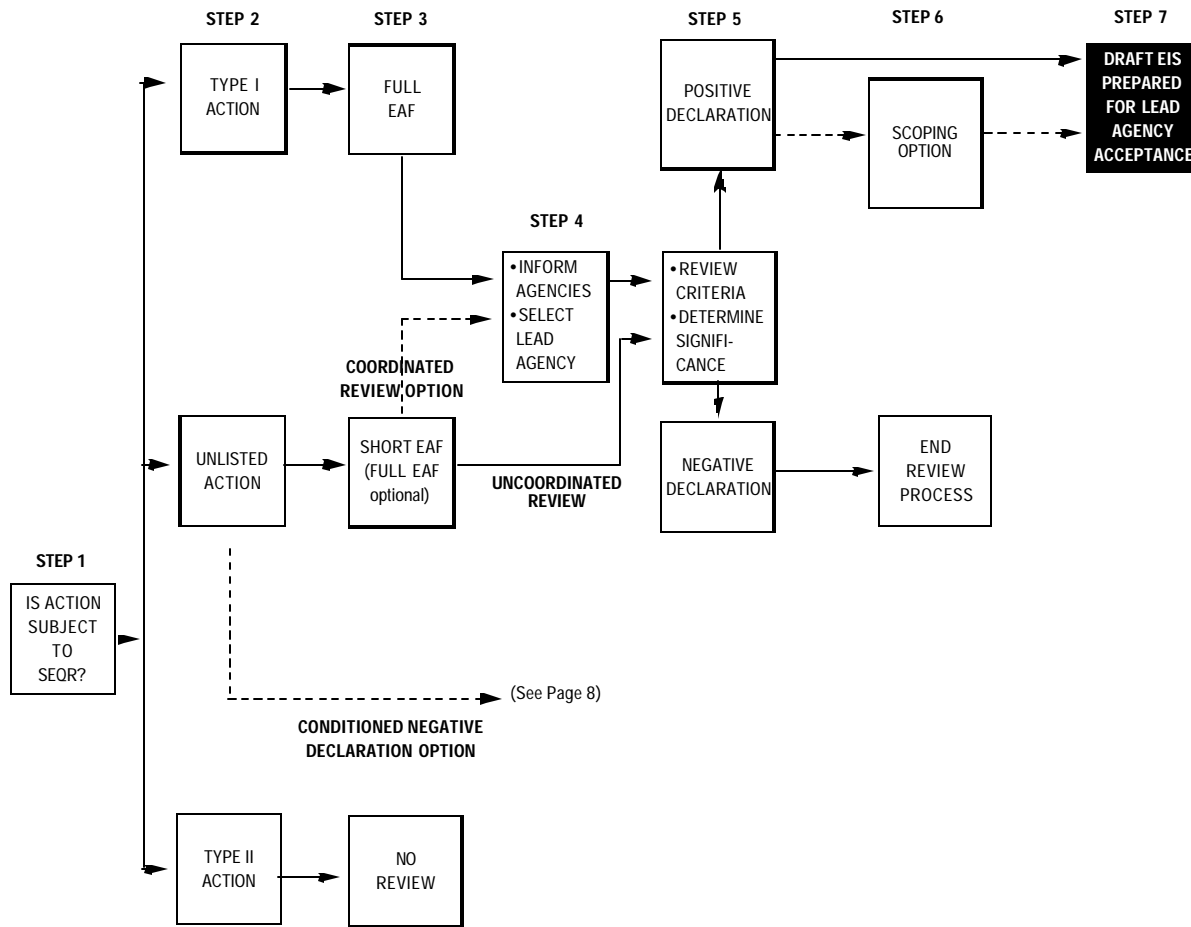




Step 7. Prepare the Draft EIS

a. Who Prepares the Draft EIS?

The applicant always has the right to prepare the draft EIS. If the applicant refuses to prepare the draft EIS, the lead agency has the option of preparing the draft EIS, having it prepared by a consultant or terminating its review of the action. If the agency decides to prepare the draft EIS or have it prepared by a consultant, it can charge the applicant a fee to recover the direct costs of preparation (See 617.13). The lead agency has the ability to charge a SEQR fee for the review of an EIS, if it does not charge a fee for its preparation.



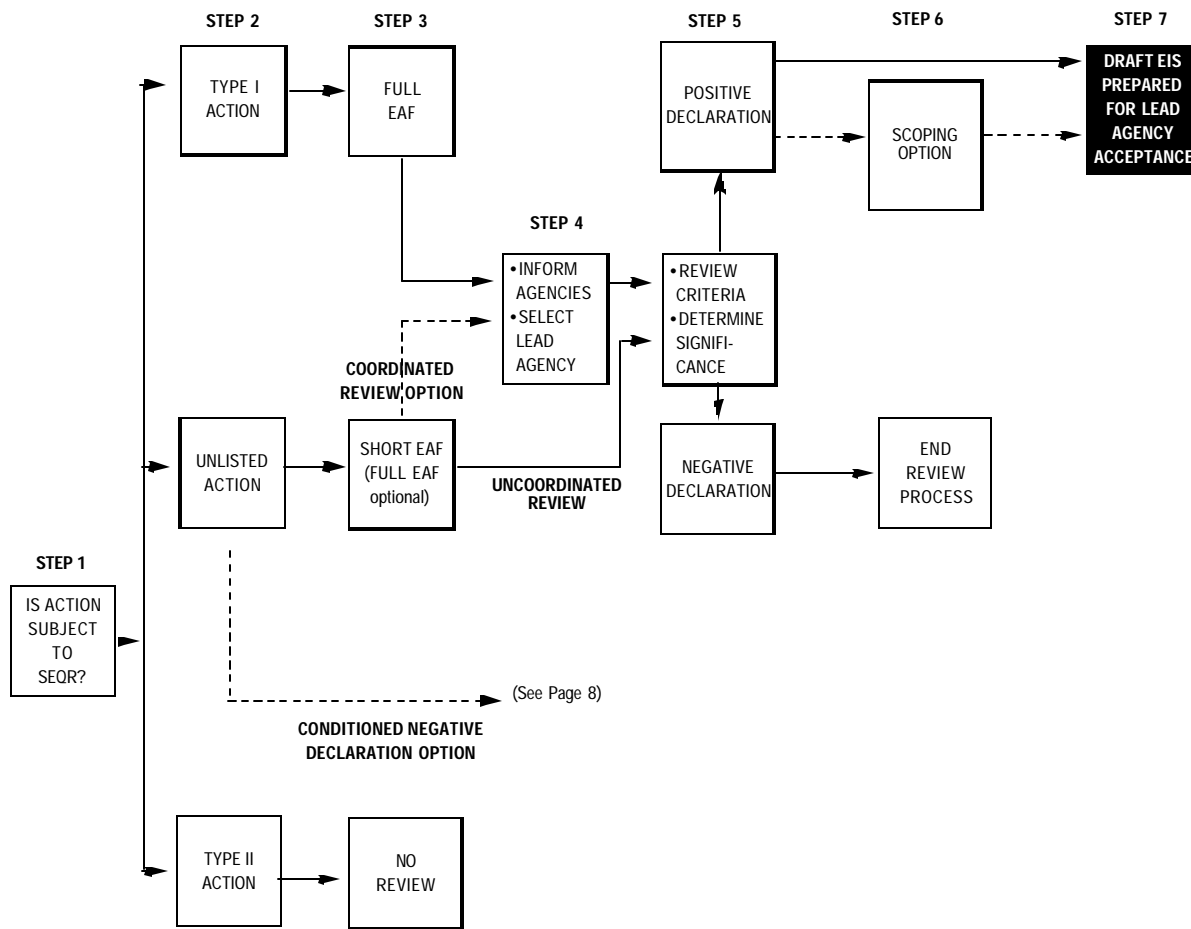
- a statement and evaluation of the potential significant adverse environmental impacts at a level of detail that reflects the severity of the impacts and the reasonable likelihood of their occurrence.
- The draft EIS should identify and discuss the following ONLY where applicable and significant:
 - reasonably related short-term and long-term impacts, cumulative impacts and other associated environmental impacts;
 - adverse environmental impacts that cannot be avoided or adequately mitigated if the proposed action is implemented;
 - any irreversible and irretrievable commitments of environmental resources that would be associated with the proposed action should it be implemented;
 - any growth-inducing aspects of the proposed action;
 - impacts of the proposed action on the use and conservation of energy;
 - impacts of the proposed action on solid waste management and its consistency with the state or locally adopted solid waste management plan;
 - impacts of public acquisitions of land or interests in land or funding for non-farm development on lands used in agricultural production and unique and irreplaceable agricultural lands within agricultural districts; and

b. Basic Components of a Draft EIS

All draft EIS's must contain a cover sheet that includes the information specified in 617.9(b)(3), a Table of Contents following the cover sheet, and an adequate and accurate summary of the statement.

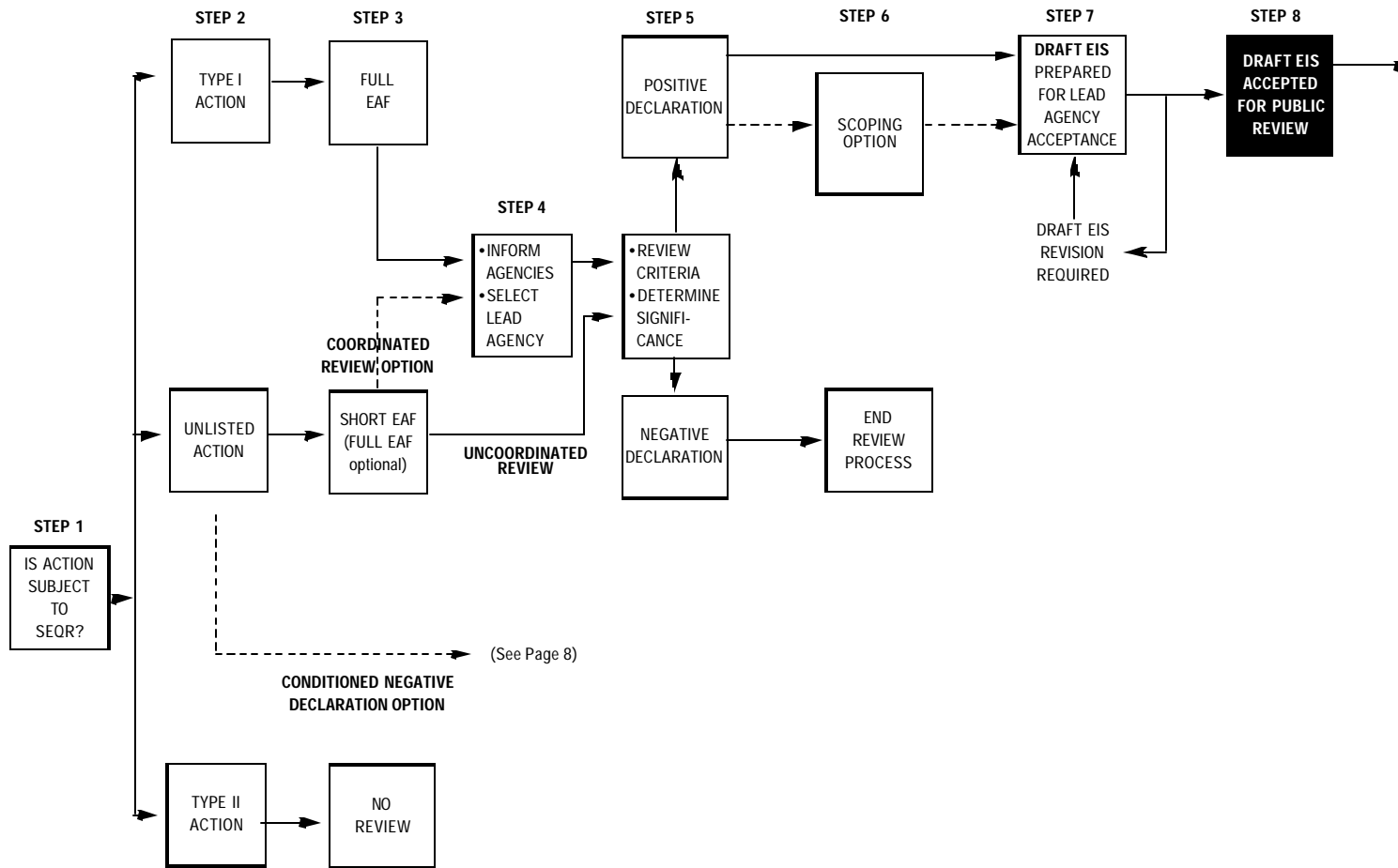
The format of the draft EIS may be flexible; however, all draft EIS's must include the following elements:

- a concise description of the proposed action, its purpose, public need and benefits, including social and economic considerations;
- a concise description of the environmental setting of the areas to be affected, sufficient to understand the impacts of the proposed action and alternatives;



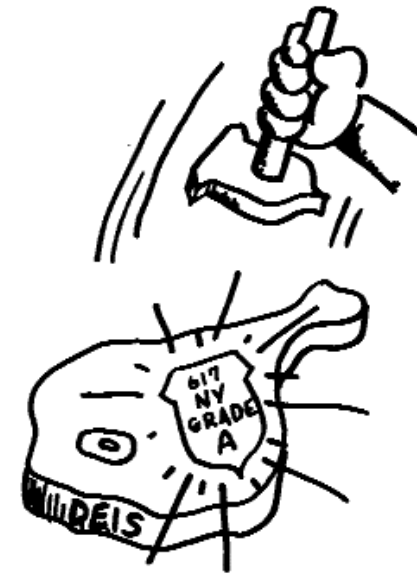
- if the proposed action is in or involves resources in Nassau or Suffolk Counties, impacts of the proposed action on, and its consistency with, the comprehensive management plan for the special groundwater protection area program;
- a description of the mitigation measures to minimize environmental impacts;
- a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no-action alternative. The no-action alternative discussion should evaluate the adverse or beneficial site changes that may occur, in the absence of the proposed action. The range of alternatives may also include, as appropriate, alternative:
 - sites;
 - technology;
 - scale or magnitude;
 - design;
 - timing;
 - use; and
 - types of action.

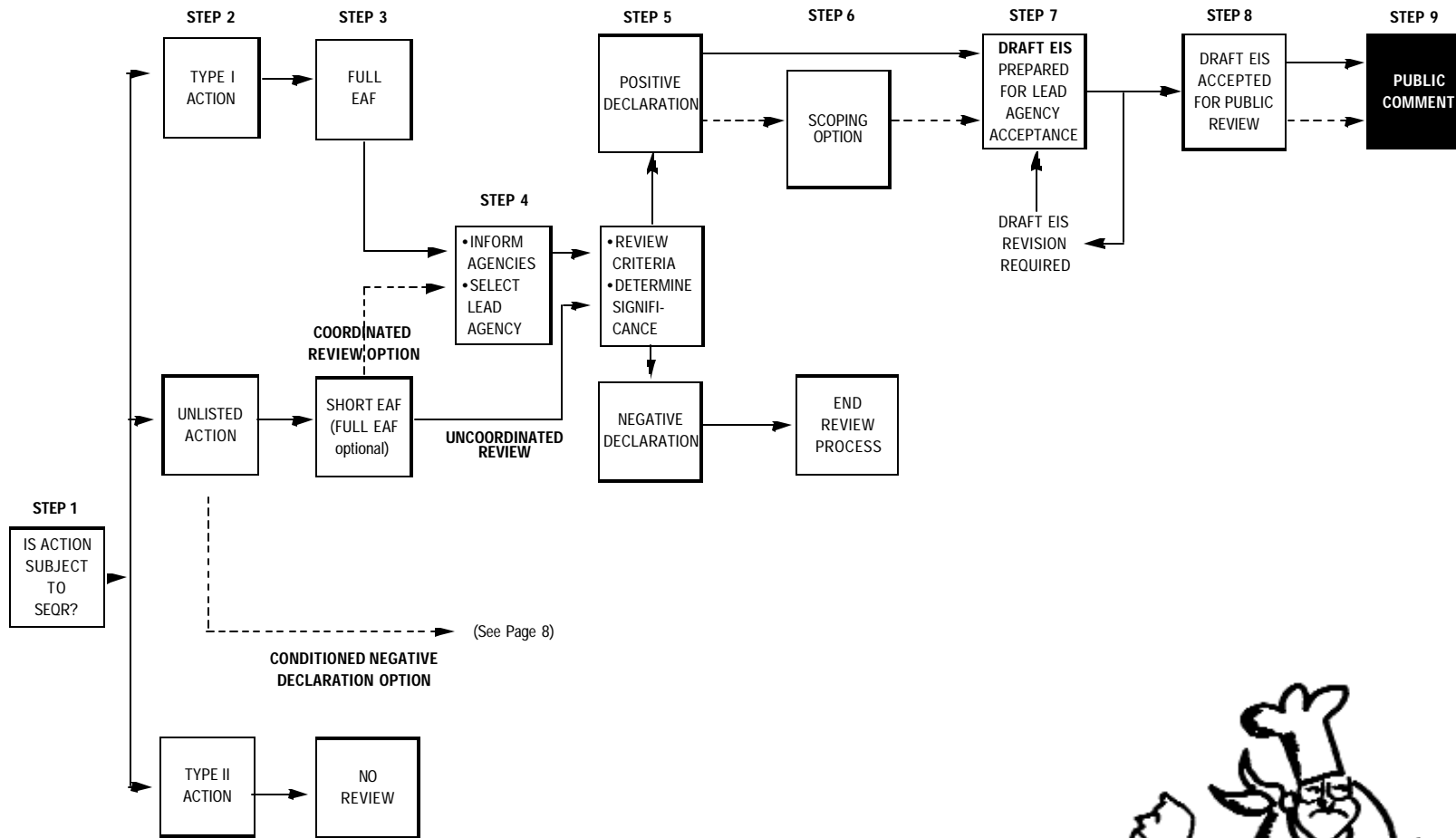
For private project sponsors, site alternatives may be limited to parcels owned by, or under option to, a private project sponsor. See section 617.9(b)(5) for more details on EIS. Proceed to Step 8.



Step 8. Acceptance of the Draft EIS

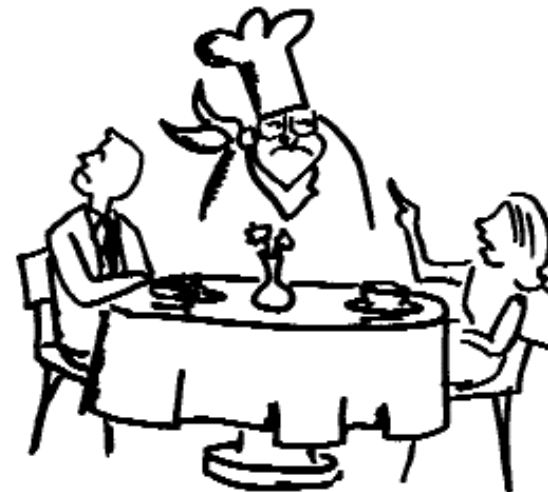
Upon receipt of a submitted draft EIS, the lead agency has 45 days to determine whether the document is adequate for public review in terms of scope and content. If the lead agency decides that the draft EIS is not adequate, it returns the document to the applicant with a written identification of the deficiencies. The lead agency has 30 days to determine the adequacy of a resubmitted draft EIS. If the lead agency determines that the draft EIS is adequate, it issues a Notice of Completion of a Draft EIS. The Notice of Completion must be prepared, filed, distributed and published as prescribed in section 617.12. Proceed to Step 9.

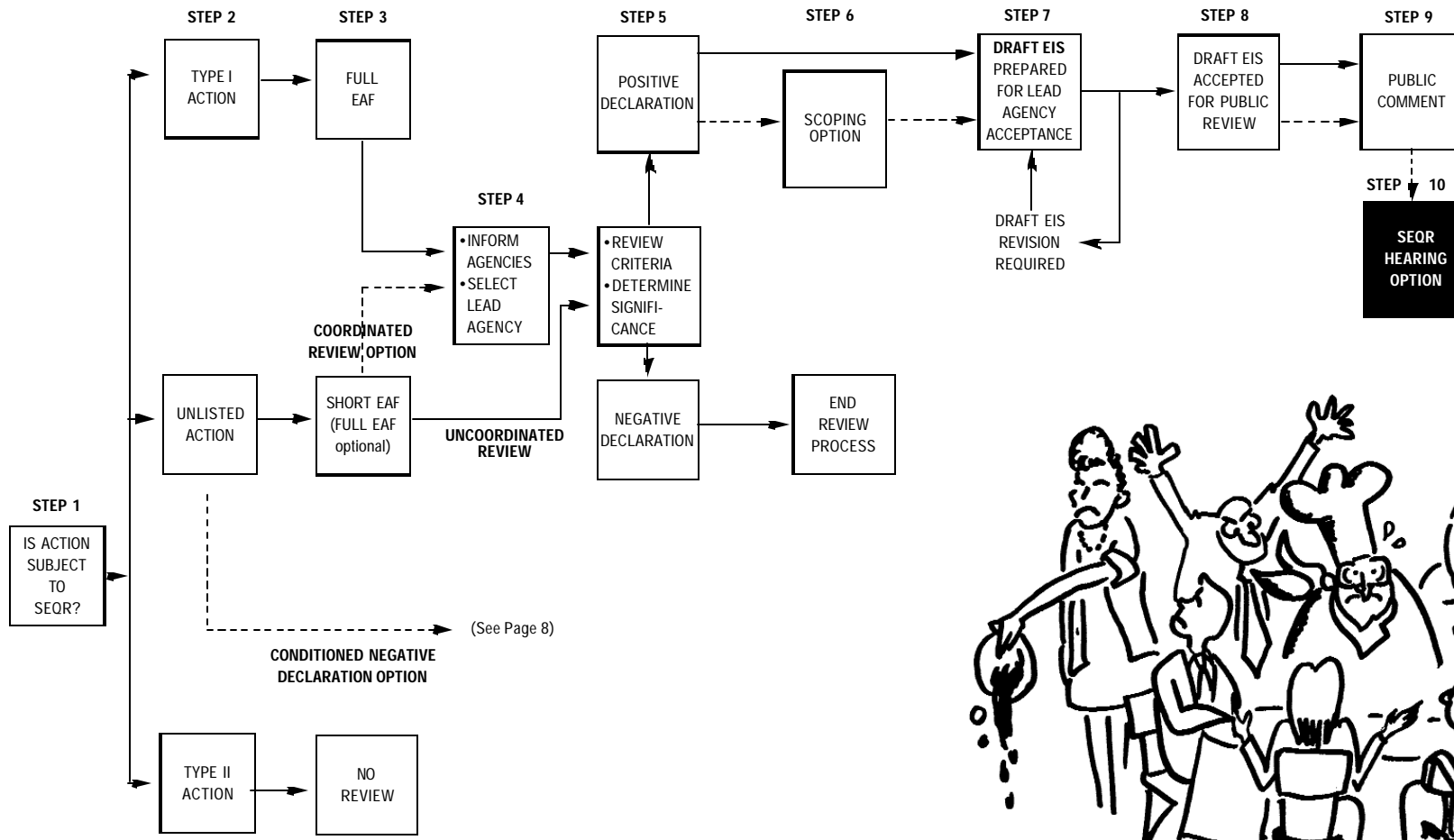




Step 9. Public Comment

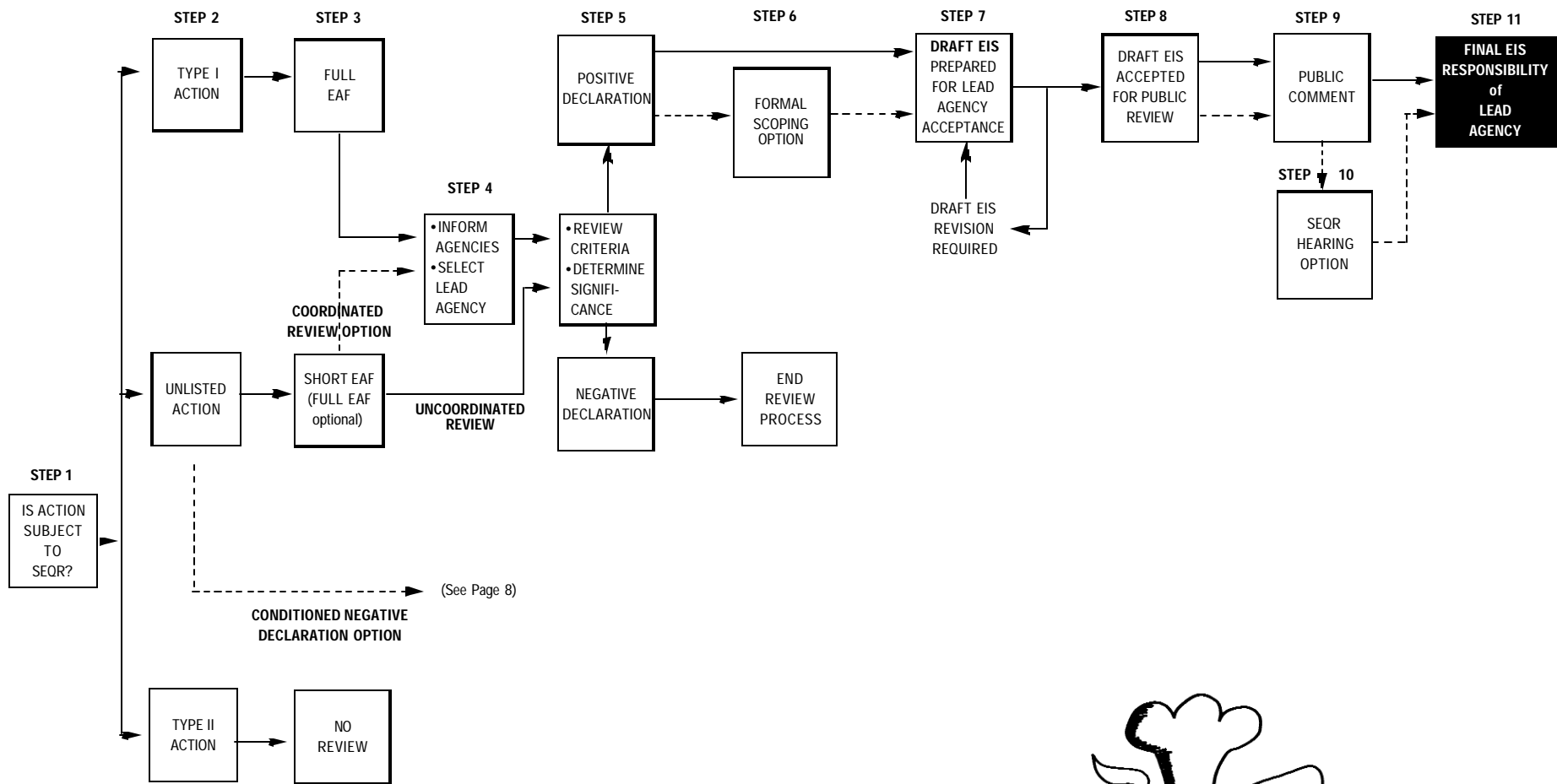
The filing of the Notice of Completion of a Draft EIS starts the public comment period. That period must be a minimum of 30 days, during which all concerned parties are encouraged to offer their comments to the lead agency. The comment period may be extended if the lead agency determines that extra time is necessary. The public comment period must continue at least 10 days following the close of a public hearing, if one is held. Proceed to Step 10.





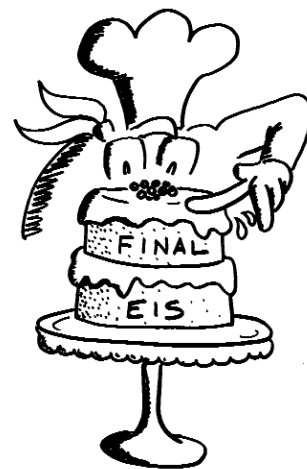
Step 10. Public Hearing

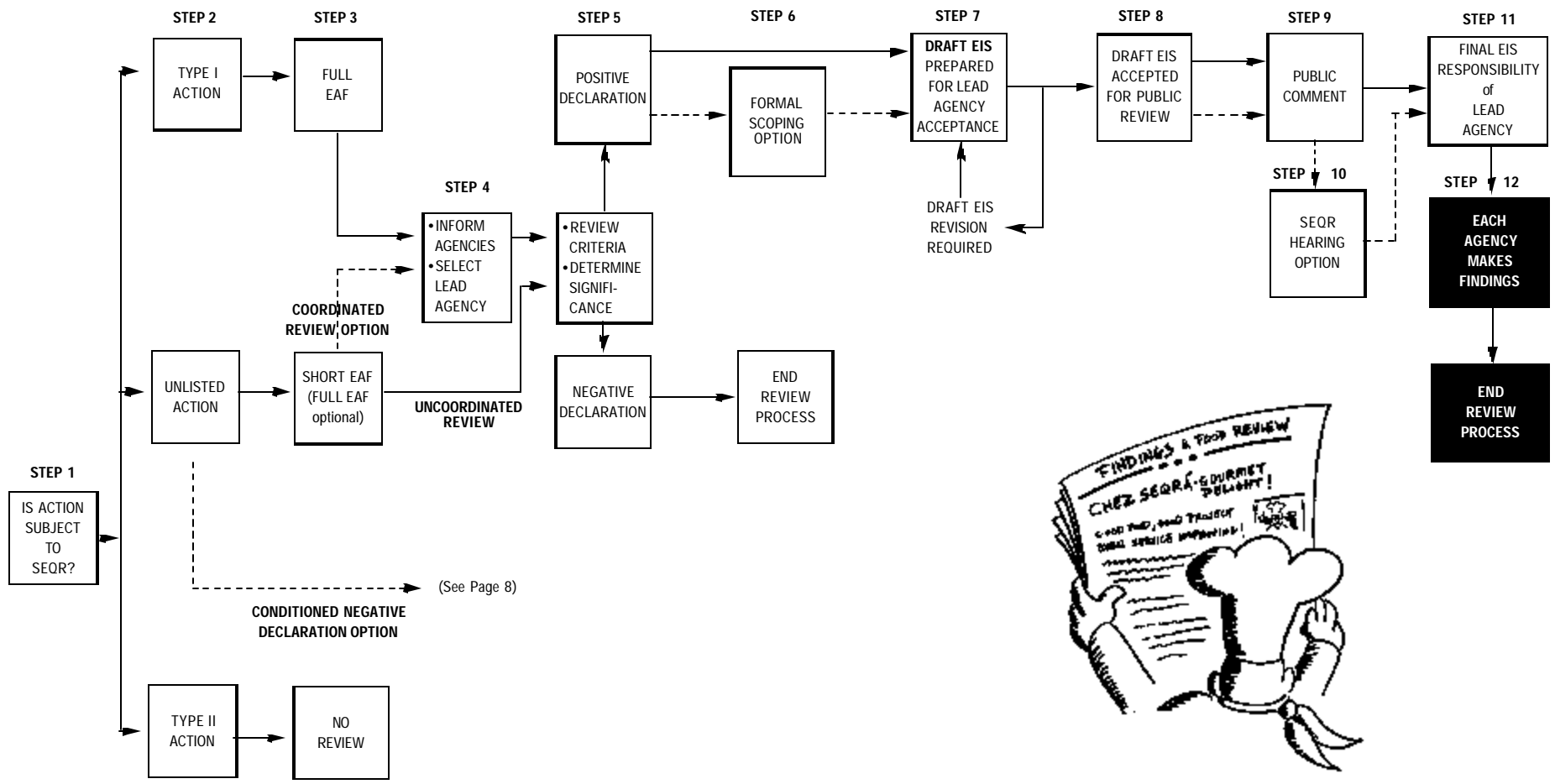
After the lead agency accepts the draft EIS, it must decide whether to hold a public hearing [see 617.9(a)(4)]. A SEQR hearing on the draft EIS is not mandatory. However, if a hearing is to be held, the lead agency must prepare and file a Notice of Public Hearing (notice). The notice may be contained in the Notice of Completion of the Draft EIS. The hearing cannot start sooner than the 15th day following the Notice of Public Hearing nor more than 60 days from the date of filing of the Notice of Completion of the Draft EIS. The notice must be prepared, filed, and distributed as prescribed in section 617.12. The notice must also be published in a newspaper of general circulation in the area of the potential impacts at least 14 days prior to the hearing date [see 617.12(c)(2)]. If a public hearing is required under an applicable local or state law, it is not necessary to hold a separate SEQR hearing. One hearing can be held to satisfy both processes. Proceed to Step 11.



Step 11. Prepare the Final EIS

The lead agency is responsible for the adequacy and accuracy of the final EIS regardless of who prepares it. The final EIS should be prepared within 45 calendar days after the close of any hearings or within 60 days after the filing of the draft EIS, whichever occurs last. The final EIS must consist of: the draft EIS, including any necessary revisions and supplements; copies or a summary of the substantive comments received and their sources; and the lead agency's response to the comments. The Notice of Completion of the Final EIS must be prepared, filed, distributed and published as described in section 617.12. Proceed to Step 12.





Step 12. SEQR Findings by All Involved Agencies

Part 617.11 requires that each involved agency must prepare its own written SEQR findings statement after a final EIS has been filed and before the agency makes a final decision. The findings certify that the requirements of Part 617 have been met. A positive findings statement means that the project or action is approvable after consideration of the final EIS and demonstrates that the action chosen is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable. A findings statement considers the relevant environmental impacts presented in the EIS and weighs and balances them with social, economic and other essential considerations. If the action is not approvable, a negative findings statement documenting the reasons for the denial must be prepared.

The findings can be finalized no sooner than 10 days following the filing of the Notice of Completion of the Final EIS and, if the action involves an applicant, the lead agency's findings must be made within 30 days from the filing date [617.11(b)]. Findings of each agency must be filed with all other involved agencies and the applicant at the time they are adopted. Findings and a decision may be made simultaneously.



Where can I get more information about SEQR?

Visit DEC SEQR Website at: www.dec.ny.gov/public/357.html

The DEC SEQR Coordinator in Albany and the Regional Permit Administrators at the regional offices listed below can answer questions and provide you with the following documents which will aid you in learning SEQR procedures and requirements:

- ❖ The statewide SEQR regulations, Part 617 of 6NYCRR
- ❖ *What is SEQR?*-An introductory brochure
- ❖ *Flowchart and Timeframes* brochure
- ❖ *Applicant's Guide to SEQR* brochure
- ❖ *Local Official's Guide to SEQR* brochure
- ❖ *Citizen's Guide to SEQR* brochure

Central Office

SEQR Coordinator, DEC, 4th Floor, 625 Broadway, Albany, New York 12233-1750 E-mail: depprmt@gw.dec.state.ny.us Telephone: (518) 402-9167 Fax: (518) 402-9168



Region 1

NYSDEC, Building 40, Room 121, SUNY at Stony Brook, Stony Brook NY 11790-2356
Nassau and Suffolk Counties

Telephone: (631) 444-0359
Fax: (631) 444-0360

Region 2

NYSDEC, One Hunters Point Plaza, 47-40 21st Street, Long Island City, NY 11101-5407
New York City (Boroughs of Bronx, Brooklyn, Manhattan, Queens and Staten Island)

Telephone: (718) 482-4997
Fax: (718) 482-4975

Region 3

NYSDEC, 21 South Putt Corners Road, New Paltz, NY 12561-1696
Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester Counties

Telephone: (845) 256-3054
Fax: (845) 255-3042

Region 4

NYSDEC, 1150 North Westcott Road, Schenectady, NY 12306-2014
Albany, Columbia, Delaware, Greene, Montgomery, Otsego, Rensselaer, Schenectady and Schoharie Counties

Telephone: (518) 357-2069
Fax: (518) 357-2460

Region 5

NYSDEC, Route 86, P.O. Box 296, Ray Brook, NY 12977-0296
Clinton, Essex, Franklin, Fulton, Hamilton, Saratoga, Warren and Washington Counties

Telephone: (518) 897-1234
Fax: (518) 897-1394

Region 6

NYSDEC, State Office Building, 317 Washington Street, Watertown, NY 13601-3787
Herkimer, Jefferson, Lewis, Oneida and St. Lawrence Counties

Telephone: (315) 785-2245
Fax: (315) 785-2242

Region 7

NYSDEC, 615 Erie Boulevard West, Syracuse, NY 13204-2400
Broome, Cayuga, Chenango, Cortland, Madison, Onondaga, Oswego, Tioga and Tompkins Counties

Telephone: (315) 426-7438
Fax: (315) 426-7425

Region 8

NYSDEC, 6274 East Avon - Lima Road, Avon, NY 14414-9519
Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne and Yates Counties

Telephone: (585) 226-2466
Fax: (585) 226-2830

Region 9

NYSDEC, 270 Michigan Avenue, Buffalo, NY 14203-2999
Allegany, Cattaraugus, Chataqua, Erie, Niagara and Wyoming Counties

Telephone: (716) 851-7165
Fax: (716) 851-7168

Notes

Byram Riverfront Overlay Zoning District Draft Conceptual Outline

Overlay Zone Definition

An overlay zone is a mapped district superimposed on one or more established zoning districts which establishes supplemental standards for development within the geographic area that is included within the overlay district. Overlay zoning can be used to impose additional restrictions on development, but can also authorize a density bonus or other incentive zoning to encourage or facilitate certain types of development or provision of public improvements. An overlay zone could authorize grant of a special permit for certain uses or size of development if an eligible parcel within the mapped overlay district complies with specific eligibility, design, communal benefit and other appropriate criteria, including but not limited to consistency with the Village's comprehensive plan. Overlay zoning is an effective tool for guiding development to implement comprehensive plan recommendations in a manner that is more targeted and focused than can be accomplished via traditional "Euclidean" zoning.

Location

The Byram Riverfront Overlay District (BROD) boundaries include all parcels wholly or partially encompassed by the underlying DW Design Waterfront, DW2 Downtown Design Waterfront, R2F Two Family Residence, and C2 Main Street Business Districts as indicated on the Official Village Zoning Map.

Purpose

The Village of Port Chester adopted its first Comprehensive Plan in December 2012 and related zoning text and map amendments in March 2013. During the comprehensive plan process it was recommended that implementation of adopted comprehensive plan policies and goals through additional "Phase II" zoning amendments be adopted to better align the Village zoning law with the Plan's stated goals and objectives in those geographic areas that are within the proposed Overlay Zone described herein. In this instance, overlay zoning granted via special permit can encourage desirable mixed-use development, induce inclusion of important public benefits, and ensure mitigation of any potentially significant adverse environmental impacts.

The Byram Riverfront Overlay District will promote economic development and/or redevelopment opportunities through mixed use development for the riverfront area that will implement the planning goals and objectives of the Village's Comprehensive Plan and Local Waterfront Revitalization Program while concurrently providing significant public benefits.

The Byram Riverfront Overlay District is in concert with the Village's Comprehensive Plan (Plan) and the Local Waterfront Revitalization Program (LWRP). The Plan supports renovating and upgrading existing industrial uses to allow for "wharf type" development in the form of commercial, office, restaurant, and other complementary land uses designed to reactivate the Byram River

waterfront. All development along the waterfront must comply with the policies and recommendations of both the Plan and LWRP while concurrently mitigating potentially significant, adverse environmental impacts.

The overall purpose will be achieved by:

- (1) Providing public amenities, services, and attractions that will draw both residents and visitors alike to the riverfront and further the public use and enjoyment of the area.
- (2) Connecting the public and surrounding residential neighborhoods to the waterfront through public accessways, walkways, or other appropriate means.
- (3) Encouraging a mix of land uses, both residential and non-residential, that will enhance the unique character and aesthetic of the riverfront environment and area. This purpose will be achieved through maximizing public ingress to and egress from the riverfront.
- (4) Providing a balance of water-dependent or water-enhanced uses that capture the intent of ‘wharf-type’ development and are consistent with the vision and priorities expressed in the Village’s Comprehensive Plan and Local Waterfront Revitalization Program (LWRP).
- (5) High quality and aesthetically appealing urban design elements and development features that attracts both public and private investment. Such development or redevelopment should:
 - (a) Attract small businesses, artisans, or entrepreneurs.
 - (b) Preserve views of the Bryam River for the maximum enjoyment and benefit by the community as a whole.
 - (c) Encourage sustainable (“green”) standards and development principles as a means to preserve natural resources and features.

Eligibility Requirements

All development within the BROD must meet all of the following eligibility requirements:

- (1) The BROD boundary includes parcels wholly or partially encompassed by the underlying DW Design Waterfront, DW2 Downtown Design Waterfront, R2F Two Family Residence, and C2 Main Street Business Districts as indicated on the Official Village Zoning Map.
- (2) Lot Size – The minimum lot size for any development parcel(s) shall be 20,000 square feet.
- (3) Each development scheme must further the policies and recommendations of both the Village Comprehensive Plan and the Local Waterfront Revitalization Program.

Permitted Uses

Permitted uses within the Byram Riverfront Overlay District are the same as those for the underlying DW Design Waterfront District and DW2 Downtown Design Waterfront District and supersede the underlying use regulations of the C2 Main Street Business and R2F Two Family Residential Districts upon issuance of the BROD Special Permit.

- (1) Multifamily dwelling.
- (2) Multifamily dwelling (floors above first floor).
- (3) Church or other place of worship.
- (4) Convalescent home or nursing home.
- (5) Membership club, fraternal organization or similar social institution not operated for a profit.
- (6) Public utility facility.
- (7) School, elementary or high, public, private or parochial, having a curriculum equivalent to that ordinarily given in public schools.
- (8) Bank, excluding drive-in.
- (9) Hotel or motel.
- (10) Hotel or motel (floors above first floor).
- (11) Hotel, limited service.
- (12) Marina or yacht club.
- (13) Theater.
- (14) Office or office building.
- (15) Radio or television station studio, excluding transmission tower.
- (16) Radio or television station studio, excluding transmission tower (floors above first floor).
- (17) Retail store or personal service shop, services clearly incidental to retail sales on the premises or to personal services.
- (18) Veterinary hospital or board and care of small animals.
- (19) Wholesale business, storage building or warehouse.
- (20) Creamery, ice cream parlor or bakery plant.
- (21) Laundry or dry-cleaning plant.

- (22) Nuisance industry, provided that in nonindustrial districts equipment is used that has a rating of no more than five horsepower.
- (23) Printing plant.
- (24) Research laboratory, provided that it shall not be obnoxious, by reason of dissemination of smoke, dust, fumes, noise or vibration, or hazardous from fire waste materials or the creation of excessive demands upon municipal services.

Additional permitted uses in the BROD include the following:

- (1) Pier, dock, marina, boat launching and boat storage.
- (2) Boat building or repair operations
- (3) Establishments for sale of rental vessels, such as kayaks, canoes, paddle boats, etc.
- (4) Public park, promenade, boardwalk

Dimensional Standards

Specific dimensional standards shall apply to the BROD as described within the bounds herein.

All underlying zoning dimensional regulations shall remain except for the following regulations:

- (1) Lot Size – The minimum lot size for any development parcel(s) shall be 20,000 square feet.
- (2) Lot Area Per Dwelling Unit – The minimum lot area per dwelling unit regulation for all eligible parcels shall be reduced by 250 square feet except for parcels in the underlying DW2 Downtown Design Waterfront District, which shall be reduced by 100 square feet.

Density Bonus

A Floor Area Ratio (FAR) density bonus of up to 1.0, beyond the maximum permitted FAR in the underlying DW Design Waterfront, DW2 Downtown Design Waterfront, C2 Main Street Business, and R2F Two Family Residential Districts, may be achieved via special permit granted by the Village Board of Trustees for the provision of a specific public benefit to the Village as outlined below, under the provisions of this Section, and in accordance with all site eligibility requirements, design guidelines, and stated project review criteria. The cost of the improvements need not equal the value of the benefits granted.

Table 1. FAR Density Bonuses, Public Amenities

Public Benefit	Specific Public Benefit	FAR Bonus
Provision of funds for design and or construction of a municipal service facility (Police, Fire, and/or Village Offices) or public school facility within the Village.		
Provision of funds for Village waterfront and marina redevelopment consistent with the adopted Comprehensive Plan, Strategic Plan, or Local Waterfront Revitalization Program (LWRP).		
Provision of funds for Fox Island peninsula redevelopment consistent with the adopted Comprehensive Plan, Strategic Plan, or Local Waterfront Revitalization Program (LWRP).		
Provision of publicly accessible or publicly dedicated, open or enclosed program space on-site or anywhere within the Village to be dedicated for community use and or youth programming.		
Provision of new public parking in excess of that required for proposed uses and which provides a significant public benefit or significant improvement or replacement of an existing parking facility within the Village.	200 Spaces 300 Spaces 400 Spaces 500 Spaces	
Provision of new publicly accessible open space or dedicated parkland on-site or anywhere within the Byram Riverfront Overlay District.	0.25 Acre 0.25+ Acres	
Wayfinding & Signage – A cohesive sign design will provide navigational aid and will be part of a branding scheme for the district. All signs must adhere to regulations of Section 345-15 Sign Regulations.		
Provision of a public marina pump out station.		
Provision of public restroom facilities, at least two ADA compliant stalls provided.		
Utilities – All new utilities installed as part of any development must be buried underground.		

Design Recommendations

Design recommendations within the BROD provide special aesthetic controls to appropriate a cohesive development scheme in furtherance of the Village's Comprehensive Plan and Local Waterfront Revitalization Program.

The following recommendations should be clearly indicated and executed.

- (1) Sustainable principles shall be implemented through stormwater management (rain gardens, retention ponds, barrels, pervious pavement). The BROD encourages the use of sustainable building materials. All construction activities must enlist best management practices identified by the Village.
- (2) Vegetation and Landscaping – A vegetated buffer must be provided parallel to the Byram River for all properties abutting the Byram River.
- (3) Façades - Buildings shall articulate any façade fronting a public street, public space, park, or trail with a cohesive design and aesthetic features. No blank walls shall exist when fronting a public street, public space, park, or trail.
- (4) Public Facilities and Access – Public facilities, such as benches, recycling/trash receptacles, and signage must be provided for any development as means to provide public access to the riverfront.
- (5) Other Features – All physical site features - light poles, curbing, construction and paving materials, etc. – must be cohesive in concept and design in order to create a unified landscape fabric.

Application and Procedure

An application to establish an eligible development site to the Byram Riverfront Overlay District and to seek a special permit for applicable FAR bonuses for such site shall be initiated by formal petition to the Village Board of Trustees. Along with its petition, the applicant shall submit a description of its proposed project, including a conceptual plan and statement of proposed use, together with an environmental assessment of the potential impacts associated with the proposed project to the satisfaction of the Village Board of Trustees or other lead agency in accordance with the State Environmental Quality Review Act and its implementing regulations. At a minimum, this environmental assessment shall be a Long Environmental Assessment Form (EAF) with supplemental information and studies submitted by the applicant and Part 3 of the EAF completed by the Lead Agency identifying the project's potential impacts with respect to: aesthetics, streetscapes, and neighborhood character, including a visual impact study; parking demand and available supply; traffic generation; and demand on water and sanitary sewer infrastructure.

Review Process

The Village Board may, in its sole and absolute discretion, designate a development site to the Byram Riverfront Overlay District and grant floor area ratio (FAR) bonuses provided the concept plan meets all eligibility requirements and depending on the substance and degree to which the Public Benefits are included in a redevelopment project. In order to grant any bonuses, the applicant must demonstrate and the Village Board must determine and find the following:

- (1) That the public benefit(s) obtained by virtue of the density bonus substantially meets the goals of the Village as expressed in the Village's Comprehensive Plan or Local Waterfront Revitalization Program (LWRP).
- (2) That sufficient capacity exists within water supply, wastewater conveyance and treatment, and roadway infrastructure to support the density bonus or that appropriate mitigation is provided to the maximum extent practicable.
- (3) For all projects containing a residential component, dwelling unit configurations shall include an appropriate mix of dwelling unit types and sizes to assure that the potential adverse impact on the public school system is minimized in furtherance of the Comprehensive Plan.
- (4) The applicant must demonstrate that all sewer, stormwater, and traffic impacts generated from the proposed project can be successfully mitigated so as not to create any unmitigated significant adverse environmental impacts. Acceptable mitigation techniques must at the very least maintain the same traffic Level of Service (LOS) values for affected intersections and all sanitary sewer and stormwater infrastructure. This may be achieved through road widening, installation of traffic signals, interchange realignment, improved pedestrian crossings, construction of new sanitary or wastewater sewer lines, or any other mitigation techniques deemed acceptable by the Village Board of Trustees, Village Manager, Village Engineer, and Director of Planning and Development.

Southern Gateway Mixed Use Overlay Zone

Draft Conceptual Outline

Overlay Zone Definition:

An overlay zone is a mapped district superimposed on one or more established zoning districts which may be used to impose supplemental restrictions or implement some form of density bonus or incentive bonus program for development parcels within the mapped overlay zone that comply with specific eligibility criteria to further the goals of an adopted comprehensive plan.

Location

The Southern Gateway Mixed Use Overlay District Zone is comprised of 79 acres within the CD Design Shopping Zoning District and PMU Planned Mix Use District the Boston Post Road Corridor (see attached map).

Purpose:

There exists within the Southern Gateway Mixed Use Overlay District the potential and desire to redevelop certain large underutilized areas of the Village with mixed-use projects to create a vibrant mix of residential, office, hotel, retail, and entertainment uses to serve both resident and nonresident (e.g., office and visitor) populations. Recognizing this potential and in furtherance of the comprehensive plan, the Village seeks to further encourage and incentivize redevelopment that will both enhance the mixed use character of the Southern Gateway Area and provide significant communal benefits. The establishment of Southern Gateway Mixed Use Overlay District will provide incentives in addition to the underlying CD Design Shopping and PMU Planned Mix Use Districts for development concepts that comply with all eligibility requirements of this overlay district including satisfactory mitigation of potential environmental impacts.

The former United Hospital and existing Kohl's shopping center sites are identified in the comprehensive plan land use strategies as Intensity Zones for targeted development. The plan supports reactivating the United Hospital site as a mixed use development comprising some combination of hotel/convention center, retail stores, restaurants, residential uses and community facilities. It further recommends zoning amendments to the existing CD Design Shopping Center Zone to permit a mix of commercial and residential uses to reinforce portions of the existing Kohl's site. As such, the Southern Gateway Mixed Use Overlay District is established

to further incentivize comprehensive plan consistent development within the underlying CD Design Shopping and PMU Planned Mixed Use Development Districts for development schemes that meet specific eligibility criteria as listed below.

Eligibility of Development Sites:

The Southern Gateway Mixed Use Overlay District is established as an overlay zone with potential application to any development site within the bounds identified herein that meets all of the following eligibility requirements:

- (1) The development site shall be a minimum of 10 acres in lot area.
- (2) At least 25% of total developed square footage must be dedicated to non-residential use.
- (3) For all projects containing a residential component, dwelling unit configurations shall be comprised of primarily studios and one bedrooms with limited number of two bedroom to limit the impact on the public school system.
- (4) Applicant must make representation that all sewer, wastewater, and traffic impacts generated from proposed project can be successfully mitigated so as not to add increased loads on the existing network. Acceptable mitigation techniques must increase existing infrastructure network capacity to be achieved through construction of new sanitary or wastewater sewer lines, road widening, installation of traffic signals, interchange realignment, improved pedestrian crossings or any other mitigation techniques deemed acceptable by the Village Board of Trustees.
- (5) Development concepts within the underlying PMU Planned Mixed Use District shall implement Abendroth Park public access improvements in accordance with the Village's Comprehensive Plan and Park and Recreation Master Plan.

Design Guidelines:

It is the intent of the Southern Gateway Mixed Use Overlay District to provide incentives for "Placemaking" development schemes that will enhance and be integrated within the existing fabric of the Village so as not to create separate enclaves of development. As such, it is highly recommended that projects approved within the Southern Gateway Mixed Use Overlay District include the following design elements:

- a. Connected interior street grid with limited use of cul-de-sacs and dead end streets.
- b. Adequate pedestrian and bicycle facilities to safely accommodate all modes of transportation.
- c. Integration of existing transit infrastructure including Bee Line Bus stops, provision of Metro-North shuttle, and any future I-287 east/west transit schemes.

- d. Defined and consistent architectural vocabulary with special attention given to any building facades visible from Boston Post Road and/or Interstate 287.
- e. Siting of retail component of projects on Boston Post Road to be accessible from existing sidewalk infrastructure to reinforce commercial corridor character.
- f. Infusion of green building technology and LEED certification to reduce the overall energy costs and improve the attractiveness and marketability development.

Permitted Uses and Dimensional Standards

Permitted uses within the Southern Gateway Mixed Use Overlay District are the same as those for the underlying PMU Planned Mixed Use Zoning District. Floor Area Ratio (FAR) may be increased at the discretion of Village Board under the provisions of this Section and in accordance with all eligibility requirements including all environmental impact mitigation.

Floor Area Ratio bonuses may be applied to a development site provided the concept plan adopted by the Village Board meets all development site eligibility requirements included herein and includes any one or several of the public benefits identified in the comprehensive plan and listed in the table below. In no event may total FAR for a development site exceed 1.7 to be comprised cumulatively from maximum FAR allocation from the underlying CD Design Shopping Center or PMU Planned Mixed Use Development Districts, any bonus provisions from Zoning Code §345-16 Building height and floor area bonus program [Local Law No. 4-2013], and from provision of public benefits through the Southern Gateway Mixed Use Overlay Zone as listed below.

Public Benefit	Maximum FAR Bonus
Provision of funds for design and or construction of a municipal service facility (Police, Fire, and/or Village Offices) or public school facility within the Village.	
Provision of funds for Village waterfront and marina redevelopment consistent with the adopted Comprehensive Plan, Strategic Plan, or Local Waterfront Revitalization Program (LWRP).	
Provision of funds for Fox Island peninsula redevelopment consistent with the adopted Comprehensive Plan, Strategic Plan, or Local Waterfront Revitalization Program (LWRP).	
Provision of publicly accessible or publicly dedicated, open or enclosed program space on-site or anywhere within the Village to be dedicated for community use and or youth programming.	
Maximum total FAR bonus eligible under the Southern Gateway Mixed Use Overlay Zone Shall not exceed:	.9

Application and Procedure

An application to establish an eligible development site to the Southern Gateway Mixed Use Overlay District and to seek applicable FAR bonuses for such site shall be initiated by formal petition to the Village Board along with its petition, the applicant shall submit a description of its proposed project, including a conceptual plan and statement of proposed use, together with an environmental assessment of the potential impacts associated with the proposed project to the satisfaction of the Village Board, as lead agency, in accordance with the State Environmental Quality Review Act and its implementing regulations. At a minimum, this environmental assessment shall take the form of a Long Environmental Assessment Form (EAF) with supplemental information in Part 3 of the EAF identifying the project's potential impacts with respect to: aesthetics, streetscapes, and neighborhood character, including a visual impact study; parking demand and available supply; traffic generation; and demand on water and sanitary sewer infrastructure.

Review Process.

The Village Board may, in its sole and absolute discretion, designate a development site to the Southern Gateway Mixed Use Overlay Zone and grant FAR bonuses provided the concept plan meets all eligibility requirements and depending on the substance and degree to which the Public Benefits are included in a redevelopment project. In order to grant any bonuses, the applicant must demonstrate and the Village Board must determine and find the following:

- (1) That the public benefit(s) obtained by virtue of the density bonus substantially meets the goals of the Village as expressed in the Village's Comprehensive Plan or Local Waterfront Revitalization Program (LWRP).
- (2) That sufficient capacity exists within water supply, wastewater conveyance and treatment, and roadway infrastructure to support the density bonus or that appropriate mitigation is provided to the maximum extent practicable.
- (3) That applicants proposing residential development have successfully mitigated potential impact on the local school system through meeting all development site eligibility criteria and mitigation.

Village of Port Chester, NY
Thursday, April 10, 2014

Chapter 345. ZONING

Article IV. Supplementary Regulations

§ 345-16. Building height and floor area bonus program.

[Added 3-18-2013 by L.L. No. 4-2013 *Editor's Note: Former § 345-16, Modifications for large subdivision developments, as amended, was repealed 3-18-2013 by L.L. No. 4-2013.*]

A. Purpose. The purpose of the building height and floor area bonus program is to permit increases in allowable density and/or height in exchange for providing a designated community benefit.

B. General regulations.

- (1) The bonus program is available in the C2 Main Street Business, C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional, PMU Planned Mixed Use, and DW2 Downtown Design Waterfront Districts. (See Schedule of Regulations for Nonresidence Districts, Attachment 3B.) by special exception only, and is subject to approval by the Village Board of Trustees.
- (2) Only new developments are eligible for the bonuses unless otherwise approved by the Village Board of Trustees.
- (3) Projects in the C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional, and PMU Planned Mixed Use Districts are permitted to use both the building height and floor area options. (See Schedule of Regulations for Nonresidence Districts, Attachment 3B.)
- (4) Buildings using bonus floor area must not exceed the maximum height limits in the applicable district unless eligible for bonus height. (See Schedule of Regulations for Nonresidence Districts, Attachment 3B.)

C. Bonus floor area option.

- (1) In the C2 Main Street Business, C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional, PMU Planned Mixed Use, and DW2 Downtown Design Waterfront Districts, additional development potential in the form of floor area can be earned for a project when the project includes any of the specified provisions listed herein. The bonus floor area amount is additional to the maximum floor area ratio in the respective district. (See Schedule of Regulations for Nonresidence Districts, Attachment 3B.)
- (2) In the C2 Main Street Business, C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional, and DW2 Downtown Design Waterfront Districts, a reduction in the minimum size of lot: area per dwelling unit (square feet) can also be achieved in

accordance with both this section and the Schedule of Regulations for Nonresidence Districts, Attachment 3B.

- (3) Open space provision. In the eligible zoning districts specified herein, proposals that include an open space monetary contribution in addition to the minimum useable open space requirement of the respective district can receive bonus floor area, as specified in the Schedule of Regulations for Nonresidence Districts, Attachment 3B, subject to approval of the Board of Trustees. The payment for bonus floor area shall be calculated at a minimum of 15% of the assessed value of the bonus floor space, as determined by the Village Assessor.
- (4) Housing Rehabilitation Program provision. In the eligible zoning districts specified herein, an applicant who contributes a monetary contribution to the Village Housing Rehabilitation Program can receive bonus floor area for the proposed development, as specified in the Schedule of Regulations for Nonresidence Districts, Attachment 3B, subject to approval by the Board of Trustees. The payment for bonus floor area shall be calculated at a minimum of 15% of the assessed value of the bonus floor space, as determined by the Assessor.
- (5) Funding for downtown public parking garage provision. In the eligible zoning districts specified herein, an applicant who contributes a monetary contribution to a Village-designated program used to fund the construction of a public parking garage downtown can receive bonus floor area for the proposed development, as specified in the Schedule of Regulations for Nonresidence Districts, Attachment 3B, subject to approval by the Village Board of Trustees. The payment for bonus floor area shall be calculated at a minimum of 15% of the assessed value of the bonus floor space, as determined by the Assessor.
- (6) All three funds listed in § **345-16C(3)**, **(4)** and **(5)** above shall be kept by the Village as dedicated funds in a separate account to be used only for their respective purposes of open space, housing rehabilitation and public parking.

D. Bonus building height option.

- (1) Bonus building height is also earned in the C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional, and PMU Planned Mixed Use Districts in addition to the bonus floor area achieved through the provisions established in this section. Bonus height is in addition to the maximum building height in the respective district, as established in the Schedule of Regulations for Nonresidence Districts, Attachment 3B. Bonus height is earned by contributing to any of the three provisions specified in § **345-16C(3)**, **(4)** and **(5)** above.
- (2) In the C5 Train Station Mixed Use and C5T Downtown Mixed Use Transitional Districts, a reduction in the minimum size of lot: area per dwelling unit (square feet) can also be achieved in accordance with both this section and the Schedule of Regulations for Nonresidence Districts, Attachment 3B.

Village of Port Chester Zoning Code §345

(Click on the link below)

<http://www.ecode360.com/10911302>