SUFFOLK COUNTY PLANNING COMMISSION

c/o Suffolk County Department of Economic Development & Planning
100 Veterans Memorial Highway, PO Box 6100, Hauppauge, NY 11788-0099
T: (631) 853-5192 F: (631) 853-4767
Joanne Minieri, Deputy County Executive and Commissioner, Department of Economic Development and Planning
Sarah Lansdale, Director of Planning

Notice of Meeting

April 6, 2016 at 2:00 p.m.
Maxine S. Postal Auditorium, Evans K. Griffing Building,
Riverhead County Center, 300 Center Drive
Riverhead, New York 11901

Tentative Agenda Includes:

1. Meeting Summary for March 2016

2. Public Portion

3. Chairman's Report

4. Director's Report

5. Guests

   - Dave Calone
   - Supervisor Scott Russell, Town of Southold
   - David Sabatino, Consultant to RPA – LI Index Housing Study
   - Dave Kapell, Consultant to Rauch Foundation – Third Track
   - Mayor Paul Pontieri, Village of Patchogue

6. Section A 14-14 thru A 14-23 & A 14-25 of the Suffolk County Administrative Code

   - Moratorium – Village of Patchogue
   - Rose Breslin Associates, Inc. – Sybac Solar, LLC, Town of Brookhaven 0200-58700-0300-048001
   - East Hampton Indoor Tennis-Bowling Alley, Town of East Hampton 0300-181.00-01.00-005.001
   - Anthony Fusco Investment Co., Town of Islip 0500-238.00-02.00-002.000, 004.000

7. Section A-14-24 of the Suffolk County Administrative Code

8. Other Business:

NOTE: The **next meeting** of the SUFFOLK COUNTY PLANNING COMMISSION will be held on May 4, 2016 2 p.m. Suffolk County Department of Health Services, Conference Room #4 360 Yaphank Road, Yaphank, NY

COUNTY OF SUFFOLK

Z-1

Steven Bellone
SUFFOLK COUNTY EXECUTIVE
Department of
Economic Development and Planning

Joanne Minieri
Deputy County Executive and Commissioner

Division of Planning
and Environment

STAFF REPORT
SECTIONS A14-14 THRU A14-25 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Inc. Village of Patchogue own motion to "Establish a Six-Month Moratorium on Development Approvals for Apartment Buildings, Apartment Houses, Boardinghouses, Rooming Houses, Garden Apartments, Townhouses, Condominiums, Housing Cooperatives, Mixed-use Developments containing four or more dwelling units, and any Multifamily or Multi-unit Dwelling containing four or more dwelling units"

Municipality: Village of Patchogue

Location: Entirety of the Village of Patchogue

Received: 2/25/16

File Number: Pa-16-01

Nature of Municipal Zoning Request: Moratorium

PROPOSAL DETAILS

OVERVIEW – The subject referral, by the Incorporated village of Patchogue Board of Trustees' own motion, is for amending Chapter 435 of the Village of Patchogue Zoning Law to add section 435-14.1 to "Establish a Six-Month Moratorium on Development Approvals for Apartment Buildings, Apartment Houses, Boardinghouses, Rooming Houses, Garden Apartments, Townhouses, Condominiums, Housing Cooperatives, Mixed-use Developments containing four or more dwelling units, and any Multifamily or Multi-unit Dwelling containing four or more dwelling units."

Referred moratorium language also states that it is "hereby prohibited for a period of 180 days from the date of enactment of this local ordinance for any village official to accept for filing, any application for a building permit for a new apartment building, apartment house, boardinghouse, rooming house, garden apartment, townhouse, condominium, housing cooperative, mixed-use development containing four or more dwelling units, and any multifamily or multi-unit dwelling

containing four or more dwelling units within the confines of the Village of Patchogue and the Board of Trustees, Zoning Board of Appeals and Planning Board shall not grant any approvals, preliminary or final, for a site plan or subdivision relating thereto or special approvals or special permits, variances or other permissions for same. The Building Inspector and Code Enforcement Officer shall not issue any building or other permit for any construction or use related to same that would result in such uses…" (See attached Village of Patchogue proposed moratorium).

The proposed law is to apply to all properties within the confines of the Village of Patchogue. The Village is approximately 2.2 square miles with a population of approximately 12,500 people.

STAFF ANALYSIS

It is indicated in the proposed moratorium that the purpose of the law is "to allow the Village of Patchogue time to evaluate and consider the impact of the rapid increase in large-scale residential development and its effect upon the parking, traffic, utilities, health, safety and general welfare of the village of Patchogue." Moreover the law indicates that the proposed moratorium "will ensure that the village has sufficient time to study the challenges posed by large-scale residential development projects, gather data on the villages existing uses and future trends in residential development, and craft solution to address these issues."

The proposed moratorium does not explicitly include change of zone authorizations by the Village Board of Trustees. The …rapid increase in large-scale residential developments…" noted in the moratorium language is a result of authorizations by the Village Board of Trustees for the types of projects noted in the moratorium language. New Village, Copper Beach, Artspace, River Walk, River View and Sea Crest Village comprise 663 housing units that were all initiated with Village Board of Trustee authorization within the last decade. While the moratorium language indicates that "the current zoning code is almost entirely the product of legislation that was enacted decades before the recent boom in large-scale multi-family development in the Village" none of the developments could have been initiated under the old code without Board of Trustee change of zone authorization or authorization pursuant to section 435-80 of the Village Zoning Law.

From a historical-regulatory perspective, the root of the currently proposed Inc. Village of Patchogue Moratorium can be traced back to March 2008 and a Village of Patchogue referral to the Suffolk County Planning Commission (Pa-08-01) for an amendment to the Village of Patchogue Zoning Law. The referral was an application on the Villages own motion for an amendment to the Village Zoning Code Chapter 93, Article III (District Regulations) for the creation of a "floating zone" entitled Downtown Revitalization District (DRD). The proposed DRD was intended to encourage the development of mixed uses including retail, residential offices, hotels, catering facilities and restaurants. The DRD ordinance made provisions for a maximum height of 130 feet for any structure within 120 feet of West Main Street and within 100 feet of North Ocean Avenue (provided the structure includes a hotel and a catering facility; 110 feet for all other structures). Structures proposed more than 110 feet from West Main Street and more than 100 feet from North Ocean Avenue are entitled to 60 feet of height.

The Suffolk County Planning Commission approved with conditions and comments the proposed ordinance. Commission comments included measures to lessen impacts on "parking, traffic, utilities, safety and general welfare of the village of Patchogue." (See attached staff report and resolution)

In September of 2008 a referral was made to the Suffolk County Planning Commission for an amendment to the Village Zoning Law regarding the "Downtown Redevelopment District (DRD)." The proposed amendment to Section 93-16.5 (E) (8)-(DRD "Parking") of the Village Code proposed to remove all parking standards in the Downtown Development District.

During the process of Suffolk County Planning Commission staff review of the proposed Downtown Redevelopment District ordinance (Pa-08-03) the Inc. Village of Patchogue withdrew the referral. The County Planning Commission provided no comments on the record.

A change of zone application was referred to the Suffolk County Planning Commission by the Village of Patchogue in April of 2009 (Downtown Patchogue Re-Developers, LLC). The action was for a zone change/conceptual site plan and variances for a mixed use development of 240 residential units, 28,460 SF of retail space a 111 room hotel and associated parking on 4.31 acres (Pa-09-02). The Suffolk County Planning Commission approved the referral with four comments including the advisory to consider the precedent-setting nature of the proposed zone change; the impacts to existing infrastructure including sewers, as well as, the adequacy of the proposed parking plan (see attached staff report and resolution).

The Inc. Village of Patchogue on November 15, 2010 referred to the Suffolk County Planning Commission an application to the Village Board of Trustees by New Village Patchogue to modify prior approvals granting a mixed use development (Pa-09-02 Addendum). The modification included the hotel component being eliminated and the addition, in its place, of 51 residential units, 7,689 SF of retail space and a sub-surface parking area. The requested changes included a reduction in height of the tallest proposed buildings to 5 stories. The Suffolk County Planning Commission conditionally approved the referral (see attached staff report and resolution).

On May 3, 2011 the Suffolk County Planning Commission received a referral from the Inc. Village of Patchogue to establish a six month moratorium on new apartment houses, garden apartments, townhouses, residential uses and buildings over three stories tall in the D-1, D-2 and D-3 Business Districts and any Floating Districts (Pa-11-01). It was further stated that the purpose of the local law was to "allow the Village of Patchogue time to evaluate and consider the impact of the Downtown Patchogue Redevelopers, LLC project in the DRD District, upon the parking, health, safety and general welfare of the community of the Village of Patchogue and effect a solution and or comprehensive Plan to address the future residential density and construction in the primary business zoning districts of the village." The Suffolk County Planning Commission conditionally approved the proposed moratorium. The first condition of the Commission was to strengthen the local law to add findings if the Village investigated whether or not there are any alternatives less burdensome on the property owners than the proposed moratorium. It also conditioned that the Village indicate what recent circumstances have occurred that justify the adoption of the moratoria. The Commission resolution also noted that the proposed local law did not indicate how serious or urgent the circumstance warranting the moratorium was or what hard evidence there was to support the necessity of the moratorium (see attached resolution and staff report).

The Inc. Village of Patchogue, on May 3, 2013 referred to the Suffolk County Planning Commission (Pa-11-01.1) a proposed Moratorium on certain proposals in the D-3 to enact a six month (180 day) moratorium on the "change of use, increase in intensity of use or an increase in occupancy in the D-3 Business District to meet the parking requirements set forth in the Village Code without the inclusion of municipal parking spaces." This local law was an amendment of a prior local law which stayed the construction of new apartment houses, garden apartments, townhouses, residential uses and buildings over three stories tall in the D-1, D-2, and D-3 Business Districts and any "floating" districts (Downtown Redevelopment District). The Suffolk County Planning Commission approved the referral with the following comment (see attached resolution and staff report):

It is the belief of the Suffolk County Planning Commission that the 180 day moratorium, when combined with the prior 180 moratorium, is more than adequate to analyze zoning, land use, density and parking requirements and to formulate a zoning and parking scheme for the Village business district.

The Suffolk County Planning Commission encourages the adoption of these regulations sooner than the close of the Moratorium.

The currently proposed and referred moratorium from the Inc. Village of Patchogue is the third moratorium affecting attached multifamily land uses since 2011 and has the combined total of 540 days. The purpose and intent of these moratoria have been similar in that they were to allow the village of Patchogue time to evaluate and consider the impact on the parking, traffic, health, safety and general welfare toward a "carefully considered comprehensive plan." The proposed moratorium indicates that the village is "…seeking a solution and/or comprehensive plan …." This moratorium and the prior two moratoria have been designed for essentially the same goal.

It is the belief of staff that it does not appear that there is a specific action plan to resolve the necessity outlined in the proposed moratorium. There is no framework to make reasonable progress in carrying out a "solution or comprehensive plan" or outline to diligently pursue within a six month time period a course of action. The village does not indicate if this would be an in-house effort or subject to the process of retaining a planning professional or what local bodies are responsible for the noted study. The village runs the risk of achieving little or no progress within the proposed six month time frame.

Vacant and underutilized properties within the village have the potential for economic development within the County. Moreover, it is the policy of the Suffolk County Planning Commission to encourage a diversity of housing types including the development of multi-family and/or rental housing as well as the development of low and moderate income housing units. According to the LIA Monthly Economic Report for March, 2016, "apartment space remains scarce on Long Island, with an average vacancy rate of 3.3 percent as of January 2016. This is among the 20 lowest vacancy rates for metropolitan areas across the nation. According to commercial real estate analytics firm Reis Reports, apartment space is expected to become even tighter by the end of 2016, declining to 3.1 percent overall and falling in all submarkets except Nassau County. Asking rents are expected to increase by the greatest percentage in West Suffolk (5.5%), followed by Nassau (4.0%) and Brookhaven/ East Suffolk (2.6%). Asking rents are expected to increase by 4.1percent overall."

It should be noted that the subject application is not located in a minority or economically distressed community as defined by Suffolk County Planning Commission guidelines and required to be reported pursuant to Suffolk County Legislative Resolution 102-2006. However, in the spirit of the County Legislative Resolution, it should be mentioned that Patchogue Village ranks 10th out of 157 for Economic Stress Indications for places in Suffolk County New York as ranked by the US Census Bureau. The Suffolk County Planning Commission has specific economic development policies that include encouraging developments that create a range of employment opportunities for a variety of ages, education and skill levels and promotes equal access to economic and social opportunities. The vacancy rate along Main Street in the Village was about 15% or 26 stores in 2010. There are still a number of vacancies of commercial space in the downtown along North and South Ocean Avenues and along Main Street that have the potential for development/redevelopment. A few sizable vacant parcels of land exist behind the north side of Main Street along Oak and Lake Streets. Along River/Sutton Avenue south of Division Street are several large properties that have the potential for development. Underdeveloped properties also exist along the east side of the Patchogue River South of Division Street. All these properties have large economic development potential and the ability to develop outside of the moratorium restrictions.

The newly proposed Inc. Village of Patchogue moratorium is explicit in identifying types of attached housing prohibited from the regulatory process but does not include applications for commercial buildings, office buildings or residential subdivisions for detached single family homes. These land uses would also have implications on "parking, traffic, utilities, safety and general welfare of the

village of Patchogue." The potential for additional or new commercial uses similar to several new nightclub venues, various bar/restaurants exists and could bring similar generic impacts exclusively attributed in the proposed moratorium language to attached multifamily housing.

A moratorium is the most extreme land use action that a municipality can take because it suspends completely the rights of property owners from obtaining development approvals to use their property. The proposed moratorium prohibits a certain type of land use that the Suffolk County Planning Commission has deemed a county-wide priority. The Suffolk County Planning Commission has listed as a specific housing policy the development of multi-family and rental housing as well as the development of low and moderate income housing units. Moreover, as indicated in the introduction to the Suffolk County Planning Commission Guidebook "The County is primarily concerned with regional land use considerations such as economic development…" Many vacant and underutilized properties in the Village are suitable for improvement that would create a range of employment opportunities for a variety of ages, education levels, and skill levels (see Section 4.5 Economic Development-SCPC Guidebook).

STAFF RECOMMENDATION

Disapproval of the referral from the Inc. Village of Patchogue for "Adding Section 435-14.1 to Chapter 435 of the Village Code to Establish a Six Month Moratorium on Development Approvals For Apartment Houses, Boardinghouses, Rooming Houses, Garden Apartments, Townhouses, Condominiums, Housing Cooperatives, Mixed-Use Developments Containing Four or More Dwelling Units, and any Multifamily or Multi-unit Dwelling Containing Four or More Dwelling Units" for the following reasons:

1. A moratorium is the most extreme land use action that a municipality can take because it suspends completely the rights of property owners from obtaining development approvals to use their property. The proposed moratorium prohibits certain types of land use that the Suffolk County Planning Commission has deemed a county-wide priority. The Suffolk County Planning Commission has listed as a specific housing policy the development of multi-family and rental housing as well as the development of low and moderate income housing units.

2. The moratorium language did not contain any findings as to whether the Village investigated if there are any alternatives less burdensome on property owners than the proposed moratorium.

3. The moratorium language did not include findings that indicate what recent circumstances have occurred that justify the adoption of the moratorium. The proposed local law did not indicate how serious or urgent the circumstance warranting the moratorium are or what hard evidence there is to support the necessity of the moratorium.

4. The newly proposed Inc. Village of Patchogue moratorium is explicit in identifying types of attached housing prohibited from the regulatory process but does not include applications for commercial buildings, office buildings or residential subdivisions for detached single family homes. These land uses would also have implications on "parking, traffic, utilities, safety and general welfare of the village of Patchogue."

5. The proposed moratorium is not explicitly tied to an imminent Master Plan development process. It does not appear that there is a specific action plan to resolve the necessity outlined in the proposed moratorium. There is no framework to make reasonable progress in carrying out a "solution or comprehensive plan" to diligently pursue within a six month time period a course of action.

6. As indicated in the introduction to the Suffolk County Planning Commission Guidebook the County is primarily concerned with regional land use considerations such as economic development. The proposed moratorium would result in negative economic impact at a challenging time. Vacant and underutilized properties within the village have the potential for economic development within the County. Many vacant and underutilized properties in the Village are suitable for improvement that would create a range of employment opportunities for a variety of ages, education levels, and skill levels.

Mayor
Paul V. Pontieri, Jr.
Deputy Mayor
John A. Krieger
Village Clerk
Patricia M. Seal

Incorporated Village of Patchogue

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Trustees
Susan Brinkman
Lori B. Devlin
Salvatore P. Felice
Thomas E. Ferb
Joseph E. Keyes, Jr.

February 25, 2016

VIA EMAIL
Sarah Lansdale, Director
Suffolk County Planning Commission
H. Lee Dennison Bldg - 4th Fl
100 Veterans Memorial Hwy
P.O. Box 6100
Hauppauge, NY 11788-0099

Re: Moratorium Referral - Village of Patchogue

Dear Ms. Lansdale:

The Board of Trustees of the Village of Patchogue has proposed the enclosed local law which, if enacted, would institute a six-month moratorium on approvals for certain multi-family housing and large-scale residential projects. A duly-noticed public hearing was held on the proposed local law on November 23, 2015. On that date the Board of Trustees passed the enclosed resolution referring the proposed local law to the Suffolk County Planning Commission in accordance with Section 239-m of the General Municipal Law. Attached you will find a submission cover form, the proposed local law, the published notice of the November 23 hearing, the minutes of the hearing, and the resolution referring the proposed local law to the Suffolk County Planning Commission. Please note that under 6 NYCRR 617.5(c)(30), the "adoption of a moratorium on land development or construction" is a Type II Action under the State Environmental Quality Review Act ("SEQRA") requiring no further environmental review.

Please contact me if there are any additional documents that will be necessary for the Commission's review. As always, thank you for the Planning Commission's continued cooperation and assistance to the Village.

Very truly yours,

Paul V. Pontieri, Jr.
Mayor

c: Brian T. Egan, Village Attorney
Patricia M. Seal, Village Clerk

Mayor
Paul V. Pontieri, Jr.
Deputy Mayor
John A. Krieger
Village Clerk
Patricia M. Seal

Incorporated Village of Patchogue

Trustees
Lori B. Devlin
Salvatore P. Felice
Thomas E. Ferb
William Hilton
Joseph E. Keyes, Jr.

RESOLUTION 207-2015

A RESOLUTION CLOSING THE PUBLIC HEARING AND AUTHORIZING THE REFERRAL TO THE SUFFOLK COUNTY PLANNING COMMISSION OF THE PROPOSED MORATORIUM ON MULTI-FAMILY HOUSING AND LARGE-SCALE RESIDENTIAL DEVELOPMENT

The BOARD OF TRUSTEES of the Incorporated Village of Patchogue, duly convened in REGULAR session, does hereby resolve as follows:

WHEREAS, a duly noticed public hearing has been held for the consideration of a local law proposing the addition of Section 435-14.1 to the Village Code ("Moratorium on the Construction of New Apartment Buildings, Apartment Houses, Boardinghouses, Rooming Houses, Garden Apartments, Townhouses, Condominiums, Housing Cooperatives, Mixed-Use Developments Containing Four or More Dwelling Units, and any Multifamily or Multi-Unit Dwellings Containing Four or More Dwelling Units"); and

WHEREAS, the above-described local law would impose a moratorium on certain types of development within the Village, thus requiring its referral to the Suffolk County Planning Commission in accordance with Section 239-m of the New York State General Municipal Law; and

WHEREAS, under 6 NYCRR 617.5(c)(30), the "adoption of a moratorium on land development or construction" is a Type II Action under the State Environmental Quality Review Act ("SEQRA"); and

NOW THEREFORE, be it **RESOLVED** by the Board of Trustees:

THAT, the public hearing held for the consideration of the attached local law proposing the addition of Section 435-14.1 to the Village Code is now closed; and

THAT, the attached local law proposing the addition of Section 435-14.1 to the Village Code for the purpose of enacting a six-month moratorium on the construction and development of New Apartment Buildings, Apartment Houses, Boardinghouses, Rooming Houses, Garden Apartments, Townhouses, Condominiums, Housing Cooperatives, Mixed-Use Developments Containing Four or More Dwelling Units, and any Multifamily or Multi-Unit Dwellings Containing Four or More Dwelling Units, shall be referred to the Suffolk County Planning Commission for review pursuant to Section 239-m of the New York State General Municipal Law; and

THAT, the enactment of a moratorium is a Type II Action under SEQRA and is thus "precluded from environmental review under Environmental Conservation Law, article 8"; and

THAT, the Village Attorney and the Village Clerk are authorized to transmit or send all necessary documents to the Suffolk County Planning Commission to commence review under Section 239-m of the New York State General Municipal Law; and

THAT, this Resolution shall take effect immediately.

Aye	Nay		Aye	Nay	
X	___	Mayor Pontieri	X	___	Trustee Hilton
X	___	Trustee Felice	X	___	Trustee Krieger
X	___	Trustee Keyes	X	___	Trustee Ferb
X	___	Trustee Devlin			

Dated: November 23, 2015

Patricia M. Seal

Patricia M. Seal - Village Clerk

I, Village Clerk of the Incorporated Village of Patchogue, certify that I have compared the Foregoing with the original thereof filed in my office, and I do hereby certify that same is a correct transcript therefrom.

Dated November 24 2015

SEAL

Patricia M. Seal

Village Clerk

Proposed Local Law No. ___ - 2015

ADDING SECTION 435-14.1 TO CHAPTER 435 OF THE VILLAGE CODE TO ESTABLISH A SIX-MONTH MORATORIUM ON DEVELOPMENT APPROVALS FOR APARTMENT BUILDINGS, APARTMENT HOUSES, BOARDINGHOUSES, ROOMING HOUSES, GARDEN APARTMENTS, TOWNHOUSES, CONDOMINIUMS, HOUSING COOPERATIVES, MIXED-USE DEVELOPMENTS CONTAINING FOUR OR MORE DWELLING UNITS, AND ANY MULTIFAMILY OR MULTI-UNIT DWELLINGS CONTAINING FOUR OR MORE DWELLING UNITS

Be it enacted by the Village Board of the Incorporated Village of Patchogue:

The Code of the Incorporated Village of Patchogue, County of Suffolk, New York, is amended by:

ADDING Section 435-14.1 to Chapter 435 of the Village Code which shall read as follows:

[New Language] **[~~Language to be Deleted~~]**

§ 435-14.1 Moratorium on development.

(1) Purpose and Intent. It is the purpose and intent of this Local Law to establish a moratorium on the construction of new apartment buildings, apartment houses, boardinghouses, rooming houses, garden apartments, townhouses, condominiums, housing cooperatives, mixed-use developments containing four or more dwelling units, and any multifamily or multi-unit dwellings containing four or more dwelling units. It is the further purpose of this law to allow the Village of Patchogue time to evaluate and consider the impact of the rapid increase in large-scale residential developments and its effect upon the parking, traffic, utilities, health, safety and general welfare of the Village of Patchogue.

The Village is seeking a solution and/or comprehensive plan to address future residential density and construction in the Village. The current zoning code is almost entirely the product of legislation that was enacted decades before the recent boom in large-scale multi-family development in the Village. The objective of the moratorium is to promote community planning values by properly regulating land development in the best interests of the Village. Land use controls work best when built upon a carefully considered comprehensive plan. Such plans take time to create and update. During this time, demand for a particular use of land may arise for which there are inadequate controls or which require a more concentrated analysis and review than may be permitted under the current zoning laws. This moratorium will ensure that the Village has sufficient time to study the challenges posed by large-scale residential development projects, gather data on the Village's existing uses and future trends in residential development, and craft solutions to address these issues.

(2) Zoning District Application. This law shall apply to all properties in within the confines of the Village of Patchogue.

(3) Scope of Controls. It is hereby prohibited for a period of 180 days from the date of enactment of this local ordinance for any village official to accept for filing, any application for a building permit for a new apartment building, apartment house, boardinghouse, rooming house, garden apartment, townhouse, condominium, housing cooperative, mixed-use development containing four or more dwelling units, and any multifamily or multi-unit dwelling containing four or more dwelling units within the confines of the Village of Patchogue and the Board of Trustees, Zoning Board of Appeals and Planning Board shall not grant any approvals, preliminary or final, for a site plan or subdivision relating thereto or special approvals or special permits, variances or other permissions for same. The Building Inspector and Code Enforcement Officer shall not issue any building or other permit for any construction or use related to same that would result in such uses. Projects with approved site plans or issued building permits prior to this enactment are exempt from the moratorium.

(4) Term. This Local Law shall be in effect for a period of 180 days from its effective date. This Local Law shall be subject to review and renewal by resolution of the Board of Trustees for an additional period of time, effective immediately.

(5) Penalties. Any person, firm or corporation that shall construct, erect, enlarge or alter any building or structures in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by the laws, rules and regulations of the Village for violations; and

B. Injunctive relief in favor of the Village to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction which may have taken place in violation of this Local Law.

(6) Alleviation of Hardship.

A. The Board of Trustees of the Village of Patchogue may authorize exceptions to the moratorium imposed by this local law when it finds, based upon evidence presented to it, that deferral of action on an application for the uses prohibited hereunder, and the deferral of approval of such application for the duration of the moratorium would impose an extraordinary hardship on the landowner or applicant.

B. A request for an exception based upon extraordinary hardship shall be filed with the Village Clerk or designee, and shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the Village Clerk or designee shall prescribe as necessary for the Board of Trustees to be fully

informed with respect to the application.

C. A public hearing on any request for an exception based on extraordinary hardship shall be held by the Village Board at the first regular meeting of the Board of Trustees that occurs after the expiration of the period for publication of notice of the request for an exception.

D. In reviewing an application for an exception based upon a claim of extraordinary hardships, the Board of Trustees shall consider the following criteria:.

(1) Submission of proof of hardship. Hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a building permit, site plan, variance, or other approval during the period of the moratorium.

(2) Substantive requirements. No relief shall be granted hereunder unless the Village Board of Trustees shall specifically find and determine and shall set forth in its resolution granting such hardship that:

(i) Failure to grant a hardship to the petitioner will cause the petitioner undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the granting of the exemption; and

(ii) Petitioners' circumstances are different from any other member of the community to the extent the petitioner is burdened by the moratorium substantially greater than any other member of the community; and

(iii) Grant of the hardship will clearly have no adverse effect upon any of the Villages goals or objectives enumerated in the moratorium; and

(iv) The project or activity for which the petitioner seeks a hardship will be in harmony with the existing character of the Village as a whole and the area of the Village in which the affected land is located, and will be consistent with any interim data, recommendations, or conclusions which may be drawn from any community planning effort then in progress or under review; and

(v) The extent to which the proposed establishment would cause significant environmental degradation, adversely impact natural resources or cause public health or safety concerns, or adversely impact the community is minimal; and

(vi) The actions of the applicant were undertaken in a good faith belief that the proposed development would not lead to significant environmental degradation, undue adverse impacts on natural resources or public health or safety concerns, or adversely affect the community.

E. At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Board of Trustees shall act upon the request to approve, deny, or approve in part and deny in part the request made by the applicant.

(7) Validity. The invalidity of any provision of this Local Law shall not affect the validity of any other portion of this Local Law which can be given effect without such invalid provision.

(8) Superseding Other Laws.

A. All laws, ordinances, rules and regulations of the Village are modified and superseded by this Local Law with respect to their application to the properties designated under this Local Law for the term of this Local Law.

B. This Local Law shall modify and supersede, with respect to the properties covered by this Local Law and, for the term of this Local Law, the provisions of Article 7 of the Village Law of the State of New York and any other law, rule or regulation inconsistent with this local law.

This Local Law shall take effect immediately.

Aye	Nay		Aye	Nay	
___	___	Mayor Pontieri	___	___	Trustee Hilton
___	___	Trustee Felice	___	___	Trustee Krieger
___	___	Trustee Keyes	___	___	Trustee Ferb
___	___	Trustee Devlin			

Dated: November 9, 2015

_____
Patricia M. Seal - Village Clerk

LEGAL NOTICE
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing will be held on Monday, November 23, 2015, at 6:00 p.m., in the Municipal Building, 14 Baker Street, Patchogue, New York, 11772, by the Village Board of Trustees of the Incorporated Village of Patchogue TO ADD SECTION 435-14.1 TO CHAPTER 435 OF THE VILLAGE CODE TO ESTABLISH A SIX-MONTH MORATORIUM ON DEVELOPMENT APPROVALS FOR APARTMENT BUILDINGS, APARTMENT HOUSES, BOARDINGHOUSES, ROOMING HOUSES, GARDEN APARTMENTS, TOWNHOUSES, CONDOMINIUMS, HOUSING COOPERATIVES, MIXED-USE DEVELOPMENTS CONTAINING FOUR OR MORE DWELLING UNITS, AND ANY MULTIFAMILY OR MULTI-UNIT DWELLINGS CONTAINING FOUR OR MORE DWELLING UNITS, a copy of which proposed local law is on file at the Office of the Village Clerk.

At said Public Hearing any person interested will be given the opportunity to be heard.

Patricia M. Seal,
Village Clerk
Dated: November 5, 2015
LIA, 70158, 11/5

STATE OF NEW YORK,
ss:
COUNTY OF SUFFOLK,

LYNN HALVERSON of Patchogue, NY in said County, being duly sworn, says that she is Principal Clerk of the **LONG ISLAND ADVANCE** a Weekly Newspaper, published at Patchogue, in the Town of Brookhaven, County of Suffolk, and State of New York, and that the Notice, of which the annexed is a printed copy, was published in said Newspaper on the 5th day of November 2015

Lynn Halverson

Sworn to before me this 5th day of November 2015,

Notary Public
VICKI ANN MORALES
Notary Public, State of New York
01M04968036, Suffolk County
Commission Expires April 19, 2018

Village Clerk Seal stated: Notice is hereby given that a public hearing will be held on Monday, November 23, 2015 at 6 p.m. in the Municipal Building, 14 Baker Street, Patchogue, New York, by the Village Board of Trustees of the Incorporated Village of Patchogue to add Section 435-14.1 to Chapter 435 of the Village code to establish a six-month moratorium on development approvals for apartment buildings, apartment houses, boardinghouses, rooming houses, garden apartments, townhouses, condominiums, housing cooperatives, mixed-use developments containing four or more dwelling units, and any multifamily or multi-unit dwellings containing four or more dwelling units, a copy of which proposed local law is on file at the Office of the Village Clerk. At said Public Hearing any person interested will be given the opportunity to be heard.

Mayor Pontieri stated: Since 2004 we have constructed in and around the downtown in particular almost 700 residential units. There are another about 120 at different spots in the Village that have been built. Like all things, there is a point and time to take a point back and ask what is the effect upon the Village, to the positive and/or obviously the negative, where are the places that may or not be developed and do we want to have development on those properties. But, in particular what are the effects of the increased density—from a public safety position, from traffic, from impact—whether it be on school district or on the municipality itself. To do that, you need to take a half a step back and look at it in its totality. Each one of the developments that were put in place were very carefully selected, believe it or not and many people don't believe they were. But, if you take a look at Copper Beech. And Mr. Morgo is here and helped in the design and he helped get the funding for it. And he was very instrumental in getting it happen in the beginning—blighted properties that needed to be developed. My position has always been from the first day I came into office, for a downtown to survive you need to put feet on the street and we need to put people in and about our downtown to make it be the downtown it was when some of office who grew up in this Village and other of us moved into this Village. After Copper Beech came Bay Village. If we remember what was at Bay Village at that point and time it was Smith Port and Whitehouse, two boarding houses—considered two very much blighted properties, probably 120-130 people living on this 4 acres of property. Lori Devlin always tells the story—she lives around the corner from it—and she would probably get at least on a monthly basis a letter about a pedophile being moved into one of those addresses. We had a developer come in and say if you gave us the density to allow us to build a few more homes than you would normally allow us to put on that property, we will run the sewer lines and we will take those properties out. And they bought out those properties and built what is now Bay Village on South Ocean Avenue—just a beautiful development that has really changed the whole temperament on what happens down there. Down to the fact when it was the Smith Port and the Whitehouse, both boarding houses, we had a public safety officer in front of the deli every morning because that was a bus stop—from 6:30 a.m. when the high school kids got on the bus until 9 a.m.—because of some of the clientele coming out of those buildings. Artspace---45 units of affordable housing. Copper Beech is 50% affordable—you would never know it by looking at it because people have a certain perception of what they believe affordable housing is. Artspace has 45 units of affordable housing—those 45 units , some are restricted to artists—43 of the 45 are artists and the other two people qualified and they had space in there and they are now workers within the arts community. Again, then it was a vacant parking lot—but in hindsight we could use that parking lot, but then it was a vacant parking lot. Then we talked to New Village. If we remember what was on those properties—and sometimes people like to have selective memories as to what was there—we had a 50,000 sq. ft. department store that was empty for a number of years. You went around the corner to a Library what was Briarcliffe College and had been vacant for about 10-12 years. To the next corner where you came up to Maggio's Bowling alley which was vacant for about 30 years. And the only two buildings that were really thriving buildings which were the Bank of America and the Brick House. Along Havens you had three small places. And the only business out of the three businesses that was there was Patchogue Print. You have what is 31 West now was a laundromat, a sign store, two vacant stores, and a tuxodo store. Upstairs in that were maybe half dozen business. There are 291 residential units which is about 90% either leased and/or occupied. They will lease out the properties down below and they are very, very selective. Obviously, they would put people in there if the right businesses came along. They have it priced based upon what they want to have in the place. I guess my point is that in each of those places they were selected to have things happen there because of a need. And that need was to surround the downtown with people, to take care of blighted properties down on South Ocean Avenue. To take care of some blighted property where you have the Riverview which is off of River Avenue. That was a marina and a former oil terminal at one time. All of these decisions were made for these 800 units based upon the conditions of the property and the need for us to move forward, the need to bring people back into town. The average age in Copper Beech right now is about 38 years old. It is exactly what we keep reading

about in the paper and what we keep hearing about. So we have now built those things and have now taken the position where we are at. Now we have to take the position of where we want to go and what are our other needs. We have places in the Village where requests have been made—some of them perfectly situated for additional housing. Some of them in the middle of residential neighborhoods, but because of archaic zoning would not allow it. We need to look at zoning codes, impact on neighborhoods, and the overall impact of the community. So this isn't just a whim of the thing that happens. It is where do we want to be and what do we want to do. There has been a lot of discussion and I had gotten a phone call today from Linda in the *Advance* about an issue that the Chamber is talking about with Dennis Smith, Executive Director of the B.I.D., about the big stores in town. Are there ways for us to bring them in-the 9,000 sq. ft. stores, is there a way to get grants or funding to make them into 1,500 and 2,000 sq. ft. stores. Again, that is what we look at now from where we were before. When it comes to housing, it comes to the same thing—where do we want to be, what do we want do, and how do we want to get there. So, this is a kind of how do we want to get there kind of discussion that we are having.

Village Attorney Egan stated: The public hearing tonight is on a moratorium on development. It lays out the sections for consideration. It will prohibit any complexes of four or more dwelling units. It will apply to all the zoning districts within the confines of the Village. It will be for a period of 180 days. That period can be extended by application to the Board. It provides for penalties if anyone violates it. And it also does provide an alleviation of a hardship which is important on moratoriums in Patchogue which has always taken a position that there are certain projects , based upon on timing and need, that when a case can be made that there is evidence that the hardship should be elevated, an applicant can make that exception as to raise to the level of its being an extraordinary hardship. The Board of Trustees can review that and can potentially grant that exclusion.

Mayor Pontieri stated: One other things too is there will not be a decision made this evening. We will take comment, we will close the hearing, and then we will forward the minutes and the comments made this evening to Suffolk County Planning. All moratoriums have to go through Suffolk County Planning and there is a 30 day period before decision, probably coming into January. One of the complaints about moratoriums is they seem to go on forever. It will be six months with a possibility of a renewal for six and if need be and so determined by this Board and after another public hearing. It is not going to be extended and extended because there are people out there looking to invest and people looking to improve their properties and it wouldn't be fair to either them or the public to play the extension game forever. It will be six months after Suffolk County Planning makes their recommendations.

Vilalge Attorney Egan stated: Once we have the Suffolk County Planning comments back, we should potentially appoint a committee.

Mayor Pontieri stated: Lori Devlin will Chair it and there will be another member of the Board, there will be people from the Community. And I have asked Jim Morgo to sit in on it whose background in housing is more extensive than most of our backgrounds than anything we have all ever done. I have spoken to Peter Elkowitz from the Long Island Housing Partnership and I have also reached out to the Rausch Foundation. The Housing Partnership began because of the expansive use and their detail in housing. The Rausch Foundation because they have done a lot of research over the years on housing and housing in communities and their effect on downtown redevelopment. It is not going to be a inside, baseball type of committee. It is going to be one that is going to have the strength and people outside of the Village that will take a look at what we are doing inside the Village.

Trustee Devlin stated: I think Paul has said what I would have said so eloquently. I am very proud of all of the development that has been done over the years. I think it has been done right within the various circumstances as they presented themselves and have brought a lot of new members in the community who have made it a better place. I think that in the early days, if you go back to Copper Beech, we had to be very proactive in attempting to attract developers to Patchogue because people were not looking to Patchogue as a place to develop. And we were very successful at that because we were very proactive. And I think now we are being proactive in a different manner. That we are being proactive to take a look at what remaining parcels are in the Village, what zoning challenges are there and look at it in a comprehensive way in the context of what's been done and where we are hoping to go. I think the committee will be a good way to approach this, especially with members of the community,

experts on housing, Attorney Egan and two Trustees. I think hopefully we can bring back something that we can bring back to the Board.

Trustee Keyes stated: There usually are two reasons to have a moratorium. One would be if things were not going well and we stopped to said we have to go with another plan. And ours is because things are going so well and we have to stop and to maybe catch up on some things and make sure we are not missing some things in between. I would support a moratorium. We have talked several times about our little storefront to shorefront. There are so many things in the infrastructure that needs to be done and that need attention to support the population of our community as it is. We had a push to pave Patchogue this summer with 25% being paved, the sidewalks & curbing, those kinds of things, monies for the parks are coming. So I think it is time for a moratorium to give us a chance to catch up on those kinds of things and then get back to the plan.

Trustee Ferb stated: There are a couple of projects that are approved and shovel ready. Will this moratorium affect those if they are delayed?

Village Attorney Egan stated: No. This is only for approval, preliminary or final, for a site plan relating or any special approval, variance or others that are required from this Board, Zoning Board or Planning Board. If a project is already through its Planning process and Zoning process, and is in the Building permit stage, it would be exempt.

Trustee Ferb asked: But, if they get recycled for whatever reason, financing, will this moratorium apply?

Village Attorney Egan stated: Projects with approved site plans or issued Building permits prior to this action are exempt from this moratorium.

Comments from the public:

Dennis Ross stated: I was one of the first Village on Main Street and have seen the growth since 2007. Yes, taking a break at this point as long as we are not hurting a developer who is sitting on a bunch of borrowed money like the nursing home. Yes. We need this. Hang on to what we got and see what we got. I know some people have tried to sub-divide their houses and I don't know how that is going to come about. That is going to be interesting—what constitutes sub-dividing and how many people you can put in. I am glad we are going this—stopping this—because I know people are trying to do this. I think this is a very good move on the part of the Village in that aspect, as long as we are not hurting one that is shovel ready.

James Morgo stated: I was Commission of Economic Development, Suffolk County Chief Deputy County Executive, after almost 17 years I was President and Chief Executive Officer of the Long Island Housing Partnership. When my name appeared as somone who the Mayor wanted to be on the moratorium committee—I received a call from a housing advocate with whom I worked—and she said to me how can you be on a moratorium for residential development. And I think I said yes, not only because I am so impressed not only because I am so impressed with the work you have done in this Village, I remember as the Mayor alluded to, the early days of Copper Beech in this Village. I was Economic Development Commissioner at the time, Chair of the Workforce Housing Committee. And we were looking to create homes to keep our young people here. I would disagree with one thing you said Mr. Mayor when you said when you look at Copper Beech you would not never know it was 50% afforcdable homes. I submit to you that if you go around Suffolk County and look at the home that were built, they don't meet the perception that wa created in the '50's and 60's. Anything that was built now looks like Copper Beech. But, with that caveat, it was only because of the Mayor's forbearance. Because when he came to us and said he wanted to put 19 single properties together—to acquire them and assemble them—to create these kinds of homes for young people and empty nesters, we all thought he was a little crazy because we were looking for easier places to develop it. But, it was because the will that Paul had and others in the town had is that it happened. And I am very proud of it as well. I am supporting this moratorium because as was said, it is always a good idea to evaluate. A moratorium can be an excellent planning tool. I have seen good moratoria and bad moratoria and the good ones always have certain things in common. And I think you have these all. One of the most important thing is to have a set term and you have one of six months. I don't know if you are familiar with the Southampton Bays moratorium which kept

getting extended—what it resulted in was lawsuits. The other things you have to have for a good moratorium is measurable metrics—and I think you do, things like impact on traffic, impact on wastewater, impact in the environment. As long as you have things that you can measure and there are metrics by which you can measure that makes sense. Finally, as someone who has been dedicated to affordable homes and creating walkable and livable communities, you can't have a balanced community with just high density residential. You have to have other things. You seem to be going there; your zoning seems to be going there. But, it is always a good idea to take a look. So when this woman called me with a critical comment, I was able to say we are talking about Patchogue. We are talking about the Village where more than any other housing has been done in a small area so it makes all the sense in the world in Patchogue. Thank you for inviting me for comment.

Mayor Pontieri stated: Sitting in the back corner is former Trustee Gerry Crean. With Copper Beech, Gerry worked very hard and diligently bringing that into fruition. He worked with JJ Johnson and they went around knocking on people's door. I would be remise in not mentioning that.

Upon a motion made by Trustee Devlin, seconded by Trustee Felice and unanimously carried, the Board adopted a Resolution to closing the public hearing and authorizing the referral to the Suffolk County Planning Commission of the proposed moratorium on multi-family housing and large scale residential development.

STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PLANNING

THOMAS A. ISLES, A.I.C.P.
DIRECTOR OF PLANNING

STAFF REPORT
SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Inc. Village of Patchogue
Municipality: Village of Patchogue
Location: Two block area - north side of West Main St., west of North Ocean Ave, east of West Ave. and south of Lake St.

Received: 3/21/2008
File Number: Pa-08-01
T.P.I.N.:
Jurisdiction: Within 500 ft. of land of County of Suffolk/shoreline and CR 19

ZONING DATA
- Zoning Classification: D-2, 3 & 5 Business, C. Residence & E Industrial
- Minimum Lot Area: N/A
- Section 278: No
- Obtained Variance: N/A

SUPPLEMENTARY INFORMATION
- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: Yes
- Property has Historical/Archaeological Significance: Yes
- Property Previously Subdivided: N/A
- Property Previously Reviewed by Planning Commission: No
- SEQRA Information: Yes
- SEQRA Type: Expanded EAF
- Minority or Economic Distressed No

SITE DESCRIPTION
- Present Land Use: Various buildings
- Existing Structures: Yes, various frame and/or stone
- General Character of Site: Level
- Range of Elevation within Site: N/A
- Cover: Buildings, asphalt
- Soil Types: CV
- Range of Slopes (Soils Map): 0-3%
- Waterbodies or Wetlands: Patchogue Lake within 500 ft.

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: Mixed Use PDD
- Layout: Standard
- Area of Tract: 8.87 Acres
- Yield Map:
  - No. of Lots: 0
  - Lot Area Range: N/A

ACCESS

- Roads: Existing
- Driveways: N/A

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
  - Design of System: CB-LP
  - Recharge Basins No
- Groundwater Management Zone: VI
- Water Supply: Public
- Sanitary Sewers: Public

PROPOSAL DETAILS

OVERVIEW – Application on the Village Board own motion for an amendment to the Village Zoning Code Chapter 93, Article III (District Regulations) for the creation of a "floating zone" (sic) entitled Downtown Revitalization District (DRD). The proposed DRD is intended to encourage the development of mixed uses including retail, residential offices, hotels, catering facilities and restaurants. It is further proposed in the ordinance that a minimum of 25 percent of any residential component be set aside for workforce housing. The DRD ordinance makes provisions for a maximum height of 130 feet for any structure within 120 feet of West Main Street and within 100 feet of North Ocean Avenue (provided the structure includes a hotel and a catering facility; 110 feet for all other structures). Structures proposed more than 110 feet from West Main Street and more than 100 feet from North Ocean Avenue are entitled to 60 feet of height.

LOCATION – Applicable to a two (2) block area of approximately 8.87 acres situated on the north side of West Main Street, west of North Ocean Avenue, east of West Avenue, and south of Lake Street.

An analysis of the character of the area indicates that affected lands include nineteen (19) parcels situated within the targeted area with land uses consisting of municipal, retail, commercial, office, and medical. There are also several parcels that are unoccupied or undeveloped.

Zoning for the target area consists of a mix of zoning districts including D2 Business, D3 Business, D5 Business, C Residence, and E Industrial. The majority of the target area is zoned for Business use.

ACCESS – access to the target area is proposed from existing Village streets.

ENVIRONMENTAL CONDITIONS - the target area is situated in Hydrogeologic Ground Water Management Zone VI pursuant to Article 6 of the Suffolk County Sanitary Code. The target area is not located in a Special Groundwater Protection Area (SGPA). The subject area is located in the Coastal Zone Area South Critical Environmental Area. No local, state or federally regulated wetlands occur on site, however, mapped, freshwater wetlands and surface waters associated with Patchogue Lake are located to the northwest.

COMPREHENSIVE PLAN RECOMMENDATIONS – the Village of Patchogue has not adopted a Comprehensive Master Plan. However, the Suffolk County Planning Department has prepared several planning studies for the village, some elements of which have been adopted by the village. Suffolk County Planning Studies for the Incorporated Village of Patchogue include: 1969. Village of Patchogue Traffic and Parking Study; 1979. Village of Patchogue Planning Study; 1999. Patchogue River Maritime Center Plan; 2002.Village of Patchogue Downtown Business District Study.

The 2002 Downtown Business District Study made several recommendations including:

1. The Village's existing zoning code be amended to encourage mixed-use development with emphasis on retail uses on the first floor;

2. Lots be permitted to be assembled, in certain cases, to allow for better planned commercial or mixed uses;

3. The Village consider "Smart Growth" principles in redevelopment;

4. Redevelopment or new commercial development in the core of the business district include ground-floor retail, with office or residential uses above;

5. In-fill development be encouraged, to close the gaps in the core of the business district;

6. Buildings on the north side of Main Street and west side of North Ocean Avenue be refurbished or razed and rebuilt, and the first floor of any new buildings on such sites house retail and services businesses; and

7. Building sites be redeveloped with hotel, condominium, office and other business uses, which would be within walking distance of the Patchogue Theatre and the downtown area, and would also be accessible to the marinas, the railroad station and the ferries of the Patchogue River

STAFF ANALYSIS

It is the belief of the staff that the Village of Patchogue has met the intent of the recommendations of past planning studies. There are several issues, however, that warrants further consideration prior to the adoption of the proposed amendment:

1. The proposed DRD amendment is more appropriately termed a zoning "overlay" district since it will apply to a specific geographic area. A "floating" zoning district is applied anywhere within a municipal jurisdiction provided specific location, geographic or performance standards enumerated in the ordinance can be met by a proposed structure.

2. Overall, the proposed DRD ordinance makes no provisions for the analysis of or standards for access to light (shadowing effects) and air circulation considering the allowance of mixed use, high rise structures in the overlay zone.

3. The proposed DRD ordinance makes no provisions for the incorporation of LEED (Leadership in Energy Efficient Design) standards for energy efficiency.

4. The proposed DRD ordinance has no nexus for the increase in yield from that which is allowed in the underlying zone to a proposed ultimate density. The proposed ordinance will allow yield and intensity of a given application within the overlay zone a height bonus of up to

130 feet. The predominant existing zoning in the area limits height to 45 feet (3 stories) and 50 feet for public buildings. While the provision of workforce housing is a substantial public benefit the difference in yield/intensity of what is currently allowed and what is proposed should not be left for subjectivity. An objective design standard should be incorporated into the ordinance. For example; for each percent of workforce units over 20 percent an applicant would be entitled to a 2 percent bonus in floor area or applicants demonstrating a reduction in motor vehicle trip generation above 25 percent would be entitled to a height or floor area bonus of one story for each percent over 25. These are simply examples demonstrating some objective means of determining yield and height of proposed structures in the overlay zone. It should be noted that in the vicinity of the proposed overlay zone no building exceeds three stories in height. The County 2002 Village of Patchogue Downtown Business District Analysis report did not address building height and resulting densities in its recommendations. A more appropriate maximum height for the focal point of a major downtown center in Suffolk County may be somewhat less than 100 feet (10) stories. Allowing a change to such a dramatic increase in density as proposed in the ordinance may undermine the effectiveness of the remaining zoning districts and cause similar change of zone requests in neighboring blocks in the future, causing detrimental traffic conditions and possibly other adverse effects of cumulative over-intensification.

Proposed structures should not be overbearing to the immediate vicinity but rather be compatible with adjacent land uses and the mass and orientation of existing structures across the street from the overlay zone. The Village should consider a provision should be incorporated into the ordinance setting back additional stories from the street line similar to existing provisions in the Patchogue Village Zoning Law that set back each story by an additional one foot from the property line for each foot exceeding the height of the underlying zoning district. Moreover, the width of the street should factor into the ultimate mass and height for any one structure or group of structures. For example, North Ocean Avenue is a narrow street at its intersection with West Main Street. Structures greater than 45 to 50 feet may be imposing to the street-scape and cause a narrow canyon effect with associated wind, light, sociological or other adverse effects. At a minimum, the Village should undertake a street to building mass analysis to determine the impact of high-rise structures along the affected road corridors.

5. The proposed ordinance states that the Village of Patchogue Downtown Business District Analysis report (Suffolk County, 2002) recommends high density housing immediately west of the old Swezy's site (page 25). However, the authors of the EAF are accidentally confusing the County recommendation for high density housing west of the new Swezy's site (Briarcliff College) with the old Swezey's site (see page 56 of the County 2002 report).

6. The proposed DRD zoning overlay requirements should stipulate that the mandatory workforce housing units should remain affordable in perpetuity.

7. The Architectural Design section of the proposed DRD ordinance should account for the historic district provision of the Village Zoning Law wherein the all properties within the Village, with the exception of A Residential, are within a Historic District. The proposed overlay zone is in a the historic district and the DRD ordinance should account for the tradition in proportions, primary materials and building mass variation that characterize the Village of Patchogue.

8. Greater attention should be paid to Smart Growth parameters with respect to pedestrian circulation and amenities. Walkablility within and without the site should be characterized in the ordinance and requirements for pedestrian lighting, pocket parks, benching etc. should be accounted for.

9. Motor Vehicle parking requirements within the proposed DRD ordinance appear to be rather lax without the benefit of a requirement for reductions in motor vehicle trip generation in the ordinance. The DRD ordinance makes no mention of an analysis of mixed-use projects and their parking requirements nor does the DRD ordinance place the burden on an applicant to demonstrate parking demand and turnover. Deriving the standards for parking requirements in mixed-use projects can be a complex and variable process. The calculations must not only reflect the variables that affect parking demand for each component use, but also recognize the inherent fact that the total peak parking demand for a mixed-use project will likely be less than the sum of the peak demand values for each component land use. Having said that, the village should address and reference studies and manuals dedicated to shared parking methodology and provide a systematic way to apply appropriate adjustments to parking ratios for each use in a mixed-use development. It is recommended that the following DRD parking standards be minimally adjusted to the following:

Existing DRD Requirement	Amended DRD Requirement
Multi-Family residential: 1space per unit	1.75/unit
Retail and office use: 1 space per 250 sq. ft.	ok
Hotel uses 1 space/2 guest rooms	
All other uses as determined by Trustees	Full Service Hotel and customary accessory uses, excluding conference centers and restaurants: 1.08 per room Business Hotel: 1.25/room Restaurants and coffee houses: 3.72/sq. ft. Office as principal non-accessory use 3.8/1000 sq. ft.

10. The Village of Patchogue in their analysis of the proposed DRD ordinance provided a conceptual layout to determine the maximum potential development of the DRD overlay zone. The resulting "worst case" development scenario includes 193,900 sq. ft. of commercial, office and retail space; 86,400 sq. ft. of hotel space (167 rooms); 1,200,800 sq. ft.. Ft. of residential space (801 units); and 87,150 sq. ft. of parking area (in two parking structures). Building massing plans for the conceptual full build out indicates one 11 story building, two 8 story buildings, two 4 story buildings, one 3 story building and two 8 level parking structures. For comparison, the 8.87 acre DRD target area would theoretically yield under existing zoning, 199,563 sq. ft. of commercial, office, restaurant and parking area. As noted earlier, there is a significant increase in intensity of the target area. While the resultant commercial/office/retail/restaurant space is relatively equal, the residential component is new to the area and far exceeds the maximum theoretical total sq. ft. of the existing target area.

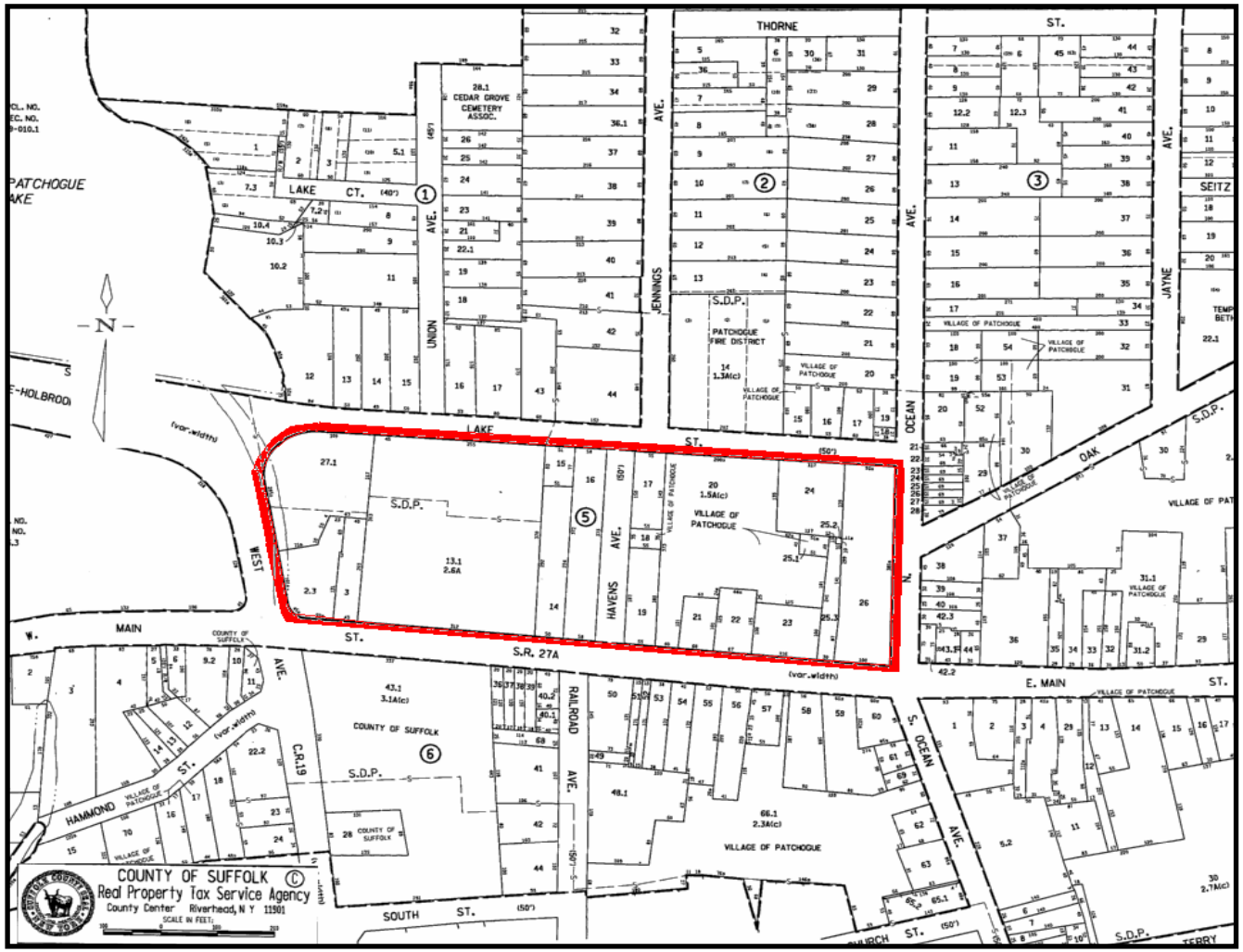
11. If, as envisioned in the conceptual development plan, the two targeted blocks of the DRD are redeveloped, it is important that Havens Avenue be realigned to meet Jennings Avenue to the north and Railroad Avenue to the South. The proposed DRD ordinance should speak to the aligning of these roadways. It is important to note that full build out of the DRD would require the signalization of the following three unsignalized intersections: North Ocean Avenue at Oak Street; North Ocean Avenue at Lake Street; and Holbrook Road at Lake Street. Further analysis of improvements to the roadway network would be warranted in the impact analysis of the proposed DRD overlay.

12. Environmental review for the proposed DRD ordinance is vague on the cumulative effects of the development of this target area in conjunction with other high density residential projects

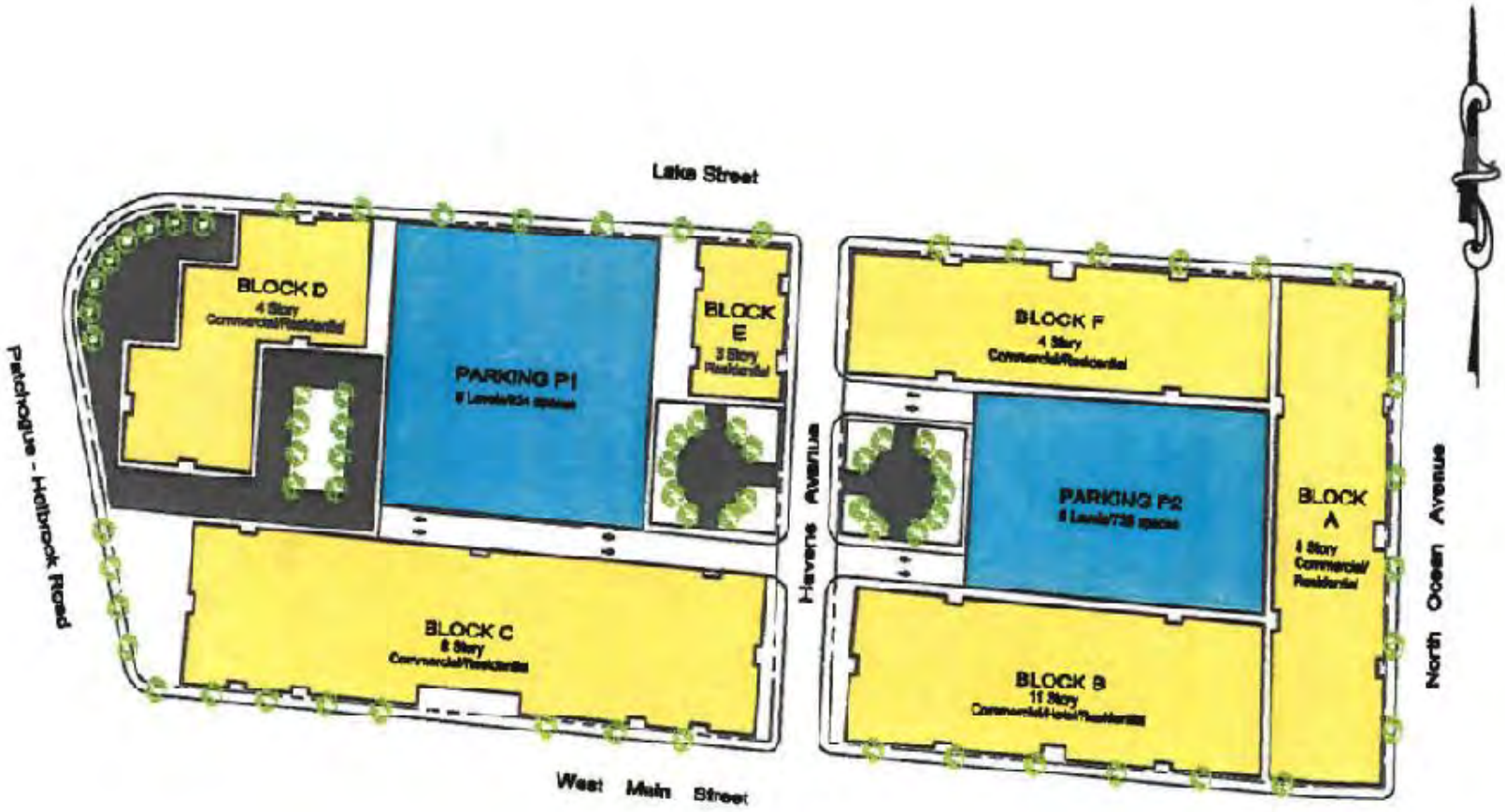
in the Village. The commission is aware of three recently completed high density attached residential project, only one of which is fully occupied. In addition, one high density project is under construction on the west side of Patchogue River and one is contemplated on the east side of the River along West Avenue. Another high density residential/artist commercial space is also proposed. These projects cannot be reviewed segmental in terms of their cumulative impact on transportation networks, sewer capacity, water supply growth inducing aspects on public services, etc. The environmental quality review of the proposed DRD should be expanded to assess the cumulative impact of these projects and the potential for the DRD to expand in the future.

STAFF RECOMMENDATION

Conceptual Approval: with the above 12 comments



Z-1: Downtown Revitalization District - Village of Patchogue
SCPD No.: Pa-08-01
SCTM No.: 0204-009.00-05.00-002.003, et al



Z-1: Downtown Revitalization District - Village of Patchogue
SCPD No.: Pa-08-01
SCTM No.: 0204-009.00-05.00-002.003, et al

Resolution No. ZSR-08-16 of the Suffolk County Planning Commission
Pursuant to Sections A 14-14 to 23 of the Suffolk County Administrative Code

WHEREAS, pursuant to Sections A 14-14 to 23 of the Suffolk County Administrative Code, a proposed zoning action was received at the offices of the Suffolk County Planning Commission on March 21, 2008, with respect to the application of the Inc. Village of Patchogue on the Board's Own Motion for an amendment to the Village Zoning Code Chapter 93, Article III (District Regulations) for the creation of "floating zone" entitled Downtown Revitalization District (DRD) on land located in a two (2) block area on the north side of West Main St, west of North Ocean Ave, east of West Ave. and south of Lake St. in the Inc. Village of Patchogue, and

WHEREAS, said application was considered by the Suffolk County Planning Commission at its meeting on April 2, 2008 and now therefore, Be it

RESOLVED, that the Suffolk County Planning Commission hereby approves and adopts the report of its staff, as may be amended, as the report of the Commission, Be It Further

RESOLVED, that said application is conceptually approved with the following comments:

Conditions of Adoption of the Amendment:

1. The proposed ordinance shall incorporate a formula that provides a rational nexus between increases in density, above the prevailing 2-3 story development pattern within the Village, and the provision of public amenities and mitigation measures.

   Possible public amenities could include, but are not necessarily limited to, public plazas, parkland, the restoration and/or preservation of historically significant structures, the provision of workforce housing units (above the 20% minimum workforce Housing Units mandated by County Guidelines) or the preservation of specifically identified open space parcels or environmentally sensitive properties through a Transfer of Development Rights (TDR) program.

   The intent of the ordinance should be the establishment of a clear, rational and predictable formula that ties increases in density above the prevailing 2-3 story building height within the Village to a proportionate public benefit. For example, for each percent of workforce units over 20 percent an applicant would be entitled to a 2 percent bonus in floor area, or applicants demonstrating a reduction in motor vehicle trip generation above 25 percent would be entitled to a height or floor area bonus of one story for each percent over 25. These are simply examples demonstrating some objective means of determining yield and height of proposed structures in the overlay zone.

   In addition, consideration should be given to other potential impacts of the proposed density increase such as traffic congestion and required mitigation measures needed to protect long term public health, safety and welfare.

   The Village of Patchogue in their analysis of the proposed DRD ordinance provided a conceptual layout to determine the maximum potential development of the DRD overlay zone. The resulting "worst case" development scenario includes 193,900 sq. ft. of commercial, office and retail space; 86,400 sq. ft. of hotel space (167 rooms); 1,200,800 sq. ft. of residential space (801 units); and 87,150 sq. ft. of parking area (in two parking structures). Building massing plans for the conceptual full build out indicates one 11 story building, two 8 story buildings, two 4 story buildings, one 3 story building and two 8 level parking structures. For comparison, the 8.87 acre DRD target area would theoretically yield under existing zoning, 199,563 sq. ft. of commercial, office, restaurant and parking area. As noted earlier, there is a significant increase in intensity of the target area. While the resultant commercial/office/retail/restaurant space is relatively equal, the residential component is new to the area and far exceeds the maximum theoretical total sq. ft. of the existing target area. A substantial public benefit must be tied to the increase in intensity.

2. Proposed structures should not be overbearing to the immediate vicinity but rather be compatible with adjacent land uses and the mass and orientation of existing structures across the street from the overlay zone. Thus, a provision shall be incorporated into the ordinance setting back additional stories from the street line similar to existing provisions in the Patchogue Village Zoning Law that set back each story by an additional one foot from the property line for each foot exceeding the height of the underlying zoning district. Moreover, the width of the street should factor into the ultimate mass and height for any one structure or group of structures. For example, North Ocean Avenue is a narrow street at its intersection with West Main Street. Structures greater than 45 to 50 feet may be imposing to the street-scape and cause a narrow canyon effect with associated wind, light, sociological or other adverse effects. At a minimum, the Village must undertake a street to building mass analysis to determine the impact of high-rise structures along the affected road corridors.

3. The proposed DRD shall specify the manner in which the required workforce housing units will be maintained with respect to monitoring, term and eligibility.

   The current ordinance fails to specify a term during which the units must be maintained as affordable thus, allowing the units to be flipped or resold at market rate in the immediate future. In addition, the ordinance should include a monitoring program in order to insure compliance with the program into the future. This will insure that the affordable units are occupied by those individuals previously qualified, that the units continue to be maintained at the prescribed affordable rate and that the designated units are maintained in perpetuity or pursuant to the timeframe established under the program. It is also important to insure that the affordable rates are set and maintained below the market rates for the Village. The proposed limit of 120% of median income may permit the rental rate to exceed local market rates undermining the intent of the program.

4. If, as envisioned in the conceptual development plan, the two targeted blocks of the DRD are redeveloped, it is important that Havens Avenue be realigned to meet Jennings Avenue to the north and Railroad Avenue to the South. The proposed DRD ordinance should speak to the aligning of these roadways. It is important to note that full build out of the DRD would require the signalization of the following three (3) unsignalized intersections: North Ocean Avenue at Oak Street; North Ocean Avenue at Lake Street; and Holbrook Road at Lake Street. Further analysis of improvements to the roadway network would be warranted in the impact analysis of the proposed DRD overlay.

5. The environmental quality review of the proposed DRD shall be expanded to assess the cumulative impact of other recent and contemplated projects in Patchogue and the potential for the DRD to expand in the future. Environmental review for the proposed DRD ordinance is vague on the cumulative effects of the development of this target area in conjunction with other high density residential projects in the Village. The commission is aware of three recently completed high density attached residential projects in the area, only one of which is fully occupied. In addition, one high density project is under construction on the west side of Patchogue River and one is contemplated on the east side of the River along West Avenue. Another high density residential/artist commercial space is also proposed. Review of these projects must be done comprehensively in order to adequately consider potential cumulative impacts on transportation networks, sewer capacity, water supply growth inducing aspects on public services, etc and to avoid segmentation under SEQRA.

6. The proposed treatment of sanitary waste shall comply in all respects with applicable State and County Requirements.

7. The proposed Downtown Revitalization District shall incorporate a Floor Area Ratio (FAR) standard along with density (units per acre) and basic setback requirements.

8. The proposed DRD ordinance shall provide for the incorporation of LEED (Leadership in Energy Efficient Design) standards for energy efficiency.

COMMENTS Regarding Issues that Warrant Further Consideration Prior to the Adoption of the Amendment:

1. Overall, the proposed DRD ordinance makes no provisions for the analysis of or standards for access to light (shadowing effects) and air circulation considering the allowance of mixed use, high rise structures in the overlay zone. Therefore, shadowing due to increased building heights associated with increases in density should be carefully addressed prior to adoption of the amendment.

2. The proposed ordinance states that the Village of Patchogue Downtown Business District Analysis report (Suffolk County, 2002) recommends high density housing immediately west of the old Swezey's site (page 25). However, the authors of the EAF are accidentally confusing the County recommendation for high density housing west of the new Swezey's site (Briarcliff College) with the old Swezey's site (see page 56 of the County 2002 report).

3. The Architectural Design section of the proposed DRD ordinance should account for the historic district provision of the Village Zoning Law wherein all the properties within the Village, with the exception of A Residential, are within a Historic District. The proposed overlay zone is in the Historic District and the DRD ordinance should account for the tradition in proportions, primary materials and building mass variation that characterize the Village of Patchogue.

4. Greater attention should be paid to Smart Growth parameters with respect to pedestrian circulation and amenities. Walkablility within and without the site should be characterized in the ordinance and requirements for pedestrian lighting, pocket parks, benching etc. should be accounted for.

5. Motor Vehicle parking requirements within the proposed DRD ordinance appear to be rather lax without the benefit of a requirement for reductions in motor vehicle trip generation in the ordinance. The DRD ordinance makes no mention of an analysis of mixed-use projects and their parking requirements nor does the DRD ordinance place the burden on an applicant to demonstrate parking demand and turnover. Deriving the standards for parking requirements in mixed-use projects can be a complex and variable process. The calculations must not only reflect the variables that affect parking demand for each component use, but also recognize the inherent fact that the total peak parking demand for a mixed-use project will likely be less than the sum of the peak demand values for each component land use. Having said that, the village should address and reference studies and manuals dedicated to shared parking methodology and provide a systematic way to apply appropriate adjustments to parking ratios for each use in a mixed-use development. It is recommended that the following DRD parking standards be minimally adjusted to the following:

Existing DRD Requirement	Amended DRD Requirement
Multi-Family residential: 1space per unit	1.75/unit
Retail and office use: 1 space per 250 sq. ft.	ok
Hotel uses: 1 space/2 guest rooms	
All other uses as determined by Trustees	Full Service Hotel and customary accessory uses, excluding conference centers and restaurants: 1.08 per room Business Hotel: 1.25/room Restaurants and coffee houses: 3.72/sq. ft. Office as principal non-accessory use 3.8/1000 sq. ft.

6. The proposed DRD amendment is more appropriately termed a zoning "overlay" district since it will apply to a specific geographic area. A "floating" zoning district is applied *anywhere* within a municipal

jurisdiction provided specific location, geographic or performance standards enumerated in the ordinance can be met by a proposed structure.

Motion by: Commissioner Esposito Seconded by: Commissioner Fiore

Commission Vote: Present – 9

Ayes	9
Nays	0
Abstentions	0

Dated: April 2, 2008
L.I. Horticulture Research & Extension Center, Riverhead, NY
Suffolk County Planning Commission

Inc. Village of Patchogue

Z-1

File No.: Pa-08-01

COMMISSION ACTIONS ON ADOPTION OF RESOLUTION

	AYE	NAY	ABSTAIN	ABSENT
BOLTON, CHARLA, At-Large	✓			
BRAUN, ROBERT, Smithtown	✓			
CALONE, DAVID, Town of Babylon	✓			
CARACCIOLO, JOHN, Town of Huntington				✓
ESPOSITO, ADRIENNE, Villages over 5,000	✓			
FIORE, DONALD, Town of Islip	✓			
GOODALE, JESSE R. III, Town of Riverhead				✓
HOLMES, LINDA, Town of Shelter Island	✓			
KONTOKOSTA, CONSTANTINE, Vill. Over 5,000				✓
LANDSDALE, SARAH, At-Large				✓
MC ADAM, THOMAS, Town of Southold	✓			
PRUITT, EDWARD, Town of Brookhaven	✓			
ROBERTS, BARBARA, Town of Southampton	✓			

Motion: Commissioner Esposito

Present: 9

Seconded: Commissioner Fiore

Absent: 4

Voted: 9

Abstentions: _____

DECISION: Conceptual approval/cond.
Change from committee conditions
#'s 3, 4, 6, 11

Add
#13 Sewage State & Cty requirements as conditions
#14 FAR lot occupancy & density standards

COUNTY OF SUFFOLK **Z-3**

STEVE LEVY
SUFFOLK COUNTY
EXECUTIVE

DEPARTMENT OF PLANNING

THOMAS A. ISLES, A.I.C.P.
DIRECTOR OF PLANNING

STAFF REPORT
SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Downtown Patchogue Re-Developers, LLC
Municipality: Village of Patchogue
Location: Downtown Patchogue

Received: 4/2/09
File Number: Pa-09-02
T.P.I.N.: 0204 00900 0500 014000 et al
Jurisdiction: Within 500' of land of County of Suffolk/shoreline and CR19

ZONING DATA

- Zoning Classification: Downtown Redevelopment District (DRD)
- Minimum Lot Area: 1.75 acres
- Section 278: No
- Obtained Variance: N/A

SUPPLEMENTARY INFORMATION

- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: Yes
- Property has Historical/Archaeological Significance: Yes
- Property Previously Subdivided: N/A
- Property Previously Reviewed by Planning Commission: No
- SEQRA Information: Yes
- SEQRA Type Expanded EAF
- Minority or Economic Distressed No

SITE DESCRIPTION

- Present Land Use: Commercial
- Existing Structures: Commercial
- General Character of Site: Commercial/Mixed-use
- Range of Elevation within Site: N/A
- Cover: Buildings, Asphalt
- Soil Types: CU
- Range of Slopes (Soils Map): 0-3%
- Waterbodies or Wetlands: Patchogue Lake with 500'

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: Mixed Use PDD
- Layout: Standard
- Area of Tract: 8.87 Acres
- Yield Map:
  - No. of Lots: 0
  - Lot Area Range: N/A
- Open Space: N/A

ACCESS

- Roads: Montauk Highway, North Ocean avenue, Lake Street, Havens Avenue
- Driveways: N/A

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
  - Design of System: CB-LP
  - Recharge Basins No
- Groundwater Management Zone: VI
- Water Supply: Public
- Sanitary Sewers: Public

PROPOSAL DETAILS

OVERVIEW - The subject referral involves a Change of Zone from D2 Business District and D3 Business District to Downtown Redevelopment District (DRD) along with Site Plan Approval in order to allow for the development of a mixed-use project including 240 residential units, a 111 room hotel and 28,460 square feet of retail space. A Referral also involves a variance in connection with a relaxation of parking.

LOCATION - The subject site consists of several parcels located on the north side of west Main Street, west of North Ocean Avenue, and south of Lake Street in the Village of Patchogue.

ACCESS - Access to the subject development is proposed via West Main Street, North Ocean Avenue, Lake Street and Havens Avenue.

ENVIRONMENTAL CONDITIONS - The target area is situated in Hydrogeologic Ground Water Management Zone VI pursuant to Article 6 of the Suffolk County Sanitary Code. The target area is not located in a Special Groundwater Protection Area (SGPA). The subject area is located in the Coastal Zone Area South State Critical Environmental Area. No local, state or federally regulated wetlands occur on site however, mapped, freshwater wetlands and surface waters associated with Patchogue Lake are located to the northwest.

COMPREHENSIVE PLAN RECOMMENDATIONS - The Village of Patchogue has not adopted a Comprehensive Master Plan. However, the Suffolk County Planning Department has prepared several planning studies for the village, some elements of which have been adopted by the village. Suffolk County Planning Studies for the Incorporated Village of Patchogue include: 1969. Village of Patchogue Traffic and Parking Study; 1979 Village of Patchogue Planning Study; 1999. Patchogue River Maritime Center Plan; 2002.Village of Patchogue Downtown Business District Study.

The 2002 Downtown Business District Study made several recommendations including:

1. The Village's existing zoning code be amended to encourage mixed-use development with emphasis on retail uses on the first floor
2. Lots be permitted to be assembled, in certain cases, to allow for better planned commercial or mixed uses;
3. The Village consider "Smart Growth" principles in redevelopment
4. Redevelopment or new commercial development in the core of the business district include ground-floor retail, with office or residential uses above;
5. In-fill development be encouraged, to close the gaps in the core of the business district;
6. Buildings on the north side of Main Street and west side of North Ocean Avenue be refurbished or razed and rebuilt, and the first floor of any new buildings on such sites house retail and services businesses; and
   Building sites be redeveloped with hotel, condominium, office and other business uses, which would be within walking distance of the Patchogue Theatre and the downtown area, and would also be accessible to the marinas, the railroad station and the ferries of the Patchogue River.

STAFF ANALYSIS

The Commission previously reviewed the Village's request to amend its Code by the adoption of the Downtown Redevelopment District (DRD). This application was conditionally approved by the Commission with a combination of both conditions and comments. The subject Referral involves a request to rezone an assemblage of properties within the downtown to the newly created DRD zoning category along with site plan approval.

The proposed development plan involves 13 parcels along with the abandonment of a portion of Havens Avenue between West Main Street and Lake Street. The 13 parcels along with a portion of Havens Avenue total approximately 4.82 acres. The application also involves the redevelopment of a 0.51 acre parcel located on the north side of Lake Street for surface parking. A total of 433 parking spaces are proposed in connection with the development plan. The applicant is proposing to reserve 214 parking spaces for the hotel and residential units with the remaining 219 spaces to be dedicated to the Village.

The application involves the development of a mixed-use project including 240 residential units, a 111 room hotel and 28460 square feet of commercial (retail/restaurant) space. Thirty percent (30%) or 72 of the residential units are proposed to be set aside as workforce housing units. The height of the proposed development varies between 3-6 stories along West Main Street. The proposed height of the development along Lake Street to the north is five (5) stories.

The application has been scaled down considerably from the original referral. However, the 3-6 story average height of the development is still significantly more intense than the average 2-3 story development pattern within the Village.

The immediate impact the proposed increase in density will have on the Village should be carefully considered with respect to sewer capacity, parking availability and development character or scale. The long term impact of the proposed increase in development intensity should also be carefully considered by the Village.

A second general concern can be found in the fact that the proposed increase in density is not tied to the transfer of development rights or the preservation of open space. While higher density development may be appropriate in downtown settings, increases in density which are not tied to the transfer of development rights have the potential to promote sprawl.

Specific concerns include the adequacy of the proposed 214 parking spaces to accommodate the 240 residential units along with the proposed 111-room hotel.

STAFF RECOMMENDATION

Approval with the following conditions:

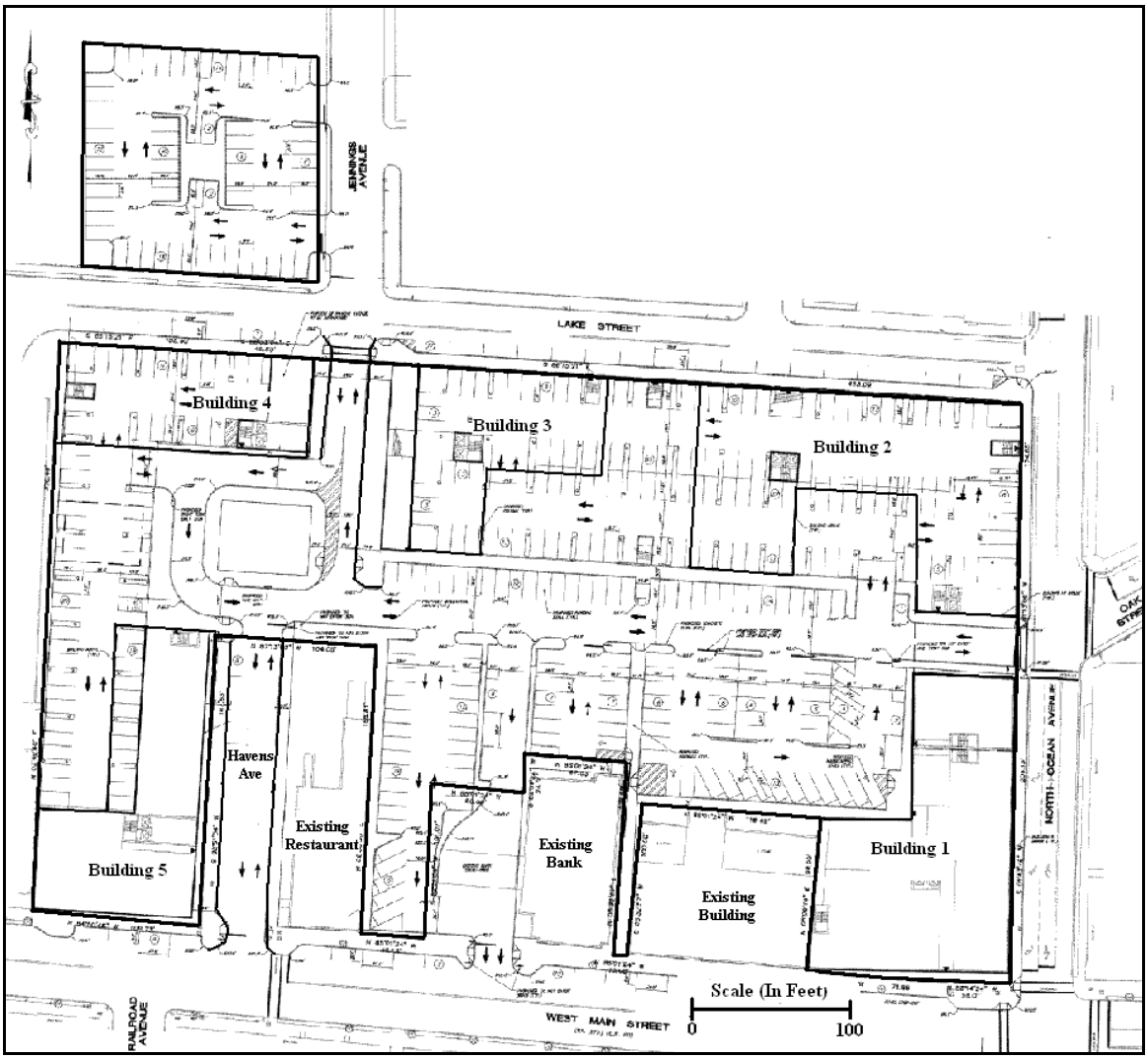
1. The Village should carefully consider the precedent-setting nature of the proposed Change of Zone in order to insure that the increased scale of development is consistent with community character. In addition, the Village should carefully analyze potential impacts to existing infrastructure including sewers.

2. The Village should carefully consider the adequacy of the proposed parking plan. The proposed 214 parking spaces reserved for the 111-room hotel and 240 unit residential development would appear to be problematic.

3. The Village should consider tying increases in density to the transfer of development rights in order to reduce sprawl, protect environmental quality and revitalize downtowns. Significant increases in development not tied to the transfer of development rights have the potential to result in high density sprawl.

4. The Village should consider a diversity of residential unit types, including owner-occupied units, in order to better meet community needs.

Z-3: Downtown Patchogue Redevelopment LLC
SCPD No.: Pa-09-02
SCTM No.: 0204-009.00-05.00-014.000 et al



Z-3: Downtown Patchogue Redevelopment LLC
SCPD No.: Pa-09-02
SCTM No.: 0204-009.00-05.00-014.000 et al

File No. Pa-09-02

Resolution No. ZSR-09-21 of the Suffolk County Planning Commission
Pursuant to Sections A 14-14 to 23 of the Suffolk County Administrative Code

WHEREAS, pursuant to Sections A 14-14 to 23 of the Suffolk County Administrative Code, a proposed zoning action was received at the offices of the Suffolk County Planning Commission on 4/2/09, with respect to the application of **"Downtown Patchogue Re-Developers, LLC"**, located Downtown in the Village of Patchogue,

WHEREAS, said application was considered by the Suffolk County Planning Commission at its meeting on May 6, 2009 and now therefore, Be it

RESOLVED, that the Suffolk County Planning Commission hereby approves and adopts the report of its staff, as may be amended, as the report of the Commission, Be It Further

RESOLVED, the proposed application **Approved** with the following comments:

1. The Village should carefully consider the precedent-setting nature of the proposed Change of Zone in order to insure that the increased scale of development is consistent with community character. In addition, the Village should carefully analyze potential impacts to existing infrastructure including sewers.

2. The Village should carefully consider the adequacy of the proposed parking plan. The proposed 214 parking spaces reserved for the 111-room hotel and 240 unit residential developments would appear to be problematic.

3. The Village should consider including energy efficient design standards within the proposed development consistent with the Suffolk County Planning Commission Guidelines.

4. The Village should consider a diversity of residential unit types, including owner-occupied units, in order to better meet community needs.

Motion by: Commissioner Roberts

Seconded by: Commissioner Esposito

Commission Vote: Present – 12

Ayes - 11
Nays - 0
Abstentions – 1 (Mike Kelly)

Dated: May 6, 2009

Islip Town Board Room, 655 Main Street in Islip, New York
Suffolk County Planning Commission

Z-3
DOWNTOWN PATCHOGUE REDEVELOPMENT

Reso 09-21 ✓

File No.: Pa - 09-02

COMMISSION ACTIONS ON ADOPTION OF RESOLUTION

	AYE	NAY	ABSTAIN	ABSENT
SARAH LANSDALE, At-Large	✓			
CHARLA BOLTON, At-Large	✓			
ROBERT BRAUN, Smithtown	✓			
BARBARA ROBERTS, Town of Southampton	✓			
JOHN CARACIOLLO, Town of Huntington	✓			
LINDA HOLMES, Town of Shelter Island	✓			
ADRIENNE ESPOSITO, Villages over 5,000	✓			
DAVID CALONE, Town of Babylon	✓			
CONSTANTINE KONTOKOSTA, Vill. Over 5,000	✓			
VINCENT TALDONE, Town of Riverhead	✓			
JOSHUA HORTON, At-Large	✓			
TOM MC ADAM, Town of Southold				(A)
MICHEAL KELLY, Town of Brookhaven			✓	
JOSPEH POTTER, Town of East Hampton				(A) Left 2:00

Motion: Commissioner Robins

Seconded: Commissioner Esposito

Voted: 11

Present: 12

Absent: 2

Abstentions: Mike Kelly (recused) (1)

DECISION: approval w/ cond Comments

vote 8/3 eliminate 3

Comment - remove TDR

COUNTY OF SUFFOLK **Z-3**

STEVE LEVY
SUFFOLK COUNTY
EXECUTIVE

DEPARTMENT OF PLANNING

THOMAS A. ISLES, A.I.C.P.
DIRECTOR OF PLANNING

STAFF REPORT
SECTIONS A14-14 THRU A14-25 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

ADDENDUM

Applicant: New Village Patchogue (aka Downtown Patchogue Re-Developers, LLC)
Municipality: Village of Patchogue
Location: Downtown Patchogue

Received: 11/15/10
File Number: Pa-09-02
T.P.I.N.: 0204 00900 0500 014000 et al
Jurisdiction: Within 500' of land of County of Suffolk/shoreline and CR19

ZONING DATA

- Zoning Classification: Downtown Redevelopment District (DRD)
- Minimum Lot Area: 1.75 acres
- Section 278: No
- Obtained Variance: N/A

SUPPLEMENTARY INFORMATION

- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: Yes
- Property has Historical/Archaeological Significance: Yes
- Property Previously Subdivided: N/A
- Property Previously Reviewed by Planning Commission: No
- SEQRA Information: Yes
- SEQRA Type Expanded EAF
- Minority or Economic Distressed No

SITE DESCRIPTION

- Present Land Use: Commercial
- Existing Structures: Commercial
- General Character of Site: Commercial/Mixed-use
- Range of Elevation within Site: N/A
- Cover: Buildings, Asphalt
- Soil Types: CU

- Range of Slopes (Soils Map): 0-3%
- Waterbodies or Wetlands: Patchogue Lake with 500'

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: Mixed Use PDD
- Layout: Standard
- Area of Tract: 8.87 Acres
- Yield Map:
  - No. of Lots: 0
  - Lot Area Range: N/A
- Open Space: N/A

ACCESS

- Roads: Montauk Highway, North Ocean avenue, Lake Street, Havens Avenue
- Driveways: N/A

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
  - Design of System: CB-LP
  - Recharge Basins No
- Groundwater Management Zone: VI
- Water Supply: Public
- Sanitary Sewers: Public

PROPOSAL DETAILS

ADDENDUM

Petitioner has submitted an application to the Patchogue Board of Trustees to modify prior approvals granting a mixed use development consisting of 240 residential units, 28,460 SF of retail space, a 111 room hotel and associated parking and appurtenances situate on 4.87 acres of land. Referral to the Suffolk County Planning Commission includes a petition by the applicant to modify the approvals in that the hotel component has been eliminated and 51 residential units, 7,689 SF of retail space and a sub-surface parking area have been added. The proposed action now consists of:

291 residential units
36,149 SF of retail space
Redevelopment of lot 44 with surface parking, and
Improvements to Havens Avenue

The resultant changes to the proposed action also include a reduction in height of the tallest of the proposed buildings to 5 stories. Issues from the staffs perspective remain similar to the prior referral (see prior staff report 5/6/09; Pa-09-02. attached).

STAFF RECOMMENDATION

Approval with the following comments:

1. The Village should carefully consider the precedent-setting nature of the proposed Change of Zone in order to insure that the increased scale of development is consistent with community character. In addition, the Village should carefully analyze potential

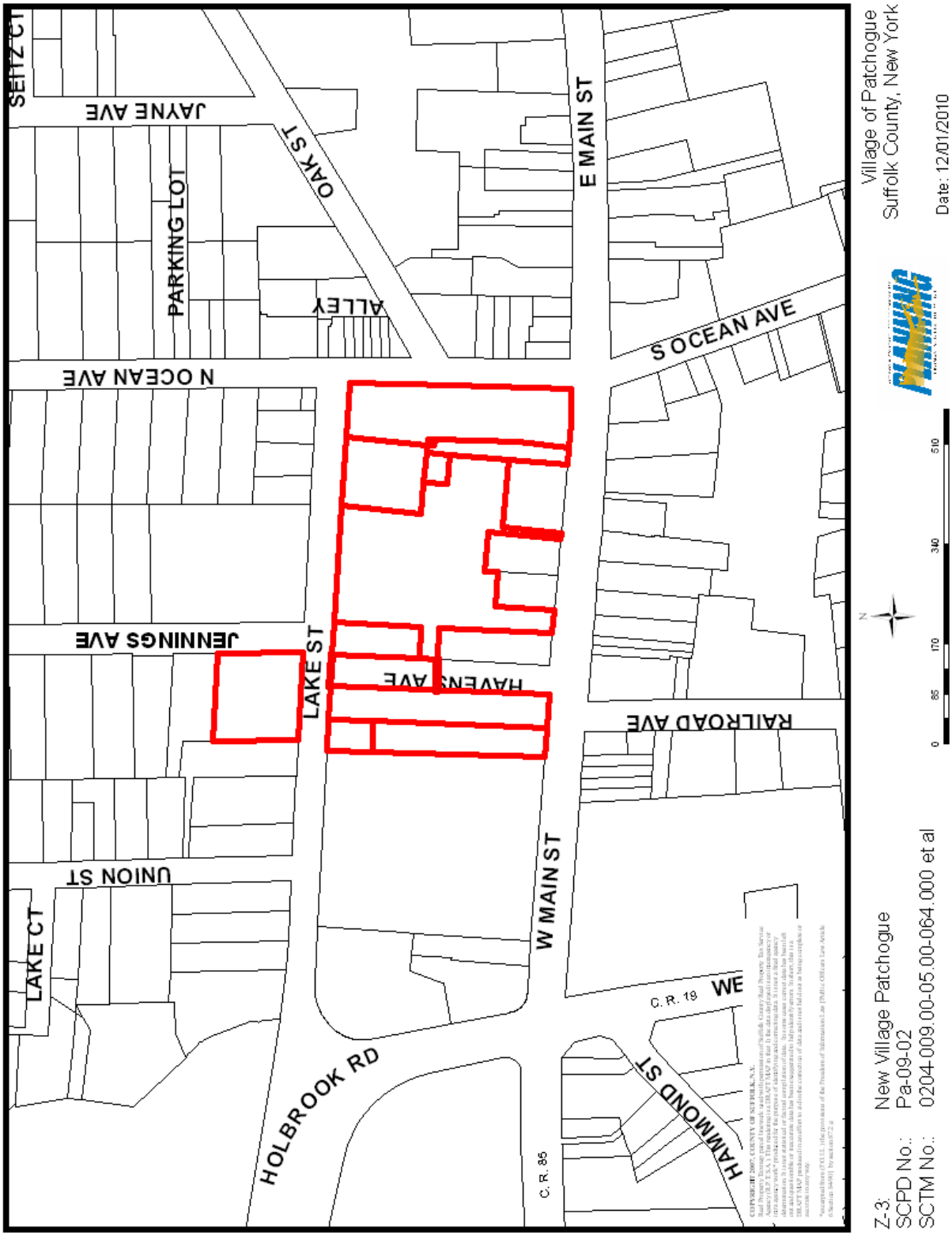
impacts to existing infrastructure including sewers.

2. The Village should carefully consider the adequacy of the proposed parking plan. The proposed 214 parking spaces reserved for the 111-room hotel and 240 unit residential developments would appear to be problematic.

3. The Village should consider energy efficient design standards within the proposed development consistent with the Suffolk County Planning Commission Guidelines.

4. The Village should consider public safety and Universal Design Standards within the proposed development consistent with the Suffolk County Planning Commission Guidelines.

5. The Village should consider a diversity of residential unit types, including owner-occupied units, in order to better meet community needs.


SEITZ CT
JAYNE AVE
PARKING LOT
OAK ST
ALLEY
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HAVENS AVE
RAILROAD AVE
UNION ST
LAKE CT
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HAMMOND ST
HOLBROOK RD
C. R. 85
Village of Patchogue
Suffolk County, New York
Date: 12/01/2010
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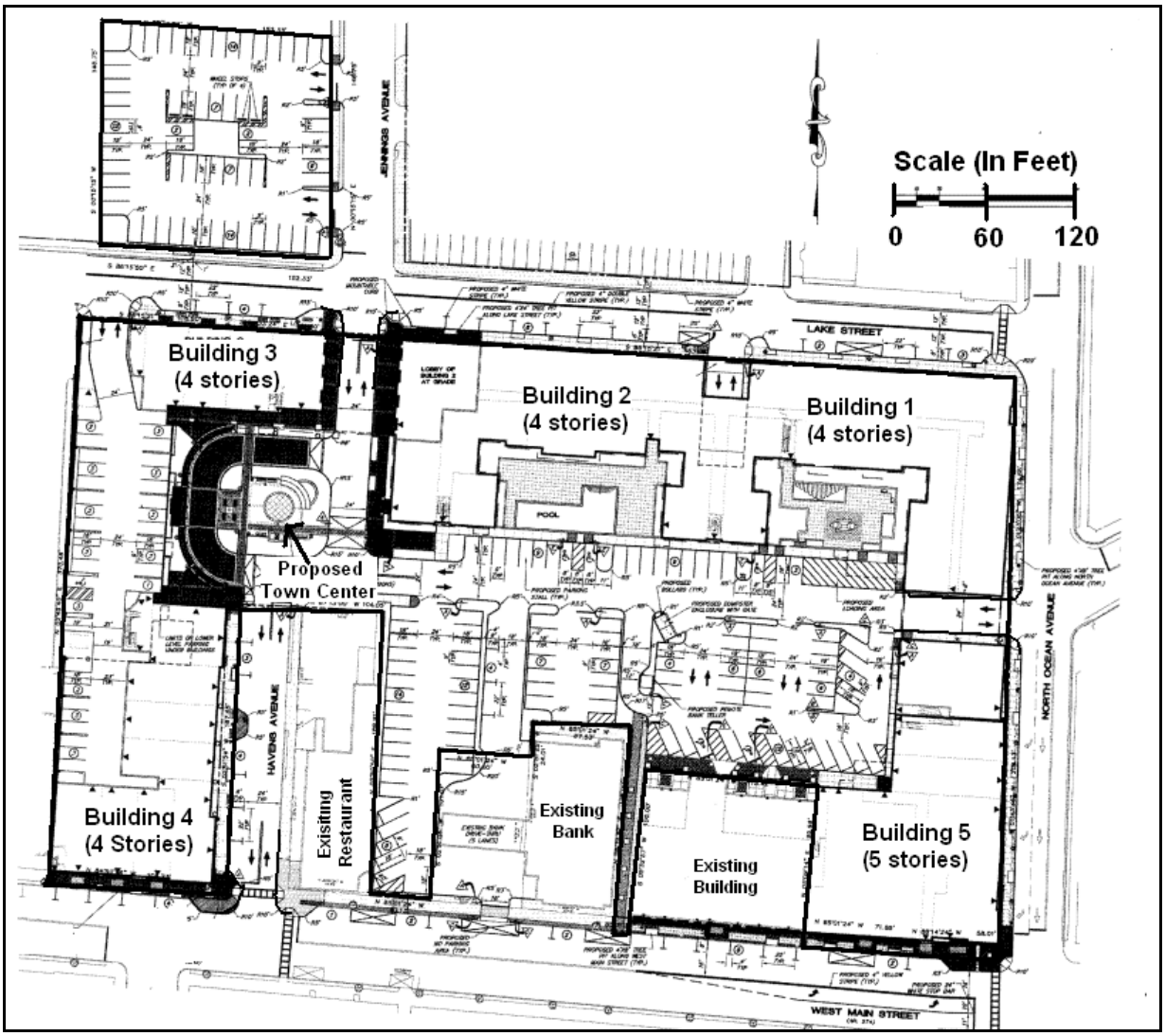
SCPD No.:
SCTM No.:
New Village Patchogue
Pa-09-02
0204-009.00-05.00-064.000 et al



Z-3: New Village Patchogue
SCPD No.: Pa-09-02
SCTM No.: 0204-009.00-05.00-064.000 et al

Resolution No. ZSR-10-42 of the Suffolk County Planning Commission
Pursuant to Sections A14-14 to thru A14-25 of the Suffolk County Administrative Code

WHEREAS, pursuant to Sections A14-14 thru A14-25 of the Suffolk County Administrative Code, a proposed zoning action was received at the offices of the Suffolk County Planning Commission on November 15, 2010, with respect to the application of **"New Village Patchogue"** located Downtown Patchogue

WHEREAS, said application was considered by the Suffolk County Planning Commission at its meeting on December 1, 2010 now therefore, Be it

RESOLVED, that the Suffolk County Planning Commission hereby approves and adopts the report of its staff, as may be amended, as the report of the Commission, Be it further

RESOLVED, pursuant to Section 239-m 6. of the General Municipal Law, and section A14-16 of the Suffolk County Administrative Code, the referring municipality within thirty (30) days after final action, shall file a report with the Suffolk County Planning Commission, and if said action is contrary to this recommendation, set forth the reasons for such contrary action, Be it further

RESOLVED, that the Suffolk County Planning Commission **Approves** said application subject to the following condition and comments:

Condition:

1. The Village shall consider energy efficient design standards within the proposed development consistent with Suffolk County Planning Commission Guidelines.

Comments:

1. The Village should carefully consider the precedent-setting nature of the proposed Change of Zone in order to insure that the increased scale of development is consistent with community character. In addition, the Village should carefully analyze potential impacts to existing infrastructure including sewers.

2. The Village should consider public safety and Universal Design Standards within the proposed development consistent with the Suffolk County Planning Commission Guidelines.

3. The Village should consider a diversity of residential unit types, including owner-occupied units, in order to better meet community needs.

Please Note:

- The Suffolk County Planning Commission Guidebook for policies and guidelines can be found on the internet at the below website address:
  http://www.suffolkcountyny.gov/Home/departments/planning/Publications%20and20Information.aspx#SCPC
  A copy of the Suffolk County Planning Commission Guidebook is also included with this letter.

Motion by: Commissioner Bolton

Seconded by: Commissioner Holmes

Commission Vote: Present – 13

Ayes -11
Nays - 0
Recusal – Commissioner Kelly & Commissioner Weir

COMMISSION ACTIONS ON ADOPTION OF RESOLUTION

	AYE	NAY	ABSTAIN	ABSENT
BOLTON, **CHARLA** At-Large	X			
CALONE, **DAVID** Town of Babylon	X			
CHARTRAND, MATTHEW Town of Islip	X			
ESPOSITO, ADRIENNE Villages over 5,000	X			
FINN, JOHN Town of Smithtown	X			
HOLMES, **LINDA** Town of Shelter Island	X			
HORTON, JOSHUA At-Large	X			
KELLY, MICHAEL Town of Brookhaven	Recusal			
KONTOKOSTA,**CONSTANTINE** Vill.Under 5,000	X			
LANSDALE, SARAH Town of Huntington				X
MC ADAM, TOM Town of Southold	X			
ROBERTS, **BARBARA** Town of Southampton	X			
TALDONE, VINCENT Town of Riverhead	X			
WEIR, DIANA, Town of East Hampton	Recusal			

Dated: December 1, 2010
Location: Maxine S. Postal Auditorium of the Evans K. Griffing Building at 300 Center Drive in the Town of Riverhead

COUNTY OF SUFFOLK **Z-1**

STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PLANNING

SARAH LANSDALE, AICP
DIRECTOR OF PLANNING

STAFF REPORT
SECTIONS A14-14 THRU A14-25 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Village of Patchogue Moratorium on Development
Municipality: Village of Patchogue
Location: D-1, D-2 & D-3 Business Districts & any floating zones

Received: 5/4/2011
File Number: Pa-11-01
Jurisdiction:

- Local Law
- Zoning Code Amendment

PROPOSAL DETAILS

OVERVIEW - Application on the Patchogue Village Board of Trustee's own motion for approval of Resolution #78-2011 for a local law to enact a six month (180 day) moratorium on the construction of new apartment houses, garden apartments, townhouses, residential uses and buildings over three stories tall in the D-1, D-2, and D-3 Business Districts and any "floating" districts (Downtown Redevelopment District)". It is further stated that the purpose of the local law to "allow the Village of Patchogue time to evaluate and consider the impact of the Downtown Patchogue Redevelopers, LLC project in the DRD District, upon the parking, health, safety and general welfare of the community of the Village of Patchogue and effectuate a solution and/or comprehensive plan to address the future residential density and construction in the primary business zoning districts of the Village."

LOCATION - Applicable to all properties in the D-1, D-2 and D-3 districts and any floating districts within the confines of the approximate 2.2 square mile Village of Patchogue.

An analysis of the character of the area indicates that affected lands include properties along Waverly Avenue (CR 19), West Main Street (NYS Rte. 27A) and River Avenue (CR 65) to the west, easterly to the core business district along Main Street (local street) to East Main Street (NYS Rte. 27A) and Medford Avenue (NYS Rte. 112) at the eastern village boundary.

The land uses within the moratorium area are generally in compliance with the permitted uses in the business zoning categories and includes retail, personal service stores, restaurants, offices, apartment houses etc.

STAFF ANALYSIS

The proposed local law prohibits any village official to accept for filing any application for a building permit and prohibits the Board of Trustees, Village Board of Zoning Appeals and Village Planning Board from granting any approvals, preliminary or final, for site plan or subdivision, special approval or special permit, variance or other permission. The local law also prohibits the Building Inspector and Coded Enforcement Officer from issuing any building or other permit for any construction or use relating to new apartment houses, garden apartments, town houses, residential uses and buildings over three stories tall. It is noted that Site plans approved prior to enactment of the moratorium are exempt.

A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends the rights of land owners to use their property. From the perspective of the Suffolk County Planning Commission a limited or narrowly scoped moratorium generally does not involve regional or inter-community impacts of an adverse nature and generally are considered matters for local determination. The Suffolk County Planning Commission has published guidance on the structure and content of moratoria (see attached SCPC Advisory News: Moratorium on Development). The moratorium should be tied to a legitimate comprehensive planning initiative such as the completion of zoning or master plan updates. Where possible the moratorium should be limited and allow for the due process of applications and assure the proper balance between property rights and community planning.

The referred Local Law would be strengthened if it indicated if the Village investigated whether there are any alternatives less burdensome on property owners then the proposed moratorium. It should indicate what recent circumstances have occurred that justify the adoption of the moratorium. It is noted that. The proposed local law states that the purpose to "allow the Village of Patchogue time to evaluate and consider the impact of the Downtown Patchogue Redevelopers, LLC project in the DRD District, upon the parking, health, safety and general welfare of the community of the Village of Patchogue and effectuate a solution and/or comprehensive plan to address the future residential density and construction in the primary business zoning districts of the Village." It is the belief of the staff that such an analysis would have been most appropriate in the SEQRA analysis of the proposed DRD district and the Downtown Redevelopers, LLC project.

The proposed moratorium is intended to be six months in duration. In that time the Village proposes to carefully consider the village's "comprehensive plan" and "put together or update a good community plan." The Local Law does not indicate how serious or urgent are the circumstances warranting the moratorium are or what hard evidence there is to support the necessity of the moratorium other than to suggest that "demand for a particular use of land may arise for which there are inadequate controls or which require a more concentrated analysis of the surrounding zoning district than may be permitted under the current zoning laws."

Section 6 of the Local Law, "Alleviation of Hardship," as written allows for too much subjectivity and should be strengthened to include:

- The issuance of a building permit derived from prior site plan approval or Village Board of Trustee approval prior to the effective date of the moratorium.
- Submission of proof of hardship. Hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a building permit, site plan, variance, or other approval during the period of the moratorium.
- Substantive requirements. No relief shall be granted hereunder unless the Village Board of Trustees shall specifically find and determine and shall set forth in its resolution granting such hardship that:

- Failure to grant a hardship to the petitioner will cause the petitioner undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the granting of the exemption; and

- Petitioners circumstances are different from any other member of the community to the extent the petitioner is burdened by the moratorium substantially greater than any other member of the community; and

- Grant of the hardship will clearly have no adverse effect upon any of the Villages goals or objectives enumerated in the moratorium; and

- The project or activity for which the petitioner seeks a hardship will be in harmony with the existing character of the Village as a whole and the area of the Village in which the affected land is located, and will be consistent with any interim data, recommendations, or conclusions which may be drawn from any community planning effort then in progress or under review.

STAFF RECOMMENDATION

It is the belief of the staff that the proposed amendment should be **approved subject to the following conditions:**

1. The Purpose/Legislative Intent section (Section 1.) of the Local Law shall be revised to include additional findings:

   Reason: The referred Local Law would be strengthened if it indicated if the Village investigated whether there are any alternatives less burdensome on the property owner then the proposed moratorium. It should indicate what recent circumstances have occurred that justify the adoption of the moratorium. The Local Law does not indicate how serious or urgent are the circumstances warranting the moratorium are or what hard evidence there is to support the necessity of the moratorium.

2. Section 6 of the Local Law, "Alleviation of Hardship," as written allows for too much subjectivity and shall be strengthened to include:

   - The issuance of a building permit which obtained prior site plan approval or Village Board of Trustee approval prior to the effective date of the moratorium.
   - Submission of proof of hardship. Hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a building permit, site plan, variance, or other approval during the period of the moratorium.
   - Substantive requirements. No relief shall be granted hereunder unless the Village Board of Trustees shall specifically find and determine and shall set forth in its resolution granting such hardship that:

     - Failure to grant a hardship to the petitioner will cause the petitioner undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the granting of the exemption; and

- Petitioners circumstances are different from any other member of the community to the extent the petitioner is burdened by the moratorium substantially greater than any other member of the community; and

- Grant of the hardship will clearly have no adverse effect upon any of the Villages goals or objectives enumerated in the moratorium; and

- The project or activity for which the petitioner seeks a hardship will be in harmony with the existing character of the Village as a whole and the area of the Village in which the affected land is located, and will be consistent with any interim data, recommendations, or conclusions which may be drawn from any community planning effort then in progress or under review.

ZONING MAP

ACCORDING TO THE RECORD FILED IN VILLAGE CLERKS OFFICE I HEREBY CERTIFY THAT THIS MAP IS COMPLETE BY THE ADDITION OF ALL CHANGES AND AMENDMENTS SUBSEQUENT TO ITS ORIGINAL ENACTMENT ON AUGUST 3, 1953

CERTIFIED BY _____ VILLAGE CLERK JULY 29, 1963

CERTIFIED BY _____ VILLAGE CLERK AUG. 8, 1978

CERTIFIED BY _____ VILLAGE CLERK OCT. 6, 1980

CERTIFIED BY _____ VILLAGE CLERK OCT. 29, 1982

CERTIFIED BY _____ VILLAGE CLERK JULY 15, 1993

CERTIFIED BY _____ VILLAGE CLERK SEPT. 18, 1975 OCT. 29, 1982 JULY 15, 1993 SEPT. 19, 1967 NOV. 5, 1969 MAY. 11, 1971 JAN. 25, 1973

VILLAGE BOARD

STEPHEN E. KEEGAN
MAYOR

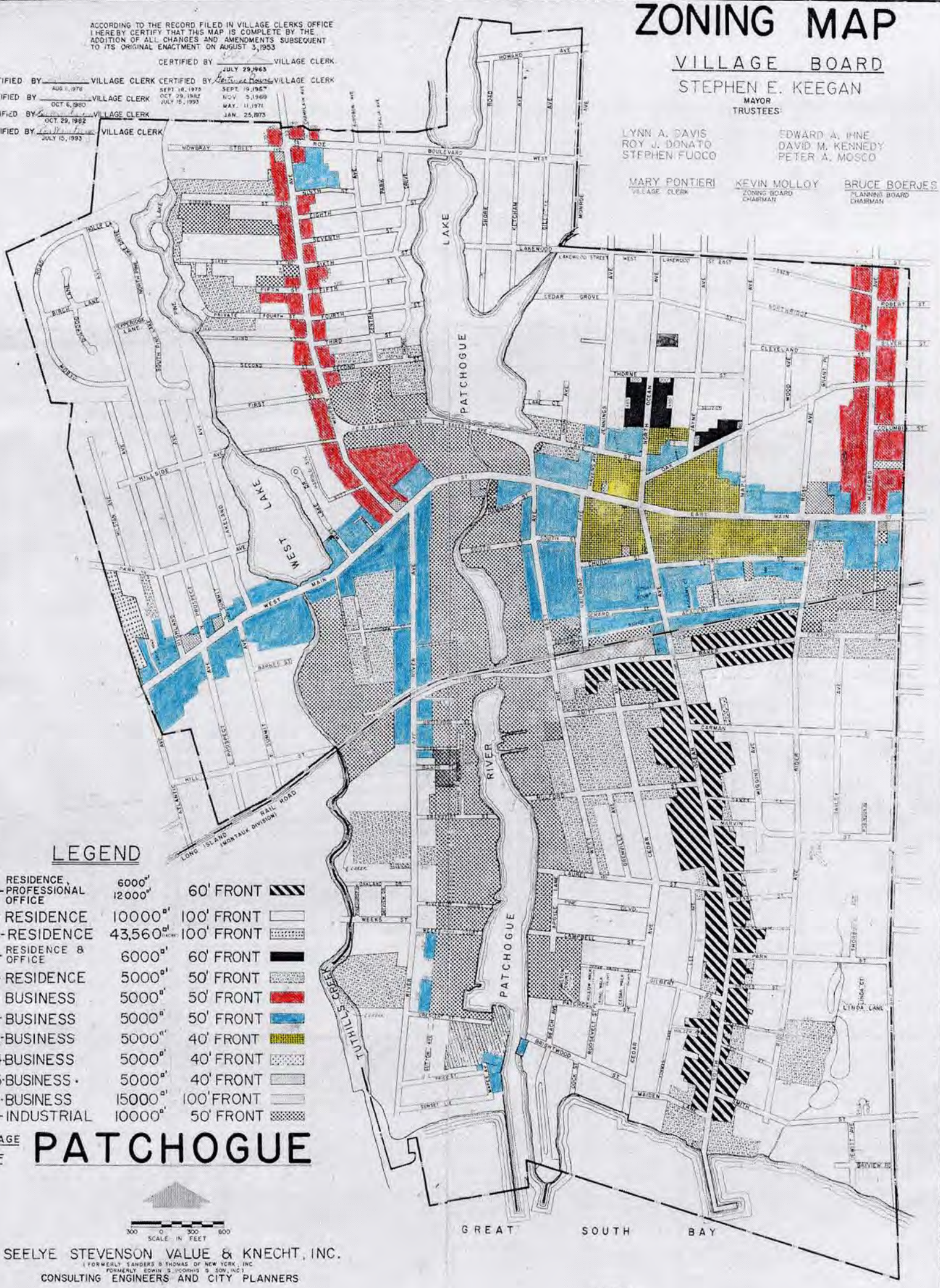
TRUSTEES:

LYNN A. DAVIS
ROY J. DONATO
STEPHEN FUOCO
EDWARD A. IHNE
DAVID M. KENNEDY
PETER A. MOSCO

MARY PONTIERI
VILLAGE CLERK

KEVIN MOLLOY
ZONING BOARD CHAIRMAN

BRUCE BOERJES
PLANNING BOARD CHAIRMAN



LEGEND

RPO-RESIDENCE, PROFESSIONAL OFFICE	6000 sf / 12000 sf	60' FRONT	
A-RESIDENCE	10000 sf	100' FRONT	
RH-RESIDENCE	43,560 sf (1 ACRE)	100' FRONT	
B-RESIDENCE & OFFICE	6000 sf	60' FRONT	
C-RESIDENCE	5000 sf	50' FRONT	
D-1-BUSINESS	5000 sf	50' FRONT	
D-2-BUSINESS	5000 sf	50' FRONT	
D-3-BUSINESS	5000 sf	40' FRONT	
D-4-BUSINESS	5000 sf	40' FRONT	
D-5-BUSINESS	5000 sf	40' FRONT	
H-BUSINESS	15000 sf	100' FRONT	
E-INDUSTRIAL	10000 sf	50' FRONT	

VILLAGE OF PATCHOGUE

300 0 300 600
SCALE IN FEET

SEELYE STEVENSON VALUE & KNECHT, INC.
(FORMERLY SANDERS & THOMAS OF NEW YORK, INC
FORMERLY EDWIN S. PORRIS & SON, INC.)
CONSULTING ENGINEERS AND CITY PLANNERS
PLAINVIEW
NEW YORK

REVISED 4-30-63
REVISED 1-10-65
REVISED 4-9-67
REVISED 11-5-69
REVISED 5-11-71
REVISED 1-25-73
REVISED 9-18-73
REVISED 10-1-75
REVISED 6-7-77
REVISED 8-10-78
REVISED 10-06-80
REVISED 10-29-82
REVISED 2-16-84
REVISED 7-15-93
REVISED 2-16-95
REVISED 10-25-95
REVISED 5-24-97
REVISED 4-30-98

REVISIONS BY:
NORTON BERNARDI SMITH P.C.
149 EAST MAIN STREET
PATCHOGUE, NEW YORK 11772
(516) 475-1049

Mayor
Paul V. Pontieri, Jr.
Deputy Mayor
Stephen J. McGiff
Village Clerk
Patricia M. Seal

Incorporated
Village of Patchogue

Trustees
Gerard J. Crean
Joseph E. Keyes, Jr.
Lori B. Devlin
William Hilton
John A. Krieger

RESOLUTION #78-2011

LOCAL LAW TO ESTABLISH A MORATORIUM ON NEW APARTMENT HOUSES, GARDEN APARTMENTS, TOWNHOUSES, RESIDENTIAL USES AND BUILDINGS OVER THREE STORIES TALL IN THE D-1, D-2 AND D-3 BUSINESS DISTRICTS AND ANY "FLOATING" DISTRICTS.

Be it enacted by the Board of Trustees of the Incorporated Village of Patchogue:

The Code of the Incorporated Village of Patchogue, County of Suffolk, New York, is amended by:

AMENDING Chapter 435 of the Village Code, to add a new Section 435-30.1 which shall read as follows:

[New Language] [~~Language to be Deleted~~]

SECTION 435-31.1

(1) Purpose and Intent. It is the purpose and intent of this Local Law to establish a moratorium on the construction of new apartment houses, garden apartments, townhouses, residential uses and buildings over three stories tall in the D-1, D-2 and D-3 Business Districts and any "floating" districts. It is the further purpose of this law to allow the Village of Patchogue time to evaluate and consider the impact of the Downtown Patchogue Redevelopers, LLC project in the DRD District, upon the parking, health, safety and general welfare of the community of the Village of Patchogue and effectuate a solution and/or comprehensive plan to address the future residential density and construction in the primary business zoning districts of the Village. The objective of the moratorium is to promote community planning values by properly regulating land development in the best interests of the Village. Land use controls work best when built upon a carefully considered comprehensive plan, which takes time to put together or to update a good community plan. During this time, demand for a particular use of land may arise for which there are inadequate controls or which require a more concentrated analysis of the surrounding zoning districts than may be permitted under the current zoning laws.

(2) Zoning District Application. This law shall apply to all properties in the D-1, D-2 and D-3 districts, and any "floating" districts within the confines of the Village of Patchogue.

(3) Scope of Controls. It is hereby prohibited for a period of 180 days from the date of enactment of this local ordinance for any village official to accept for filing any application for a building permit for new apartment houses, garden apartments, townhouses, residential uses and buildings over three stories tall in the D-1, D-2 and D-3 Business Districts and any "floating"

districts and the Board of Trustees, Village Board of Zoning Appeals and Village Planning Board shall not grant any approvals, preliminary or final, for and site plan or subdivision relating thereto or special approval or special permit, variance or other permission for same. The Building Inspector and Code Enforcement Officer shall not issue any building or other permit for any construction or use related to same that would result in a such uses use in the areas designated. Site plans approved prior to this enactment are exempt from the moratorium.

(4) Term. This Local Law shall be in effect for a period of 180 days from its effective date. This Local Law shall be subject to review and renewal by resolution of the Board of Trustees for an additional period of time, effective immediately.

(5) Penalties. Any person, firm or corporation that shall construct, erect, enlarge or alter any building or structures in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by the laws, rules and regulations of the Village for violations; and

B. Injunctive relief in favor of the Village to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction which may have taken place in violation of this Local Law.

(6) Alleviation of Hardship.

A. The Board of Trustees of the Village of Patchogue may authorize exceptions to the moratorium imposed by this local law when it finds, based upon evidence presented to it, that deferral of action on an application for the uses prohibited hereunder, and the deferral of approval of such application for the duration of the moratorium would impose an extraordinary hardship on the landowner or applicant.

B. A request for an exception based upon extraordinary hardship shall be filed with the Village Clerk or designee, and shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the Village Clerk or designee shall prescribe as necessary for the Board of Trustees to be fully informed with respect to the application.

C. A public hearing on any request for an exception based on extraordinary hardship shall be held by the Village Board at the first regular meeting of the Board of Trustees that occurs after the expiration of the period for publication of notice of the request for an exception.

D. In reviewing an application for an exception based upon a claim of extraordinary hardships, the Board of Trustees shall consider the following criteria:.

(1) The extent to which the proposed establishment would cause significant environmental degradation, adversely impact natural resources or cause public health or safety concerns, or adversely impact the community.

(2) The extent to which actions of the applicant were undertaken in a good faith belief that the proposed establishment would not lead to significant environmental degradation, undue adverse impacts on natural resources or public health or safety concerns, or adversely affect the community.

E. At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Board of Trustees shall act upon the request to approve, deny, or approve in part and deny in part the request made by the applicant.

(7) Validity. The invalidity of any provision of this Local Law shall not affect the validity of any other portion of this Local Law which can be given effect without such invalid provision.

(8) Superseding Other Laws.

A. All laws, ordinances, rules and regulations of the Village are modified and superseded by this Local Law with respect to their application to the properties designated under this Local Law for the term of this Local Law.

B. This Local Law shall modify and supersede, with respect to the properties covered by this Local Law and, for the term of this Local Law, the provisions of Article 7 of the Village Law of the State of New York and any other law, rule or regulation inconsistent with this local law.

SEQRA Inapplicable and County Referral
Moratoria are "Type II Actions" under the State Environmental Quality Review Act (SEQRA) regulations, and SEQRA does not apply to the enactment of moratoria (6 NYCRR section 617.5(c)(30)). This Moratorium is subject to referral to the Suffolk County Planning Agency under General Municipal Law Section 239-m

Effective Date. This Local Law shall take effect immediately as provided by law and upon filing in the office of the Secretary of State,

Dated: April 11, 2011

Aye	Nay		Aye	Nay	
X	___	Mayor Pontieri	X	___	Trustee Hilton
X	___	Trustee Crean	X	___	Trustee Krieger
X	___	Trustee Keyes	X	___	Trustee McGiff
X	___	Trustee Devlin			

Patricia M. Seal

Patricia M. Seal, Village Clerk

Suffolk County Planning Commission Advisory News

Volume 2
Issue 1
Spring - 1998

Donald Eversoll
CHAIRMAN
At Large

Robert Martin
VICE CHAIRMAN
Smithtown Town

Louis Dietz
SECRETARY
Babylon Town

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Southold Town

vacant
East Hampton Town

George J. Dickerson
Shelter Island Town

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Village under 5,000 population

Michael J. Macco, Esq.
Huntington Town

Laure C. Nolan, Esq.
Village over 5,000 population

Richard M. O'Dea
Riverhead Town

Edward J. Rosavitch, PE
Brookhaven Town

Frank A. Tantone, Esq
Islip Town

vacant
Southampton Town

Mardooni Vahradian
At Large

Linda B. Petersen
At Large

MORATORIUM ON DEVELOPMENT

A **moratorium on development** is a local law or ordinance that **suspends the right of property owners to obtain development approvals** while the community takes time to consider, draft and adopt land use plans or rules to respond to new or changing circumstances not adequately dealt with by its current laws.

Development moratoria may be general or specific. A **general moratorium** imposes a ban on all development in the community. Hardship exemptions may be provided and certain actions may be exempted.

A **specific moratorium** may prevent development approvals in a particular geographic area or of a certain type. Moratoria have suspended the right to process proposals relating to a specific land use. For example, they have been enacted to affect only the construction of docks, for instance, or communications antennas.

PURPOSE

A **moratorium on development preserves the status quo for a reasonable time** while the municipality develops and adopts a land use strategy to respond to new or recently perceived problems. The moratorium prevents developers and property owners from rushing to develop their land under current land use rules that the community is in the process of changing. By so doing, it helps to accomplish the purpose of the new rules by giving them the broadest possible applicability and preventing development that is inconsistent with them.

AUTHORITY

There is no specific statutory authorization to adopt a moratorium on development. The courts have pointed to two separate sources of authority, while consistently confirming the municipal power to enact moratoria.

Communities are implicitly authorized to take those actions they deem reasonable to encourage the most appropriate use of the land throughout the municipality. In light of new or changing circumstances, a moratorium may be necessary to allow the community to achieve this express purpose of zoning and land use planning.

Some courts have held that a **development moratorium is a form of zoning**, implying that it is part of the statutorily delegated power to adopt and amend zoning provisions. Alternatively, a community's authority to adopt a moratorium has been referred to as a "police power" measure appropriate to prevent conditions that threaten the community's health, safety, welfare and morals.

IMPLEMENTATION

A moratorium is, from one perspective, **the most extreme land use action that a municipality can take because it suspends completely the rights of owners to use their property**. Seen in this light, it is advisable to precede the adoption of a moratorium by **findings** that confirm the necessity of this action. What are the **conditions** that mandate the imposition of a moratorium? Are no other **alternatives**, less burdensome on property rights, available? Why are the existing land use plans and ordinances not adequate? What **recent circumstances** have occurred that justify the adoption of the moratorium? How serious and **urgent** are these circumstances? What **hard evidence** is there to document the necessity of the moratorium?

When adopting a moratorium, the municipality may set forth how the situation that gave rise to the moratorium is to be dealt with. What local bodies are responsible? What studies are to be done? What resources are being made available to complete those studies? Can deadlines be established for various steps in the process? **The more specific and legitimate this plan and timetable are, the more likely the moratorium will be found to be reasonable.**

Based on this action plan and timetable, a date can be selected for the expiration of the moratorium. A moratorium can be extended if the timetable cannot be met; however, the reasonableness of the action is enhanced by setting a date for expiration that is legitimate under the circumstances.

A moratorium should be adopted in conformance with all procedures required of any zoning or land use action, including notice, hearing, the formalities of adoption and filing. While a moratorium does not require an environmental review under the State Environmental Quality Review Act, if it affects adjacent municipalities or county facilities, it may be subject to review by those governments before it can be formally adopted. **The Suffolk County Planning Commission considers suspension of any portion of a Zoning Code to be a "municipal zoning action" requiring review by the Commission.**

LIMITATIONS AND CONCERNS

Since development moratoria affect property rights so severely, they must be reasonable or run the risk of being challenged, voided by the courts and, perhaps, resulting in a damage award against the locality. Reasonableness is best established if the community can document that it is facing a true emergency. Several court decisions sustaining moratoria refer to the "dire necessity" that justifies them. Such a necessity arises not only when health and safety risks are confronted, but also when the community is facing a significant new land use problem that its existing regulations were not designed to handle.

For the same reason, when specific action plans and timetables are established to deal with the necessity or emergency, the reasonableness of the locality's moratorium is demonstrated. Similarly, a community needs to make reasonable progress in carrying out the plan and adhering to the schedule so its actions are seen to be reasonable. Moratoria that have been extended for up to three years have been sustained by a showing that the community was diligently pursuing its plan and timetable and shorter moratoria have been voided because the community was making little or no progress. In the same way, the plan must be calculated to deal directly with the necessity or emergency at hand; otherwise, its reasonableness may be questioned.

Moratoria do not apply to approved projects where the developer has completed construction or has completed substantial construction in reliance on a development approval or permit. Such developers are said to have vested rights in their permits and to be immune from changes in applicable regulations. Other property owners, who have made less progress, are said to have no legitimate or enforceable expectation that the rules applicable to the development of their land might not change in the interest of protecting the public health, safety or welfare.

CITATIONS:

1. In Duke v. Town of Huntington, 153 Misc. 2d 521, 581 N.Y.S.2d 978 (Sup.Ct.,Suffolk Co., 1991), the property owner challenged a moratorium prohibiting construction of any docks. The court held the moratorium unreasonable under the circumstances.

2. In B & L Development Corp. v. Town of Greenfield, 146 Misc. 2d 638, 551 N.Y.S.2d 734 (1990), the court struck down a one year moratorium on all building permits and land use approvals including subdivision and site plans. **The court found that in adopting the moratorium, the Town had failed to notify the county government** under General Municipal Law § 239-m and adjacent communities under Town Law § 264 and to follow its own requirements for adopting zoning provisions.

3. In Cellular Telephone Co. v. Tarrytown, 209 A.D.2d 57, 624 N.Y.S.2d 170, (2nd Dep't, 1995) the court struck down a moratorium prohibiting the construction of cellular antenna.

SOURCE:

Local Leader's Guide to Land Use Practice, Second Edition (In Progress), Series III: Innovative Tools and Techniques, Issue 1: Moratorium on Development, http://www.law.pace.edu/landuse/morato~1.html, downloaded 4/23/98.

Resolution No. ZSR-11-17 of the Suffolk County Planning Commission
Pursuant to Sections A14-14 thru A14-25 of the Suffolk County Administrative Code

WHEREAS, pursuant to Sections A14-14 thru A14-25 of the Suffolk County Administrative Code, a referral was received on May 4, 2011 at the offices of the Suffolk County Planning Commission with respect to the application of **"Village of Patchogue Moratorium on Development"** in the Village of Patchogue

WHEREAS, said referral was considered by the Suffolk County Planning Commission at its meeting on June 1, 2011, now therefore, Be it

RESOLVED, that the Suffolk County Planning Commission hereby approves and adopts the report of its staff, as may be amended, as the report of the Commission, Be it further

RESOLVED, pursuant to Section A14-16 of the Suffolk County Administrative Code and Section 239-m 6 of the General Municipal Law, the referring municipality within thirty (30) days after final action, shall file a report with the Suffolk County Planning Commission, and if said action is contrary to this recommendation, set forth the reasons for such contrary action, Be it further

RESOLVED, that the Suffolk County Planning Commission **Approved** the subject referral with the following conditions:

1. The Purpose/Legislative Intent section (Section 1.) of the Local Law shall be revised to include additional findings:
   Reason: The referred Local Law would be strengthened if it indicated if the Village investigated whether there are any alternatives less burdensome on the property owner then the proposed moratorium. It should indicate what recent circumstances have occurred that justify the adoption of the moratorium. The Local Law does not indicate how serious or urgent the circumstances warranting the moratorium are or what hard evidence there is to support the necessity of the moratorium.

2. Section 6 of the Local Law, "Alleviation of Hardship," as written allows for too much subjectivity and shall be strengthened to include:
   - The issuance of a building permit which obtained prior site plan approval or Village Board of Trustee approval prior to the effective date of the moratorium.
   - Submission of proof of hardship. Hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a building permit, site plan, variance, or other approval during the period of the moratorium.
   - Substantive requirements. No relief shall be granted hereunder unless the Village Board of Trustees shall specifically find and determine and shall set forth in its resolution granting such hardship that:
     - Failure to grant a hardship to the petitioner will cause the petitioner undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the granting of the exemption; and
     - Petitioners circumstances are different from any other member of the community to the extent the petitioner is burdened by the moratorium substantially greater than any other member of the community; and
     - Grant of the hardship will clearly have no adverse effect upon any of the Villages goals or objectives enumerated in the moratorium; and
     - The project or activity for which the petitioner seeks a hardship will be in harmony with the existing character of the Village as a whole and the area of the Village in which the affected land is located, and will be consistent with any interim data, recommendations, or

conclusions which may be drawn from any community planning effort then in progress or under review.

- The Suffolk County Planning Commission Guidebook for policies and guidelines can be found on the internet at the below website address: http://www.suffolkcountyny.gov/Home/departments/planning/Publications%20and20Information.aspx#SCPC A copy of the Suffolk County Planning Commission Guidebook is also included with this letter.

Motion by: Commissioner - Esposito

Seconded by: Commissioner - Holmes

Commission Vote: Present – 13

Ayes - 9
Nays - 4
Absent - 1

COMMISSION ACTIONS ON ADOPTION OF RESOLUTION

	AYE	NAY	ABSTAIN	ABSENT
CALONE, DAVID Town of Babylon	X			
CASEY, JENNIFER Town of Huntington		X		
CHARTRAND, MATTHEW Town of Islip	X			
ESPOSITO, ADRIENNE Villages over 5,000		X		
FINN, JOHN Town of Smithtown	X			
GABRIELSEN, CARL Town of Riverhead	X			
HOLMES, LINDA Town of Shelter Island	X			
HORTON, JOSHUA At-Large				X
KELLY, MICHAEL Town of Brookhaven	X			
KONTOKOSTA,CONSTANTINE Vill.Under 5,000		X		
MC ADAM, TOM Town of Southold	X			
ROBERTS, BARBARA Town of Southampton	X			
SCHOOLMAN, BILL At-Large	X			
WEIR, DIANA, Town of East Hampton		X		

Dated: June 1, 2011
Location: Evans K. Griffing Building, Maxine S. Postal Auditorium, in the Hamlet of Riverside

COUNTY OF SUFFOLK

Z-3

Steven Bellone
SUFFOLK COUNTY EXECUTIVE
Department of
Economic Development and Planning

Joanne Minieri
Deputy County Executive and Commissioner

Division of Planning
and Environment

STAFF REPORT
SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Moratorium on certain proposals in the D-3 Business District
Municipality: Village of Patchogue
Location: D-3 Business District, Main Street, Patchogue

Received: 5/31/2013
File Number: Pa-11-01.1

Jurisdiction: Local Law

PROPOSAL DETAILS

OVERVIEW – Application on the Patchogue Village Board of Trustees own motion for approval of a proposed local law to enact a six month (180 day) moratorium on the change of use increase in intensity of use or an increase in occupancy in the D-3 Business District to meet the parking requirements set forth in the Village Code without the inclusion of municipal parking spaces. This local law is an amendment of a prior local law which stayed the construction of new apartment houses, garden apartments, townhouses, residential uses and buildings over three stories tall in the D-1, D-2, and D-3 Business Districts and any "floating" districts (Downtown Redevelopment District). The purpose of the original local law was to "allow the Village of Patchogue time to evaluate and consider the impact of the Downtown Patchogue Redevelopers, LLC project in the DRD District, upon the parking, health, safety and general welfare of the community of the Village of Patchogue and effectuate a solution and/or comprehensive plan to address the future residential density and construction in the primary business zoning districts of the Village."

Location: Applicable to all properties in the D-3 district (Main Street) Village of Patchogue.

The land uses within the D-3 district are generally in compliance with the permitted uses in the business zoning categories and includes retail, personal service stores, restaurants, offices, apartment houses etc.

STAFF ANALYSIS

The proposed local law prohibits any village official to accept for filing any application for a building permit and prohibits the Board of Trustees, Village Board of Zoning Appeals and Village Planning Board from granting any approvals, preliminary or final, for and site plan or subdivision, special approval or special permit, variance or other permission unless the application meets Village parking requirements.

A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends the rights of land owners to use their property. From the perspective of the Suffolk County Planning Commission a limited or narrowly scoped moratorium generally does not involve regional or inter-community impacts of an adverse nature and generally are considered matters for local determination. The Suffolk County Planning Commission has published guidance on the structure and content of moratoria (see attached SCPC Advisory News: Moratorium on Development). The moratorium should be tied to a legitimate comprehensive planning initiative such as the completion of zoning or master plan updates. Where possible the moratorium should be limited and allow for the due process of applications and assure the proper balance between property rights and community planning.

The referred Local Law would be strengthened if it indicated if the Village investigated whether there are any alternatives less burdensome on property owners then the proposed moratorium. It should indicate what recent circumstances have occurred that justify the adoption of the moratorium. It is noted that The proposed local law states that it is the purpose of the local law to "allow the Village of Patchogue time to evaluate and consider the impact of the Downtown Patchogue Redevelopers, LLC project in the DRD District, upon the parking, health, safety and general welfare of the community of the Village of Patchogue and effectuate a solution and/or comprehensive plan to address the future residential density and construction in the primary business zoning districts of the Village." It is the belief of the staff that such an analysis would have been most appropriate in the SEQRA analysis of the proposed DRD district and the Downtown Redevelopers, LLC project.

This rational is essentially the same rational that supported a prior 180 day moratorium.

STAFF RECOMMENDATION

Approval with the following comment:

1. A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends the rights of land owners to use their property. From the perspective of the Suffolk County Planning Commission a limited or narrowly scoped moratorium generally does not involve regional or inter-community impacts of an adverse nature and generally are considered matters for local determination.

   It is the belief of the Suffolk County Planning Commission that the 180 day moratorium, when combined with the prior 180 moratorium, is more than adequate to analyze zoning, land use, density and parking requirements and to formulate a zoning and parking scheme for the Village business district.

   The Suffolk County Planning Commission encourages the adoption of these regulations sooner than the close of the Moratorium.

Proposed Local Law No. ___ - 2013

AMENDING SECTION 435-14.1 OF THE VILLAGE CODE TO PROVIDE A MORATORIUM TO CONSIDER REQUIRING APPLICANTS IN THE D-3 ZONE TO PROVIDE PARKING WHEN SEEKING TO INTENSIFY THEIR USE, CONVERTING UNHABITABLE SPACE TO HABITABLE SPACE, INCREASING THE FOOTPRINT OR SQUARE FOOTAGE OF EXISTING BUILDINGS OR INCREASE THEIR OCCUPANCY

Be it enacted by the Village Board of the Incorporated Village of Patchogue:

The Code of the Incorporated Village of Patchogue, County of Suffolk, New York, is amended by:

AMENDING Section 435-14.1 of the Village Code which shall read as follows:

[New Language] **[~~Language to be Deleted~~]**

§ 435-14.1 Moratorium on certain construction **and use and occupancy applications** in ~~**D-1, D-2 and**~~ **the** D-3 Business **District and any floating** ~~**D**~~**d**istricts.

A. Purpose and intent. It is the purpose and intent of this section to establish a moratorium to permit the Village to consider and manage parking in the D-3 Business District **to require any applicant seeking a change of use, increase in intensity of use, or an increase in occupancy in the D-3 Business District to meet the parking requirements set forth in Section 435-31 without the inclusion of municipal parking spaces**. It is the further purpose of this law to allow the Village time to evaluate and consider the impact of the Downtown Patchogue Redevelopers, LLC, project in the DRD District upon the parking, health, safety and general welfare of the community of the Village of Patchogue and effectuate a solution and/or comprehensive plan to address the future commercial density and construction in the primary business zone of the Village. The objective of the moratorium is to promote community planning values by properly regulating land development in the best interests of the Village. Land use controls work best when built upon a carefully considered comprehensive plan, which takes time to put together or to update a good community plan. During this time, demand for a particular use of land may arise for which there are inadequate controls or which requires a more concentrated analysis of the surrounding zoning districts than may be permitted under the current zoning laws.

B. Zoning district application. This law shall apply to all properties in the ~~**D-1, D-2 and**~~ D-3 district within the confines of the Village of Patchogue.

~~C. Scope of controls. It is hereby prohibited for a period of 180 days from the date of enactment of this local ordinance for any village official to accept for filing any application for a building permit for new apartment houses, garden apartments, townhouses, residential uses and~~

~~buildings over three stories tall in the **D-1, D-2 and** D-3 Business Districts and any floating districts and the Board of Trustees, Village Board of Zoning Appeals and Village Planning Board shall not grant any approvals, preliminary or final, for any site plan or subdivision relating thereto or special approval or special permit, variance or other permission for same. The Building Inspector and Code Enforcement Officer shall not issue any building or other permit for any construction or use related to same that would result in such uses in the areas designated. Projects with approved site plans or issued building permits prior to this enactment are exempt from the moratorium.~~

C. Use and occupancy applications. For a period of 180 days from the date of enactment of this local ordinance, any applicant seeking a change of use, increase in intensity of use, or an increase in occupancy in the D-3 Business District must meet the parking requirements set forth in Section 435-31 without the inclusion of municipal parking spaces. Applications failing to meet this requirement will not be accepted by any village official. The Board of Trustees, Village Board of Zoning Appeals and Village Planning Board shall not grant any approvals, preliminary or final, for any site plan or subdivision relating thereto or special approval or special permit, variance or other permission, when the applicant has failed to meet this requirement. Projects with approved site plans or issued building permits prior to this enactment are exempt from the moratorium.

D. Term. This section shall be in effect for a period of 180 days from its effective date. This section shall be subject to review and renewal by resolution of the Board of Trustees for an additional period of time, effective immediately.

E. Penalties. Any person, firm or corporation that shall construct, erect, enlarge or alter any building or structures in violation of the provisions of this section or shall otherwise violate any of the provisions of this section shall be subject to:

(1) Such penalties as may otherwise be provided by the laws, rules and regulations of the Village for violations; and

(2) Injunctive relief in favor of the Village to cease any and all such actions which conflict with this section and, if necessary, to remove any construction which may have taken place in violation of this section.

F. Alleviation of hardship.

(1) The Board of Trustees of the Village of Patchogue may authorize exceptions to the moratorium imposed by this section when it finds, based upon evidence presented to it, that deferral of action on an application for the uses prohibited hereunder, and the deferral of approval of such application for the duration of the moratorium would impose an extraordinary hardship on the landowner or applicant.

(2) A request for an exception based upon extraordinary hardship shall be filed with the Village Clerk or designee, and shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the Village Clerk or designee shall prescribe as necessary for the Board of Trustees to be fully informed with respect to the application.

(3) A public hearing on any request for an exception based on extraordinary hardship shall be held by the Village Board at the first regular meeting of the Board of Trustees that occurs after the expiration of the period for publication of notice of the request for an exception.

(4) In reviewing an application for an exception based upon a claim of extraordinary hardships, the Board of Trustees shall consider the following criteria:

(a) Submission of proof of hardship. Hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a building permit, site plan, variance, or other approval during the period of the moratorium.

(b) Substantive requirements. No relief shall be granted hereunder unless the Village Board of Trustees shall specifically find and determine and shall set forth in its resolution granting such hardship that:

[1] Failure to grant a hardship to the petitioner will cause the petitioner undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the granting of the exemption;

[2] Petitioner's circumstances are different from any other member of the community to the extent the petitioner is burdened by the moratorium substantially greater than any other member of the community; and

[3] Grant of the hardship will clearly have no adverse effect upon any of the Village's goals or objectives enumerated in the moratorium; and

[4] The project or activity for which the petitioner seeks a hardship will be in harmony with the existing character of the Village as a whole and the area of the Village in which the affected land is located, and will be consistent with any interim data, recommendations, or conclusions which may be drawn from any community planning effort then in progress or under review.

[5] The extent to which the proposed establishment would cause significant environmental degradation, adversely impact natural resources or cause public health or safety concerns, or adversely impact the community.

[6] The extent to which actions of the applicant were undertaken in a good

faith belief that the proposed establishment would not lead to significant environmental degradation, undue adverse impacts on natural resources or public health or safety concerns, or adversely affect the community.

(5) At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Board of Trustees shall act upon the request to approve, deny, or approve in part and deny in part the request made by the applicant.

G. Validity. The invalidity of any provision of this section shall not affect the validity of any other portion of this section which can be given effect without such invalid provision.

H. Superseding other laws.

(1) All laws, ordinances, rules and regulations of the Village are modified and superseded by this section with respect to their application to the properties designated under this section for the term of this section.

(2) This section shall modify and supersede, with respect to the properties covered by this section and, for the term of this section, the provisions of Article 7 of the Village Law of the State of New York and any other law, rule or regulation inconsistent with this section.

This Local Law shall take effect immediately.

Aye	Nay		Aye	Nay	
___	___	Mayor Pontieri	___	___	Trustee Hilton
___	___	Trustee Crean	___	___	Trustee Krieger
___	___	Trustee Keyes	___	___	Trustee Ferb
___	___	Trustee Devlin			

Dated: _____, 2013

_____
Patricia M. Seal - Village Clerk

Resolution No. ZSR-13-16 of the Suffolk County Planning Commission
Pursuant to Sections A14-14 to thru A14-25 of the Suffolk County Administrative Code

WHEREAS, pursuant to Sections A14-14 thru A14-25 of the Suffolk County Administrative Code, a referral was received on May 31, 2013 at the offices of the Suffolk County Planning Commission with respect to the application of **"Moratorium on Certain Construction and Use and Occupancy Applications in D-3"** located in the Village of Patchogue

WHEREAS, said referral was considered by the Suffolk County Planning Commission at its meeting on July 3, 2013, now therefore, Be it

RESOLVED, that the Suffolk County Planning Commission hereby approves and adopts the report of its staff, as may be amended, as the report of the Commission, Be it further

RESOLVED, pursuant to Section A14-16 of the Suffolk County Administrative Code and Section 239-m 6 of the General Municipal Law, the referring municipality within thirty (30) days after final action, shall file a report with the Suffolk County Planning Commission, and if said action is contrary to this recommendation, set forth the reasons for such contrary action, Be it further

RESOLVED, that the Suffolk County Planning Commission **Approved** said referral subject to the following Comment:

1. A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends the rights of land owners to use their property. From the perspective of the Suffolk County Planning Commission a limited or narrowly scoped moratorium generally does not involve regional or inter-community impacts of an adverse nature and generally are considered matters for local determination.

   It is the belief of the Suffolk County Planning Commission that the 180 day moratorium, when combined with the prior 180 moratorium, is more than adequate to analyze zoning, land use, density and parking requirements and to formulate a zoning and parking scheme for the Village business district.

   The Suffolk County Planning Commission encourages the adoption of these regulations sooner than the close of the Moratorium.

The Suffolk County Planning Commission Guidebook for policies and guidelines can be found on the internet at the below website address:

http://www.suffolkcountyny.gov/Home/departments/planning/Publications%20and20Information.aspx#SCPC

A copy of the Suffolk County Planning Commission Guidebook is also included with this letter.

ZSR-13-16
File No.: Pa-13-01

Proposed Moratorium on Certain Construction and use
And Occupancy Applications in D-3
Village of Patchogue

COMMISSION ACTIONS ON ADOPTION OF RESOLUTION

	AYE	NAY	ABSTAIN	ABSENT
BERRY, GLYNIS – At Large		X		
CALONE, DAVID – Chairman, At Large	X			
CASEY, JENNIFER - Town of Huntington	X			
CHARTRAND, MATTHEW - Town of Islip	X			
ESPOSITO, ADRIENNE - Villages over 5,000	X			
FINN, JOHN - Town of Smithtown		X		
GABRIELSEN, CARL - Town of Riverhead				X
GERSHOWITZ, KEVIN G.- At Large		X		
KAUFMAN, MICHAEL - Villages under 5,000	X			
KELLY, MICHAEL – Town of Brookhaven			X	
MCADAM, TOM - Town of Southold	X			
ROBERTS, BARBARA Town of Southampton	X			
SHILLINGBURG, J.EDWARD -Town of Shelter Island	X			
VACANT – Town of Babylon				
WHELAN, JOHN P. – Town of East Hampton	X			

Motion: Commissioner Esposito

Present: 13

Seconded: Commissioner Whelan

Absent: 1

Voted: 9-3

Abstentions: 1

DECISION: Adopted

COUNTY OF SUFFOLK

Z-2

Steven Bellone
SUFFOLK COUNTY EXECUTIVE
Department of
Economic Development and Planning

Joanne Minieri
Deputy County Executive and Commissioner

Division of Planning
and Environment

STAFF REPORT
SECTIONS A14-14 THRU A14-26 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Rose Breslin Associates, Inc. – Sybac Solar, LLC
Municipality: Brookhaven
Location: North side of Moriches-Middle Island Road, east side of North Street, Hamlet of Manorville/South Manor

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Received: Area Variances 3/18/16
File Number: BR-16-02
T.P.I.N.: 0200 58700 0300 048001
Jurisdiction: Within the Suffolk County Pine Barrens Compatible Growth Area (CGA), and within one mile of the Town of Brookhaven Airport

ZONING DATA

- Zoning Classification: L-1 Industrial
- Minimum Lot Area: 120,000. Sq. Ft. / Solar Special Permit Requirement: 10 acres
- Section 278: N/A
- Obtained Variance: N/A

SUPPLEMENTARY INFORMATION

- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: No
- Property has Historical/Archaeological Significance: No
- Property Previously Subdivided: No
- Property Previously Reviewed by Planning Commission: No
- SEQRA Information:
- SEQRA Type Type I
- Minority or Economic Distressed No

SITE DESCRIPTION

- Present Land Use: Vacant –Open Space
- Existing Structures: None
- General Character of Site: Relatively level with gently rolling topography
- Range of Elevation within Site: 60' to 100' above msl
- Cover: Fully vegetated, composed of Pitch Pine – Oak woodland with low growth shrub and sapling understory
- Soil Types: Predominately Plymouth Loamy Sand with some Riverhead Sandy Loam, Carver Plymouth Sands
- Range of Slopes (Soils Map): 0-15%
- Waterbodies or Wetlands: N/A

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: Area variance approval request (preceding Land Division* and Special Permit).
- Layout: Sprawling 60.51 acre (56.99%) cover of property
- Area of Tract: 106.17 acres (61.18 to be disturbed)
- Yield Map: Not applicable
- Open Space: 45.66 acres (43.01%)

ACCESS

- Roads: Moriches - Middle Island Road and North Street
- Driveways: Proposed access from Moriches Middle Island Road

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
  - Design of System: In accordance with the Town's green landscaping and design standards
  - Recharge Basins No
- Groundwater Management Zone: III
- Water Supply: None: Indicated as not applicable on application
- Sanitary Sewers: None: Indicated as not applicable on application

PROPOSAL DETAILS

OVERVIEW – Applicants are seeking multiple area variance approvals from Town of Brookhaven Zoning Board of Appeals for the construction of a proposed solar energy production facility - generating 10 megawatts via ground mounted solar photo voltaic array. The requested area variances are being consider prior to the Town of Brookhaven Planning Board considering to approve a proposed two (2) lot land division of the a larger 446.7 acre L-1 Industrial zoned parcel (which subject property of currently a part of). The multiple area variances are being sort prior to special permit and site plan approval as well.

The subject property contains an area of 106.17 acres, identified as 'Parcel 1' of a pending subdivision of a 446.7 acre parcel. The entire parcel is zoned L-1 Industrial, and is a naturally wooded state.

The application referred to the Commission incudes dimensional relief sought from the zoning requirements for actual/existing distances along the subject parcel's road frontage as well as those necessary for relief from dimensional requirements in connection with the proposed/pending Land Division and a Special Permit (for Solar Utility) application currently under Planning Board review (but variances are be requiring before approval).

The relevant Sections of Town of Brookhaven Zoning Ordinance and a description of the requested relieve sort and considered in this report are as follows:

1) Section 85-568.B(3) Minimum width of lot through-out where is 200' required and 60' is provided (as existing along the subject parcel's road frontage).
2) Section 85-568.C(2) Minimum front yard setback where 100' is required and approximately 20' is to be provided (at Metering Compound Easement Area near proposed Parcel 2 of pending Land Division).
3) Section 85-568.D(3) Minimum side yard setback where 50' is required and approximately 3' is to be provided (at Metering Compound Easement Area near proposed Parcel 2 of pending Land Division).
4) Section 85-815.D(2) Special Permit Requirement: Minimum perimeter buffer around all mechanical equipment to provide screening from the Town, County or State roads where 75' is required and approximately 20' is provided from Town road (at Metering Compound Easement Area near proposed Parcel 2 of pending Land Division).
5) Section 85-815.D(2) Special Permit Requirement: Minimum perimeter buffer around all mechanical equipment to provide screening to adjacent commercial or industrial properties where 25' is required and 0' is provided (at Metering Compound Easement Area near proposed Parcel 2 of pending Land Division).
6) Section 85-815.D(2) Special Permit Requirement: Minimum set for equipment used in conjunction with the solar energy production facility adjacent to commercial or industrial properties where 50' is required and approximately 3' is provided (at Metering Compound Easement Area near the southeast corner of proposed Parcel 2 of pending Land Division).
7) Section 85-543.B(2) Minimum perimeter buffer to any residential use or zone where 75' is required and approximately 20' is to be provided (at access drive on proposed Parcel 1 of pending Land Division).
8) Section 85-543.B(3) Buffer in accordance with Town standards must be maintained along commercial street frontage where frontage on the opposite side of the street is residentially zoned where 75' is required and 0' for cleared access (to Metering Compound Easement Area near southeast corner of proposed Parcel 2 of pending Land Division).

The referral material from the Town of Brookhaven included a proposed conceptual site plan which demonstrates compliance with the majority of the L-1 Industrial zoning requirements, as well as the Special Permit requirements for renewable energy systems and solar energy production facilities. The existing frontage impacting the parcel's ability to meet the lot width through-out requirement is an existing condition, and other relief sought would not appear to have an impact to neighboring land uses. The design elements associated with the subject proposal appear to satisfy both Town and County concerns.

The proposed project is located in the Compatible Growth Area (CGA) of the Suffolk County Pine Barrens Zone. The subject parcel is located in a State Special Groundwater Protection Area (SGPA), and in Suffolk County Hydro-geologic Management Zone III which is a designated hydrogeological sensitive zone.

There are no local or State designated wetlands present on the subject site.

The Suffolk County Planning Commission staff previously received the notification for SEQRA Coordination from the Town of Brookhaven for the land division and special permit application of the subject premises, and staff had no objection of the Town Planning Board assuming lead agency status

The overall project site is a 106.17 acre parcel of land in hamlet Manorville. The site is situated on the north side of Moriches-Middle Island Road and the east side of North Street, north of the Town of Brookhaven Airport. The subject parcel will be irregular in shape attributed to the existing surrounding lot pattern.

Access to the site will be from Moriches-Middle Island Road via a proposed 250 foot long cul-de-sac. No other roads are proposed within the site. Any internal access within the solar generating facility is depicted on the preliminary site plan via cleared areas around the edge and within of the array fields.

Site security will be accomplished by the use of a 6' high chain link fence that will be place around the perimeter of the cleared area.

The proposed solar array will have a maximum height of 9 feet.

The facility will be unmanned and does not require sanitary sewer service.

The proposed development does not require water for fire protection or potable usage.

The project will be supplying electricity to the grid, and feeder cables serving this project will be underground, and no overhead wiring will be located on the site.

Existing drainage patterns will not be altered. The conceptual site plan submitted in the referral material depicts several storm-water catchment areas as ponds.

The cleared areas of the site will be 99.9% grassed pervious area. Ground cover will consist of drought resistant/native vegetation. And no fertilized dependent vegetation is permitted.

Other than a few small equipment pads there are no impervious surfaces are proposed on the subject parcel.

No site lighting will be required. The proposed development will not operate at night. And will remain unlighted at night.

Connection to the PSEG Long Island grid is proposed within a 15' wide cleared easement area for a joint use as a trail/underground electric feeder.

Land use and zoning in the vicinity of the subject project is predominantly residential. West and south can be found high density residential development patterns generally improved parcels with detached single family homes. To the northeast is a block of L-2 (Heavy) Industrial zoned land consisting of old file map parcels. Further to the east and north are low density residential zoning categories. There is an industrial park to the northwest, and the Long Island Expressway and Brookhaven National Laboratory further to the north. A short distance to the south is the eastern runway of the Town of Brookhaven Airport. Lands directly to the south and adjacent to the project parcel are vacant lands in Town of Brookhaven ownership (positioned in-line with the airports runway). As noted the subject parcel itself is vacant and of an L-1 Industrial zoning designation that extends northward beyond the subject boundaries.

The subject property is situated in Hydro-geologic Ground Water Management Zone III pursuant to Article 6 of the Suffolk County Sanitary Code. The subject property is located in a NYS Critical Environmental area or Special Ground Water Protection Area. The subject property is within the southern boundary of the Compatible Growth Area of the Central Pine Barrens Comprehensive Land Use Plan. There are no mapped NYSDEC regulated wetlands located within the subject property.

Storm water runoff is proposed to be handled in accordance with the Town's green landscape and design stands (i.e. bio-swales and retention ponds). Development of a Storm Water Pollution Prevention Plan (SWPPP) is intended to be conducted during later stages of the site approval process to address storm water erosion concerns.

STAFF ANALYSIS

GENERAL MUNICIPAL LAW CONSIDERATIONS: New York State General Municipal Law, Section 239-l provides for the Suffolk County Planning Commission to consider inter-community issues. Included are such issues as compatibility of land uses, community character, public convenience and maintaining of a satisfactory community environment. It is the belief of the staff that the proposed installation of solar panel arrays would not physically impact surrounding zoning and land uses and would provide an opportunity for the proposed solar energy facility to take advantage of a sustainable/renewable energy resource.

The proposed Sybac Solar Park intends to clear cut approximately 57% (60.51 acres) of the wooded parcel for the construction of the solar production facility. The Suffolk County Planning Commission model Code for Solar Energy Production recommends that a "minimum thirty-five percent shall be preserved as natural and undisturbed open space." This translates to no more than 65% cleared. The Compatible Growth Area of the Central Pine Barrens, a regulatory region affected by rules and standards to preserve ground water quality, the clearing restriction for the underlying zoning category is also 65%. In addition, the Suffolk County Planning Commission has met with PSEG and provided proposed recommendations regarding utility solar installations and how to better incorporate land use consideration into their RFP process. The Commission has written that "to minimize the impact on undeveloped land in Suffolk County …should prioritize the installation of solar arrays on…previous developed commercial/industrial properties..."

LOCAL COMPREHENSIVE PLAN RECOMMENDATIONS: The 1996 Town of Brookhaven Comprehensive Land Use Plan designates the subject site as "one acre or less" density. The Town of Brookhaven zoning designation for the property is L1 Light Industrial, and that it is within a hydro-geologically sensitive zone, it has a minimum lot size of 120,000 sf. If developed as zoned the subject property would yield 30 lots for light industrial use [106.17 ac – 21.2ac (20% roads & drainage)/120,000sf/lot = 30 lots]. Waste water discharge to the ground would be a consideration for development of a light industrial park that the proposed solar facility does not have. However, a subdivision would have greater flexibility to reduce native vegetative clearing through clustering and individual lot requirements than the proposed utility solar facility. As noted above solar energy production is a permitted principal use in the Town of Brookhaven L1 zoning district provided that the facility occupies not less than 10 acres and is allowed as a Special Permit by the Town.

SUFFOLK COUNTY PLANNING COMMISSION GUIDELINE CONSIDERATIONS:

The Suffolk County Planning Commissions has identified six general Critical County Wide Priorities and include:

1. Environmental Protection
2. Energy efficiency
3. Economic Development, Equity and Sustainability
4. Housing Diversity
5. Transportation and
6. Public Safety

These policies are reflected in the Suffolk County Planning Commission Guidebook (unanimously adopted July 11, 2012). Below are items for consideration regarding the Commission policies:

In terms of environmental protection, the applicant puts forth that the site operations are not expected to negatively affect either the ground and/or surface water (i.e. Forge River and Peconic Estuary Reserve watersheds) as the project will not employ the use of fertilizers or pesticides, will not have a septic system, and will control storm water runoff. However, as indicated above, a 60% maximum native vegetative clearing limit would appear to be best management practice for development of this site. The applicant should consult the Suffolk County Planning Commissions recently adopted Model Utility Solar Code – 2015 for information on design standards that will help protect the environment.

Stormwater runoff is proposed to be handled utilizing permeable surfaces and natural vegetative buffers. It is evident in the referral to the Suffolk County Planning Commission that the applicants will have to work with the Town and NYSDEC in order receive SWPPP (Stormwater Pollution Prevention Plan) approval. It is not evident however, if the applicants have reviewed the Commission's publication on Managing Stormwater-Natural Vegetation and Green Methodologies though drainage reserves with drywells are proposed as an element in the plan. It is the belief of the staff that the publication should be reviewed and additional stormwater mitigations incorporated where practical.

In terms of energy efficiency, it is the belief of the staff that by its very nature the proposal is promoting one of the Suffolk County Planning Commission's County-wide priorities by installing a sustainable and renewable energy production system.

The site is intended to be obscured from view by establishing surrounding buffer and screening areas. The subject site is not abutting any residential areas. The south and west sides of the property line is offset from Moriches-Middle Island Road and North Street by 200 foot deep parcels of Town, County and privately owned properties between the site and those two roadways.

As noted the Suffolk County Planning Commission has recently adopted a Model Utility Solar Code – 2015 that can be used by Towns and Villages to help foster renewable energy facilities while also insuring proper safeguards for locating the facility and protecting environmental resources. Staff notes that this application appears to be consistent with many of the key aspects of the Model Code including setbacks, and design standards. Staff notes that there was also some general information provided in the referral materials regarding decommissioning of solar facilities but not its abandonment. The Brookhaven Town code has a section on the abandonment of solar energy facilities and aspects of the Code should be made obvious for this project. The conceptual site plan submitted as part of the referral materials of this application noted that certain 'performance standards' would be met that stated that "the operation of this facility will not generate, noise, pollution, gases, fumes, odors, vapors or having other harmful effects. No harmful glare will be produced from the operation of this facility". The SCPC Model Code notes the importance of consulting with the Federal Aviation Administration (FAA) for solar projects located in close proximity to airports. As noted earlier in this staff reports the subject property is located less than a mile to the east of the Brookhaven Airport facility. Staff would recommend that the applicant consult with Brookhaven Airport and the FAA regarding this project as early in the application process as possible.

STAFF RECOMMENDATION

Approval, of the site plan and special permit application of the Rose Breslin Associates, Inc. – Sybac Solar Park, LLC project subject to the following comments:

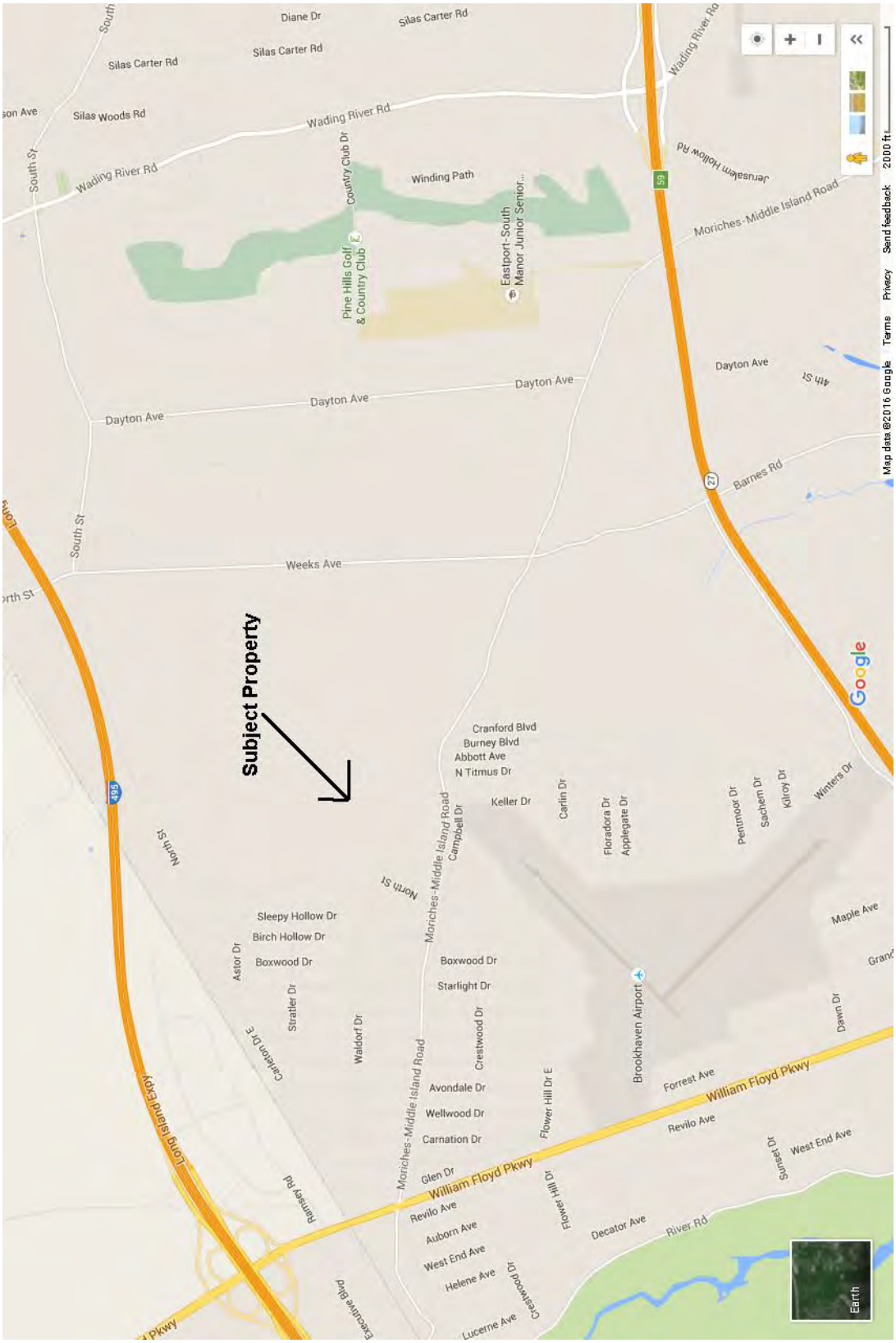
1. No more than 65% of the subject property should be cleared of native vegetation.

2. The Suffolk County Planning Commission's Model Utility – 2015 should be reviewed including the section on abandonment of solar energy facilities and relevant aspects of the Code should be incorporated into the project where practical.

3. It is suggested that the Town and applicant review the U.S. Department of Agriculture's Natural Resources Conservation Services information on "cover crops and soil health" for best practices regarding what to grow under and between the proposed solar array panels. Cover crops have the potential to prevent erosion, improve soil's physical and biological properties, supply nutrients and suppress weeds, and break pest cycles along with various other benefits.

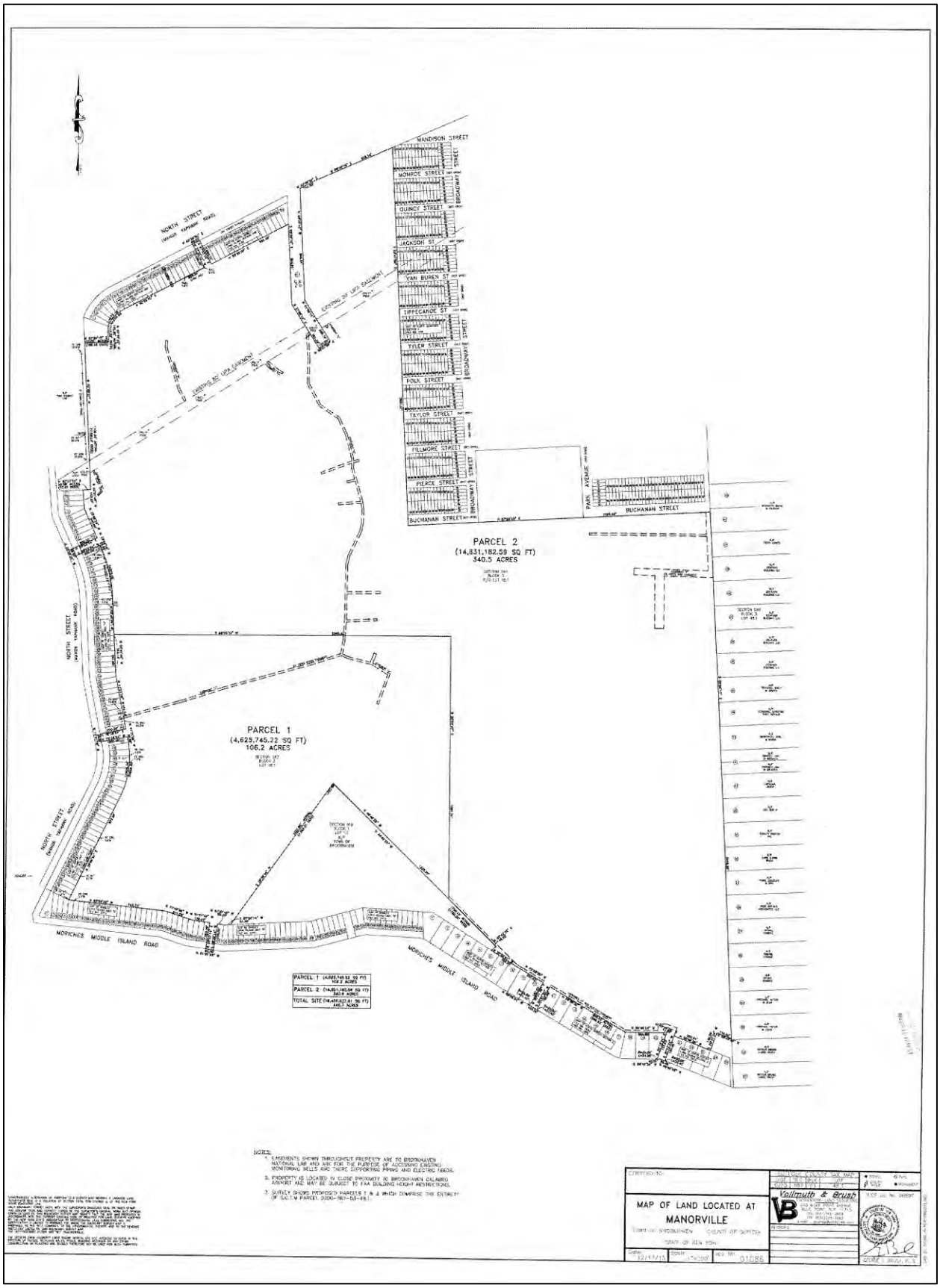
4. The Suffolk County Planning Commission's publication on Managing Stormwater - Natural Vegetation and Green Methodologies should be reviewed and additional stormwater mitigations incorporated where practical.

5. Due to the project's proximity to Brookhaven Airport the applicant should consult with the Airport and the FAA as early as possible in the application process.

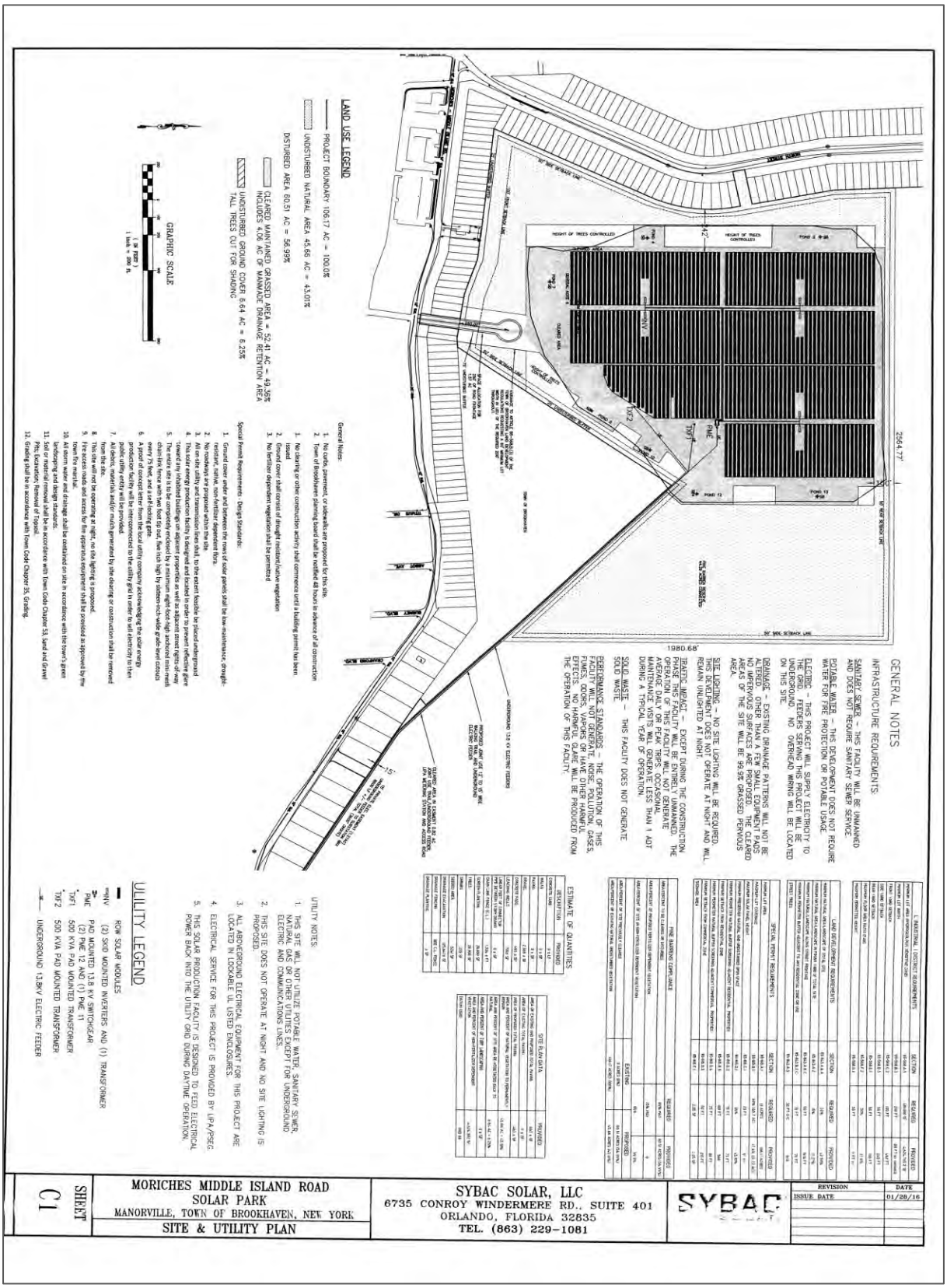


Location Map

File # BR-16-02



Proposed Land Division File # BR-16-02



Conceptual Site Plan

File # BR-16-02

COUNTY OF SUFFOLK

Z-3

Steven Bellone
SUFFOLK COUNTY EXECUTIVE
Department of
Economic Development and Planning

Joanne Minieri
Deputy County Executive and Commissioner

Division of Planning
and Environment

STAFF REPORT
SECTIONS A14-14 THRU A14-25 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: East Hampton Indoor Tennis-Bowling Alley
Municipality: East Hampton
Location: East of East Hampton Indoor Tennis/ne of Daniels Hole Road

Received: 3-17-16
File Number: EH-16-01
T.P.I.N.: 0300 18100 0100 005001
Jurisdiction: Within 500 feet of airport (East Hampton Airport)

ZONING DATA

- Zoning Classification: A Residence 5/Water Recharge Overlay District/Recreational Overlay District
- Minimum Lot Area: 200,000 sq.ft./NA/600,000 sq.ft.
- Section 278: N/A
- Obtained Variance: N/A

SUPPLEMENTARY INFORMATION

- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: No
- Property has Historical/Archaeological Significance: No
- Property Previously Subdivided: No
- Property Previously Reviewed by Planning Commission: No
- SEQRA Information: Yes
- SEQRA Type Unlisted; Negative Declaration
- Minority or Economic Distressed No

SITE DESCRIPTION

- Present Land Use: Major Recreational Facility
- Existing Structures: 20 outdoor tennis courts, 2 platform tennis courts, indoor tennis courts, clubhouse building, swimming pool, accessory playing fields
- General Character of Site: Flat

- Range of Elevation within Site: 35' to 25' amsl
- Cover: Trees
- Soil Types: Plymouth loamy sand, Riverhead sandy loam
- Range of Slopes (Soils Map): 0-3%
- Waterbodies or Wetlands: N/A

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: Site plan
- Layout: Standard
- Area of Tract: 24.214 Acres
- Open Space: N/A

ACCESS

- Roads: Daniels Hole Rd and East Hampton Indoor Tennis
- Driveways: Public (Daniels Hole Road) / Private (East Hampton Indoor Tennis)

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
  - Design of System: Cb-Lp
  - Recharge Basins No
- Groundwater Management Zone: V
- Water Supply: public SCWA
- Sanitary Sewers: Sanitary System

PROPOSAL DETAILS

OVERVIEW – Applicants seek site plan approval for modification to a Major Recreational Facility from the East Hampton Town Planning Board. The project modifies a preexisting Major Recreational Facility with a total coverage increase of 69,590 sf. The site plan indicates that total coverage will be equal to 405,404 sf.; approximately 38% of the total parcel.

The subject property is located on a private driveway east of Daniels Hole Road in East Hampton. The development site is situated in the hamlet of Wainscott.

Modifications to the existing site plan include removing two (2) tennis courts enclosed in a bubble and to add a ten lane bowling alley, three bocce courts, a game room, miniature golf course, sports bar and lounge and a covered patio. Also proposed is a new bubble to be situated over four (4) existing tennis courts and an associated restroom, both of which were the subject of the previous site plan approval

Wastewater from the proposed complex is to be captured by three conventional individual sanitary systems. There is one contained sanitary systems in western, central, and eastern portions of the site. The sanitary systems are primarily composed of and grease traps, cesspools, septic tanks and leaching pools.

The potable water supply is to be connected to the SCWA infrastructure. Water service will be diverted from the public water main on Daniels Hole Road.

Storm water runoff from the contemplated development is to be collected via on-site catch basins.

The proposed development will include 328 parking stalls and is in accordance with East Hampton parking regulations. East Hampton parking regulations require there to be 247 parking spaces. The original recreational facility included 235 parking spaces.

Access for the proposed retirement community is to be from one ingress/egress points to Daniels Hole Road. Emergency access is not proposed.

The applicants propose that in order to provide for internal circulation and space for new buildings there will be some degree of clearings. The site previously included 514,933 sf. of clearing. Proposed clearing is to be 526,155 sf. (+ 11,222 sf.). Despite the increase, the site plan is within the permitted clearing threshold.

The subject property is situated east of the East Hampton Airport in a wooded area. Further to the north, east and south the predominate land use are detached single family dwellings. The Ross School can be found to the north-west off of East Hampton Sag Harbor Tpke.(NYS Rte. 114) and agricultural land can be found to the south and east.

Zoning in the area is mixed and includes the subject property zoned as A-5 (residential minimum lot area 5 ac), Parks and Conservation (PC) to the east and Commercial Industrial (CI) to the west. The property is also within the Recreational Overlay District and the Water Recharge Overlay District.

The proposed project is located in the Suffolk County Eastern Pine Barrens Zone. The subject parcel is located the South Fork State Special Groundwater Protection Area (SGPA). The site is situated over Hydro-geologic Management Zone v. The subject property is not in any other State designated Critical Environmental Area. No local or State designated wetlands occur on the subject site.

In 1993 a site plan approval to construct “Health Hampton” was secured by project sponsors and included a project that had five indoor and eleven outdoor tennis courts, four squash courts, a racquetball court, health club, indoor track, two saunas, two steam rooms, massage rooms, sun beds, a one-mile long Outdoor jogging trail, and a phase II Olympic size pool. As part of the application process an FEIS was completed. Included in the document was a review of the impacts on flora and fauna, groundwater, community, traffic, storm-water drainage, among other items. The Document concluded that there were no significant environmental impacts as a result of this project. It is important to note that to date only a portion of the structures approved as part of the 1993 application were constructed. It is put forth by the applicant that the structures presently on site are far less than what were reviewed and approved via the FEIS and 1993 site plan approval.

STAFF ANALYSIS

GENERAL MUNICIPAL LAW CONSIDERATIONS: New York State General Municipal Law, Section 239-l provides for the Suffolk County Planning Commission to consider inter-community issues. Included are such issues as compatibility of land uses, community character, public convenience and maintaining a satisfactory community environment.

The proposed project is situated adjacent and to the east of Commercial/industrially zoned land. No adjacent land uses exist or are proposed at this time that would be incompatible with the proposed use. It is the belief of staff that, notwithstanding a potential increase in motor vehicle trip traffic and patterns, the project is in alignment with General Municipal Law Considerations.

LOCAL COMPREHENSIVE PLAN RECOMMENDATIONS: The applicant puts forth that in 2005, “as part of the Comprehensive Plan, the Town conducted town-wide rezoning. Along with several other parcels, this lot was rezoned from Commercial Industrial (CI) to A5-Residential. The Comprehensive Plan did this multi-parcel rezoning based on the assumption that the uses allowed in the CI zoning classification, such as worships, filling stations, repair garages, together with the more lenient clearing and coverage restrictions, compared to A5 Residence zoning, represents

potential threats to the Town' Priority Drinking Water Protection Area-the pine Barrens. Rezoning of the CI zoned land in this area to A5 Residence was done to reduce and eliminate potential contamination of ground and surface waters and the fragmentation and alterations to the Pine Barrens Site Type."

The applicant continues "Around the same time, the Town created the Recreational Overlay District (ROD). The ROD was created to provide for areas of active recreation by permitting Major Recreational Facilities in residential zones. In the findings and objective associated with the creation of this overlay district, it was found that "*Major Recreational Facilities, as defined, do not present the high risk of groundwater contamination associated with the typical Commercial Industrial uses…"* In addition to the general special permit standards, specific special permit standards were created that all Major Recreational Facilities must comply with. These standards set guidelines for the Planning Board to consider in approving a Major Recreational Facility in the ROD, such as; clearing limitations, coverage restrictions, setbacks, noise and parking."

The applicants also state that in October 2005 the subject property was considered and voted unanimously as approved by the Town Board to be included in the Recreational Overlay District. The local law findings and objectives stated "the Board determined that the parcel meets those standards", pursuant to a memo. Dated august 4, 2005, and presented to the Town Board on August 9, 2005 by the Planning Department. They found that the parcel is surrounded by Town-owned lands; including land utilized in association with the East Hampton Airport and lands preserved for open space. The Planning Department concluded that the parcel was already developed with a Major Recreational Facility and meets all of those standards previously established by the Board.

SUFFOLK COUNTY PLANNING COMMISSION GUIDELINE CONSIDERATIONS:

The Suffolk County Planning Commissions has identified six general Critical County Wide Priorities that include:

1. Environmental Protection
2. Energy efficiency
3. Economic Development, Equity and Sustainability
4. Housing Diversity
5. Transportation and
6. Public Safety

These policies are reflected in the Suffolk County Planning Commission Guidebook (unanimously adopted July 11, 2012). Below are items for consideration regarding the above policies:

As indicated previously, all wastewater from the proposed recreational facility is intended to be treated on site by conventional sanitary systems. Continued review by the Suffolk County Department of Health Services is warranted. Opportunity exists to utilize advanced treatment being explored by the Suffolk County Department of Health Services that would lessen the nitrogen load from wastewater generated on site.

Storm water runoff from the proposed project will be retained on-site and recharged via a drainage system designed to conform to all applicable Town requirements. Submission materials to the Commission do not indicate that NYS DEC SWPPP requirements will be met. However, that would be a local condition of approval. The petitioners should be encouraged to review the Suffolk County Planning Commission publication Managing Stormwater-Natural Vegetation and Green Methodologies and incorporate into the proposal, where practical, design elements contained therein.

Clearing of the Eastern Pine Barrens vegetation should be noted. In accordance with Suffolk County Planning Commission guidelines, clearing of Pine Barrens vegetation should be limited to 25% for A-5 zoned property. Commercial and industrial property should be limited to 65% clearing. The property at one time was zoned CI and then rezoned in 2005 to A-5 Residential. At the time the subject site was already cleared to 48.8% of the site. The current proposal is to increase the clearing 11,222 sf. to 49.9%. The Town of East Hampton has a 50% clearing restriction for this property. It is the belief of staff that the 50% clearing restriction is a suitable compromise between the Commissions clearing restrictions for commercial/industrial and residential lands given the particular circumstances and history of the project site. No more than 50% of the site should be allowed to be cleared in the future.

No mention of the consideration of energy efficiency is provided in the referral material to the Suffolk County Planning Commission. The petitioners should be encouraged to review the Suffolk County Planning Commission Guidebook particularly with respect to energy efficiency and incorporate where practical, elements contained therein for the residential and clubhouse components of the proposal.

No Suffolk County Bus Transit routes run along Daniels Hole Road. The closest route is along Bridgehampton Sag Harbor turnpike and is not considered walkable to the project site. "As the crow flies" it is only approximately 0.6 miles to SR 114 however, the trek would be through unimproved Pine Barrens woodland. It is not apparent if there is a trail through the woods to allow pedestrians safe passage to the bus line. Traveling on paved streets to SR 114 the route is circuitous and is approximately 2.1 miles to the State ROW. The walk score for the subject site is 9.0 out of 100 indicating that nearly all trips are via a motor vehicle.

It is the position of the applicant that proposed improvements are going to be in locations already containing improved elements of the recreational facility. The amount of gross floor area being improved is to increase by 6,339 SF as a result of this application. It should be noted that building coverage calculations include a previously approved tennis bubble that has not yet been constructed. The applicants note that this application proposed to swap one form of recreation for another, but they both fall under the heading of the Major Recreational Facility. The applicants put forth that the use is not changing and the improved surfaces are not increasing significantly. The applicants are proposing to add a number of new activities to the facility including bowling, bocce courts a sports bar and lounge and video games. Thus, the applicants do not anticipate that traffic will be a concern. Based on information provided to the Town by the applicant the Town Planning Department believes that the greatest increase of generated traffic would be in the evening hours during the summer with noticeable incremental increase in the "off season" months as well. SCPC staff observes that Town of East Hampton Planning Staff notes that this contrasts with the two primary exiting uses of the site of the (tennis club and day camp) which primarily occur before the evening hours.

The Town Planning Department anticipates that the proposed project will increase generated vehicular traffic at certain times of the day and year. However, the Town Planning Department does anticipate that this increase will be particularly substantial and the location of the site mitigates the impact that such generated traffic could have on surrounding properties. However, the Suffolk County Planning Commission staff notes from the applicants submission indicates that "there are several routes that one can travel to and from the site – 4 in total." Traffic patterns in 4 quadrants centered on the subject site indicate that traffic from the north east quadrant will most likely travel along Stephens Hands Path to Montauk Highway to Daniels Hole Road. Stephens Hand Path and Montauk Highway are major roadways in the Town. From the southeast and south west quadrants traffic is expected to migrate to Montauk Highway and then Daniels Hole Road. The traffic pattern from the northwest quadrant to the subject property is more problematic. This is the area more

heavily developed with detached single family homes. All movement south of the intersection of Daniels Hole Road and SR 114 (Sag Harbor Turnpike) and north east of Sag Harbor Turnpike is likely to cut across South Breeze Drive, a residential collector street. It is anticipated that traffic mitigations may be necessary to assure a safe travel way for motor vehicles, bicycles and pedestrians.

The Town should investigate with the applicant via an amended traffic report, the proposed operation of the facility and how it may draw traffic flow from the north, to determine whether or not any additional traffic mitigation measures need to be incorporated for South Breeze Drive.

Little discussion is made in the petition to the Town and referred to the Commission on public safety and universal design. The applicant should review the Planning Commission guidelines particularly related to public safety and universal design and incorporate into the proposal, where practical, design elements contained therein.

STAFF RECOMMENDATION

Approval of the referral "East Hampton Indoor Tennis-Bowling Alley" with the following comments:

1. Continued review by the Suffolk County Department of Health Services is warranted. Opportunity exists to utilize advanced treatment being explored by the Suffolk County Department of Health Services that would lessen the nitrogen load from wastewater generated on site. The petitioner should be directed to continue dialogue with the Suffolk County Department of Health Services.

2. The petitioner should be encouraged to review the Suffolk County Planning Commission publication on Managing Stormwater - Natural Vegetation and Green Methodologies and incorporate into the proposal, where practical, design elements contained therein.

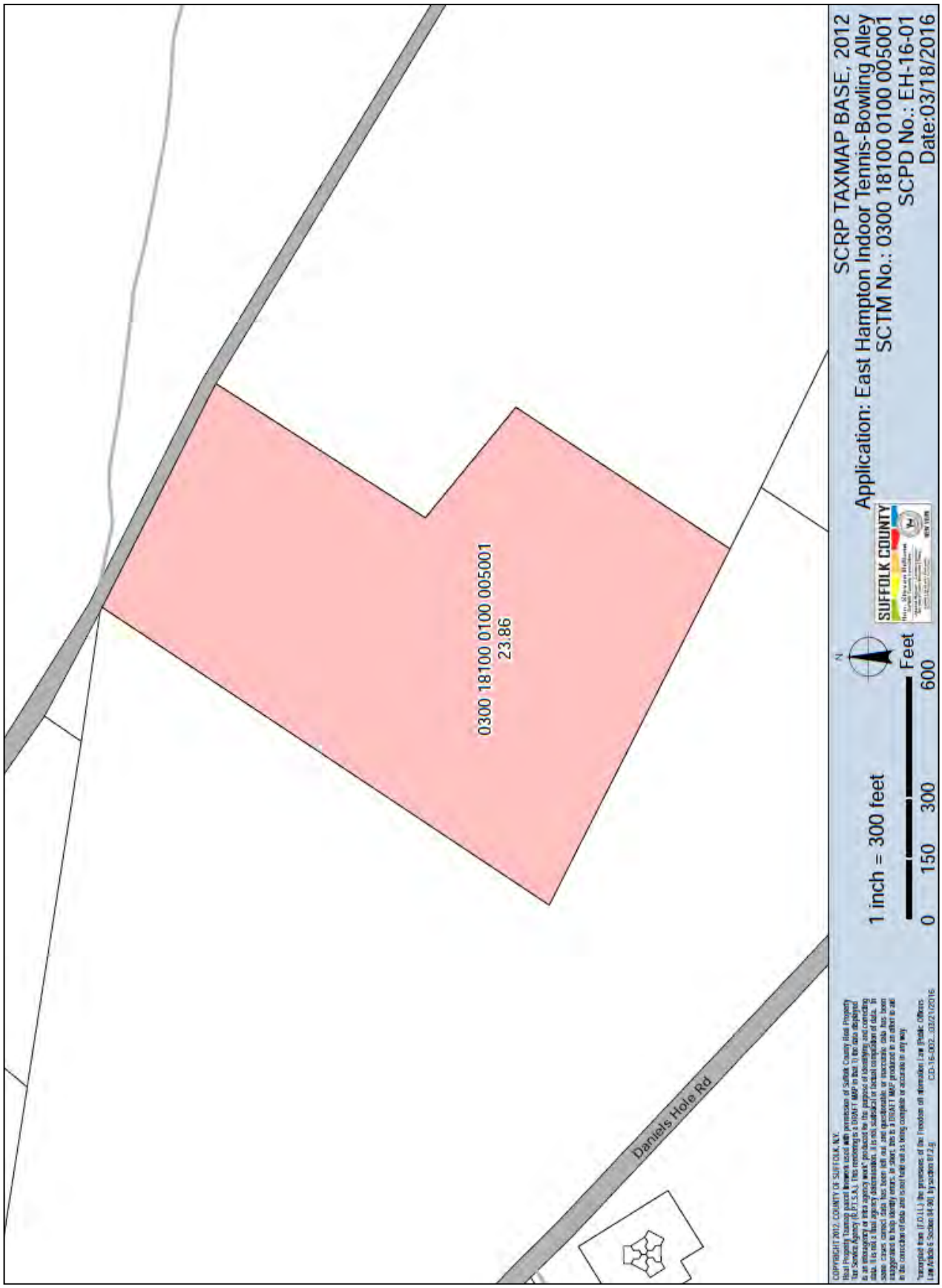
3. No more than 50% of the site should be permitted to be cleared of naturally occurring vegetation.

4. The petitioner should be encouraged to review the Suffolk County Planning Commission Guidebook particularly with respect to energy efficiency and incorporate where practical, applicable elements contained therein.

5. The Town should investigate with the applicant via an amended traffic report, the proposed operation of the facility and how it may draw traffic flow from the north, to determine whether or not any additional traffic mitigation measures need to be incorporated for South Breeze Drive.

6. The petitioner should review the Planning Commission guidelines particularly related to public safety and incorporate into the proposal, where practical, design elements contained therein.

7. The petitioner should review the Planning Commission guidelines particularly related to universal design and incorporate into the proposal, where practical, design elements contained therein.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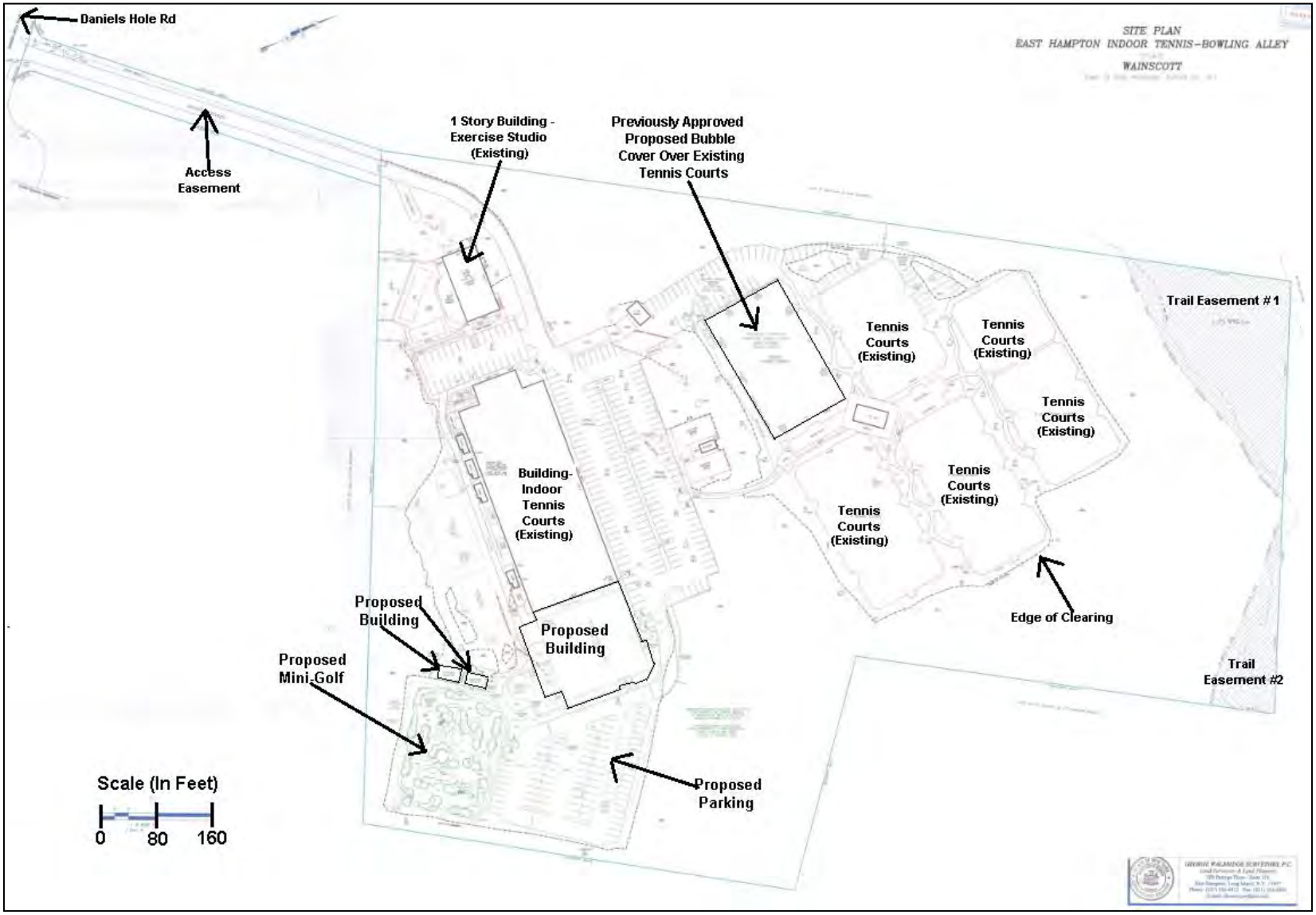
SUFFOLK COUNTY
Application: East Hampton Indoor Tennis-Bowling Alley
SCTM No.: 0300 18100 0100 005001
SCPD No.: EH-16-01
Date:03/18/2016
SCRP TAXMAP BASE, 2012



Z-3: East Hampton Indoor Tennis-Bowling Alley
SCPD: EH-16-01
SCTM No: 0300-181.00-01.00-005.001

COUNTY OF SUFFOLK Z-4

Steven Bellone
SUFFOLK COUNTY EXECUTIVE
Department of
Economic Development and Planning

Joanne Minieri
Deputy County Executive and Commissioner

Division of Planning
and Environment

STAFF REPORT
SECTIONS A14-14 THRU A14-25 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Anthony Fusco Investment Company
Municipality: Town of Islip
Location: Southeast corner of Sunrise Highway Broadway Avenue, hamlet of Sayville

Received: 2/22/2016
File Number: IS-16-02
T.P.I.N.: 0500 23800 0200 003002 & 004000
Jurisdiction: Adjacent to NYS Route 27 Sunrise Highway South Service

ZONING DATA

- Zoning Classification: General Service C District (change of zone from Residence AA granted 1/28/16 subject to site plan modifications and certain covenants*)
- Minimum Lot Area: 120,000. Sq. Ft.
- Section 278: No
- Obtained Variance: No – *Except as provided in a 1/7/16 Planning Board resolution, and 1/28/16 Town Board resolution approving a Change of Zone and Site Plan Modifications pursuant to Islip Town Code and S.C. Planning Commission/Town Planning Board Inter-Municipal Agreement.

SUPPLEMENTARY INFORMATION

- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: No
- Property has Historical/Archaeological Significance: No
- Property Previously Subdivided: No
- Property Previously Reviewed by Planning Commission: No
- SEQRA Information: Yes
- SEQRA Type Unlisted Action
- Minority or Economic Distressed No

SITE DESCRIPTION

- Present Land Use: Farm stand/garden center and Vacant/agriculture use
- Existing Structures: Assorted barns and sheds
- General Character of Site: Mostly level then sloping down in the rear
- Range of Elevation within Site: 35-55" amsl
- Cover: Cultivated field, mostly cleared some woods
- Soil Types: Plymouth loamy sand series
- Range of Slopes (Soils Map): 0-8%
- Waterbodies or Wetlands: None

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: Area Variance – to construct a 150 bed assisted living facility
- Layout: Standard
- Area of Tract: 7.34 Acres (2 tax map parcels)
- Yield Map: Not applicable

ACCESS

- Roads: Broadway Avenue and Sunrise Highway South Service Road
- Driveways: Private

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
  - Design of System: In compliance with the change of zone approval the applicant/owner agrees to incorporate one or more of the following stormwater mitigation techniques:
    1) Natural retention areas
    2) Permeable surfaces
    3) Catch basins with filter and treatment
  - Recharge Basins No
- Groundwater Management Zone: VI
- Water Supply: Public
- Sanitary Sewers: Connection to SCSD #14 (20,650 GPD)

PROPOSAL DETAILS

OVERVIEW – Applicants are proposing to construct a 150 unit assisted living facility in a 3 story 159,259 S.F. building on 7.34 acres in the hamlet of Sayville. As part of the proposal the applicants are seeking the following area variances from the Town of Islip Board of Zoning Appeals.

1) Allowable Maximum Gross Floor Area Ration, whereas the Code permits up to 40%, the applicant proposes 50%;
2) Allowable Maximum Building Height, whereas the Code permits up to 35 feet (2 stories), the applicant proposes 45 feet (3 stories);

The recent zone change of the subject property to General Service C District permits a nursing home or skilled nursing facility use, and the Town Board approved said zone change subject to certain design criteria on January 28, 2016 (please see attached Islip Town Board resolution).

Other area variances sought were addressed and approved earlier during planning review process by the Town of Islip. Relief from the Town's own parking, drainage, landscaping and buffering requirements were considered first by the Planning Board, and pursuant to the Inter-Municipal Agreement with the County Planning Commission (adopted 2/6/08), as "site plan modifications".

The Town of Islip Planning Board, on January 7, 2016 granted approval of certain site plan modifications indicating certain design elements and relief from specified Subdivision and Land Development Regulations which must be in substantial conformance to the 'plan' prepared by H2M Architects& Engineers date received by the Planning on December 10, 2015 (please see attached).

In addition allowing the number of on-site parking spaces to be 110 spaces, as part of the adoption of "site plan modifications", the Planning Board previously granted the following relief:

1) Required Minimum Landscape Area Exclusive of Required Landscape Areas, whereas the Code at least 10%, the applicant was granted 8.46%;
2) Required Minimum Landscape Area Adjacent To Publicly Owned Land / Any Residential Zone Or Use, Exclusive of Required Landscape Areas, whereas the Code requires at least 25 feet, the applicant was granted a distance of 5 feet from a residential zone and County parkland parcel (Sans-Soucci Lakes County Nature Preserve).

The referral material from the Town of Islip included the same 'plan' which demonstrates compliance with the majority of the Islip Zoning Laws, and the Islip Town Board addressed the parking, traffic, storm-water and design elements in their resolution approving the change of zone subject to eleven (11) Deed Covenants and Restrictions dated January 28, 2016 (see attached).

The subject property is located adjacent to a Suffolk County Nature Preserve, which is a County concern.

The Suffolk County Planning Commission staff previously received the change of zone application from the Islip Town Board and deemed it a matter of local determination since based on established criteria itself was not considered an application of regional significance.

As stated earlier the Islip Planning Board resolved to adopt site plan modifications pursuant to an "Inter-municipal agreement" with the County, and therefore the Town only notified the County Planning Commission of the landscaping and buffer relaxations because they deemed them to be 'minor', and/or matters for local determination rather than an inter-community or county-wide concern.

And as stated earlier the Town of Islip Town Board subsequently approved the change of zone subject to eleven (11) Deed Covenants and Restrictions (see attached).

The proposed project is not located in a Suffolk County Pine Barrens Zone. The subject parcel is not located a State Special Groundwater Protection Area (SGPA). The site is situated over Hydro-geologic Management Zone VI. The subject property is not in a State designated Critical Environmental Area. No local or State designated wetland occur on the subject site.

STAFF ANALYSIS

GENERAL MUNICIPAL LAW CONSIDERATIONS: New York State General Municipal Law, Section 239-l provides for the Suffolk County Planning Commission to consider inter-community issues. Included in such issues are compatibility of land uses, community character, public convenience and maintaining of a satisfactory community environment.

It is not apparent to staff, based on the referral material, that an undesirable impact would not be produced to the neighboring nature preserve, a publicly owned property, as a result of allowing the distance of the required landscaped buffer to be reduced from 25' to 5'.

LOCAL COMPREHENSIVE PLAN RECOMMENDATIONS: The proposed assisted living facility is not inconsistent with the Sunrise Highway Corridor Study done by the Town and County which recommended a residential use for the property and specifically recommended against new retail uses. While they are not single family dwellings, assisted living facilities are residential uses that serve a need in the community.

The Town of Islip Comprehensive Plan; adopted 1979 was updated 2001 to account for demographic shifts. The demographic changes indicated in the Update show that the Town has become older and more diversified. The Updated Comp Plan attempts to understand the current population and trends to properly plan for future needs and balanced development. The proposed assisted living facility is to be located Sayville, one of the hamlets identified in the Update that has experience very little population growth over the previous 10 years, and considering one of the goals of the Update is to accommodate the aging population, the proposal would be in general accordance with the recommendations of the Town of Islip's Comprehensive Plan Update.

As it is stated in the Town Board's resolution approving the previous change of zone of the subject property to General Services C District, the proposed 150 unit assisted living facility shall be in compliance with eleven (11) Deed Covenants and Restrictions, and the ninth (9th) states that "Except as provided herein, applicant/owner agrees to comply in all respects with the Subdivision and Land Development Regulations and the Islip Town Code.

However, area variances are being sought for relief from the General Services C District's bulk requirements in accordance with the Zoning Code. As with any area variance request, must demonstrate a hardship also known as a "practical difficulty" in order for the Zoning Board of Appeals to grant the requested relief.

According to New York State Town Law (Section 267-b) If requesting an area variance, that is, permission to build in an otherwise restricted portion of the property, then State law requires the applicant to show that the benefit the applicant stands to receive from the variance will outweigh any burden to health, safety and welfare that may be suffered by the community. And State law also requires the ZBA to take the following factors into consideration in making its determination:

(1) whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the area variance;

(2) whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance;

(3) whether the requested area variance is substantial;

(4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

(5) whether an alleged difficulty is self-created.

Unlike the use variance test, the ZBA need not find in favor of the applicant on every one of the above questions. Rather, the ZBA must merely take each one of the factors into account.

Whether the ZBA decides to grant an area variance, State law requires the ZBA to grant the *minimum variance necessary* to provide relief, while at the same time taking care to protect the character of the neighborhood and the health, safety and welfare of the community. For these same reasons, the ZBA may also impose reasonable conditions on the grant of any variance.

With regards to one of the variances being sort by the applicant/owner in particular (to provide less than the required 25' landscape buffer adjacent to publicly owned land) and the above variance criteria, the first factor to consider; whether granting the requested variance will result in a detriment to nearby properties is the fundamental issue which the staff feels requires the most consideration.

SUFFOLK COUNTY PLANNING COMMISSION GUIDELINE CONSIDERATIONS:

The Suffolk County Planning Commissions has identified six general Critical County Wide Priorities and include:

1. Environmental Protection
2. Energy efficiency
3. Economic Development, Equity and Sustainability
4. Housing Diversity
5. Transportation and
6. Public Safety

These policies are reflected in the Suffolk County Planning Commission Guidebook (unanimously adopted July 11, 2012). Below are items for consideration regarding the above policies:

In regards to environmental protection, as indicated in the referral material, the petitioners have requested relief from the Town Code's Landscape Buffer requirement of 25 feet to be reduced to 5 feet for an interior roadway along Suffolk County Parkland in a "site plan modification" which was granted by the Town of Islip Planning Board already. Even though it may already be a moot point, and to act in vain, the Suffolk County Planning Commission staff notified Suffolk County Parks Department for feedback, and they subsequently requested that the Town hold the applicant to the required 25' landscape buffer along all County Nature Preserve property boundaries in order to avoid potential impacts from the proposed project, including lighting, odor, and noise, among other concerns. In addition, Parks staff also asked that the revised site plan show the extreme eastern end of the subject property be deeded over to Suffolk County and transferred to Parks as an addition to the Sans Soucci Lake County Nature Preserve Park since the area contains slopes leading to NYSDEC regulated freshwater wetlands.

One of the 'General Policy Goals' of the Commission, as stated in the Guidebook, is to ensure that the County's significant investment in park and recreation areas are properly protected and that potential conflicts between users and adjoining property owners are minimized.

The referral material did not include information regarding how waste water effluent from the building would be treated. Suffolk County Planning Commission staff researched and identified a Suffolk County Sewer Agency application for connection to S.C. Sewer District #14 under the name of "Brightview Senior Living at Sayville" that matches the subject property description.

Storm water runoff from the proposed project should be retained on-site (not allowed to reach street drainage systems) and recharged via a drainage system designed to conform to all applicable Town requirements. Submission materials (Town Board change of zone resolution) to the Commission did indicate that develop of the site would incorporate best management practices to mitigate non-point source pollution from storm-water runoff, including natural retention areas (i.e. bio-swales and rain-gardens), permeable surfaces and manufactured treatment devices (catch basins with filtration systems) in the site plan design.

There is no indication in the referred material to the Suffolk County Planning Commission that the petitioner has considered energy efficiency in the layout and design of the proposed development.

The petitioner should be directed the Suffolk County Planning Commission Guidebook for guidelines on the incorporating energy efficiency into this project.

Regarding equity and housing diversity, it is the understanding of Commission staff that the proposed facility can be considered a project that could meet some community need based on Town of Islip demographics. Especially if patients are accepted via the Medicaid/Medicare system and no private insurance is required. State licensing of the facility is based on a community need and is limited to a geographic area. The applicant should be directed to consult the Suffolk County Planning Commission guidelines on affordable housing and reach out to the Suffolk County Department of Social Services Housing for any opportunities that may enhance the proposal.

The location of the proposed assisted living facility is situated along a Suffolk County Transit route however there is no proposed bus shelter or bus turnoff on the proposed conceptual plan. The applicant should be required to hold discussions with Suffolk County Department of Public Works Transportation Division to investigate the need for transit service adjustments.

Regarding 'public safety, based on the referral material the applicant did submit a traffic study and after reviewing it the Town's traffic consultant recommended prohibiting left turns into the site from Broadway Avenue, and determined that the amount of traffic generated by the proposed use was low enough that permitting left turns out onto Broadway Avenue is deemed acceptable. The Town Board resolution approving the change of zone of the subject property was granted subject to (Deed Covenant & Restriction #3) the applicant agreeing that one year after the issue of a Certificate of Occupancy, or if a fatality from an accident involving an exiting vehicle making a left turn movement out of the property onto Broadway Avenue occurs beforehand, the applicant shall submit a study of accident data involving exiting vehicles making a left turn movement out of the property onto Broadway Avenue compiled by the Suffolk County Police Department. After review of this study the Board may opt to prohibit left turn movements onto Broadway Avenue during peak traffic periods or altogether if supported by the findings and recommendations. There is no indication in the referred material to the Suffolk County Planning Commission that the petitioner has considered other public safety elements in the layout and design of the proposed development. The petitioner should be directed the Suffolk County Planning Commission Guidebook for guidelines on the incorporating public safety elements into this project.

STAFF RECOMMENDATION

Approval with the following comments to be offered to the Board of Zoning Appeals for its consideration and use:

1. The Town of Islip Zoning Board of Appeals could consider imposing additional 'conditions and restrictions' as are directly related to the 'site plan modifications' granting relief of the property for diminished landscape buffering. Such conditions should be consistent with the spirit and intent of the zoning ordinance or local law, and should be imposed for the purpose of minimizing any adverse impact certain variances may have on the neighboring properties or community assets (Sans-Soucci County Nature Preserve). Especially since sufficient information has not been submitted to demonstrate compliance with applicable area variance criteria particularly as it relates to 'whether a detriment to nearby properties will be created by the granting of a particular area variance'. Suffolk County Parks Department statements have indicated that potential impacts from the proposed project to adjacent parklands could include lighting, odors, and noise, among other concerns.

2. A fence, in accordance with zoning regulations as to height and type, should be erected by the developer along the common boundary of the development with the County Park property.

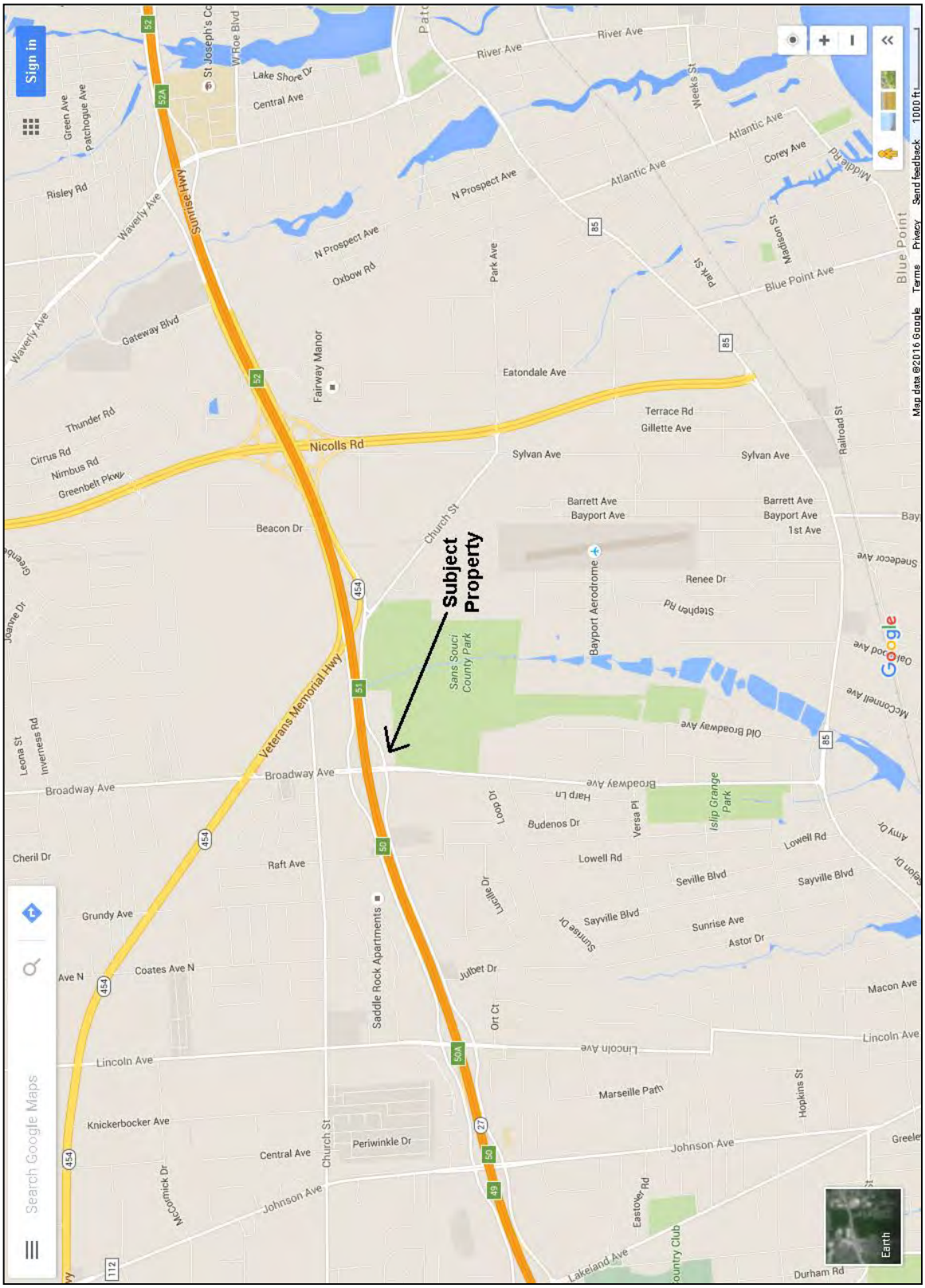
3. The applicant should communicate with the Suffolk County DPW Transit Division and discuss possible accommodations for bus riders from the subject development.

4. The applicant shall be encouraged to review the Suffolk County Planning Commission publication on Managing Stormwater-Natural Vegetation and Green Methodologies and incorporate into the proposal, where practical, design elements contained therein.

5. The applicant should be encouraged to review the Suffolk County Planning Commission Guidebook particularly with respect to energy efficiency and shall incorporate where practical, applicable elements contained therein.

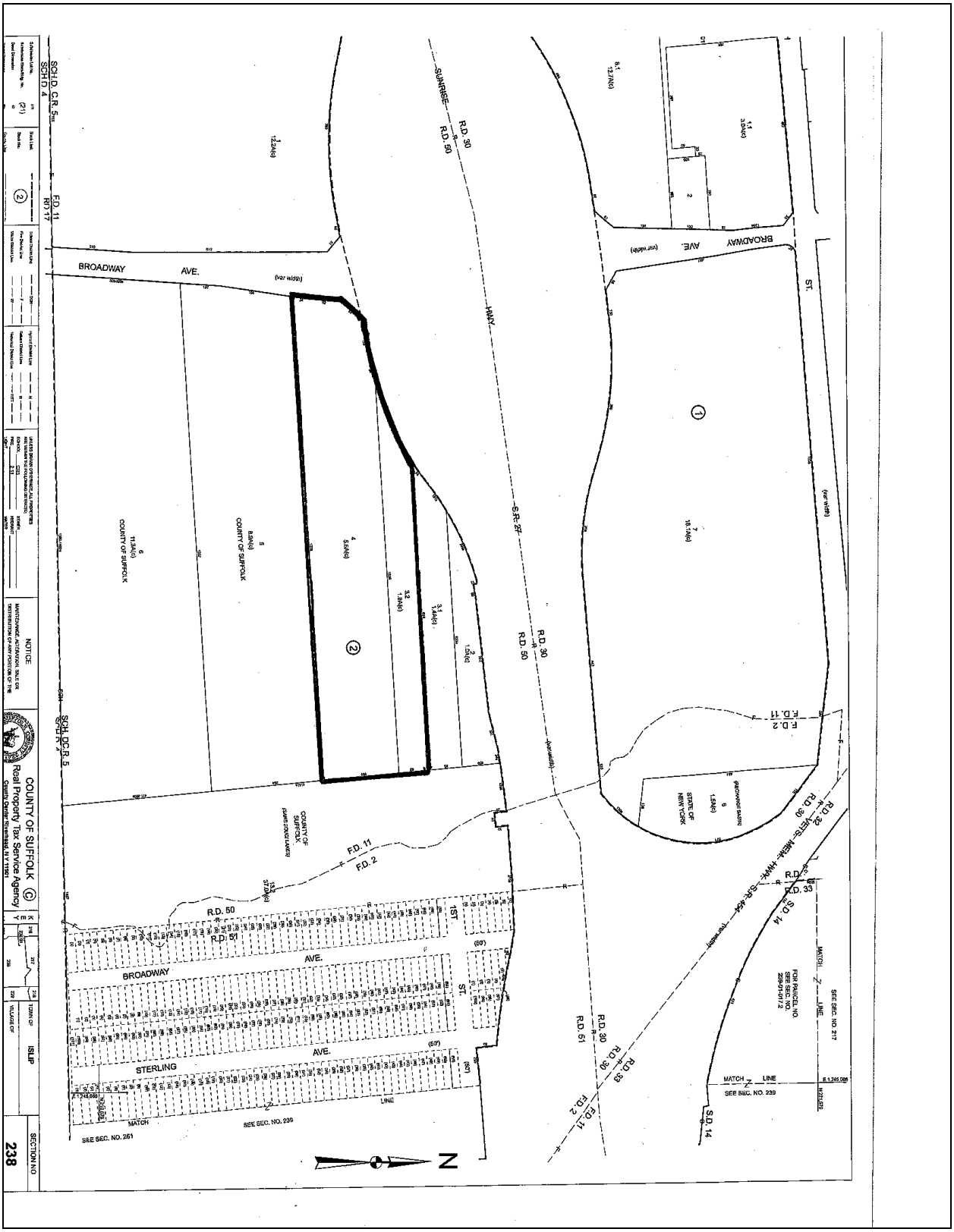
6. The applicant should review the Planning Commission guidelines particularly related to public safety and incorporate into the proposal, where practical, design elements contained therein.

7. The applicant should review the Planning Commission guidelines particularly related to universal design and incorporate into the proposal, where practical, design elements contained therein.



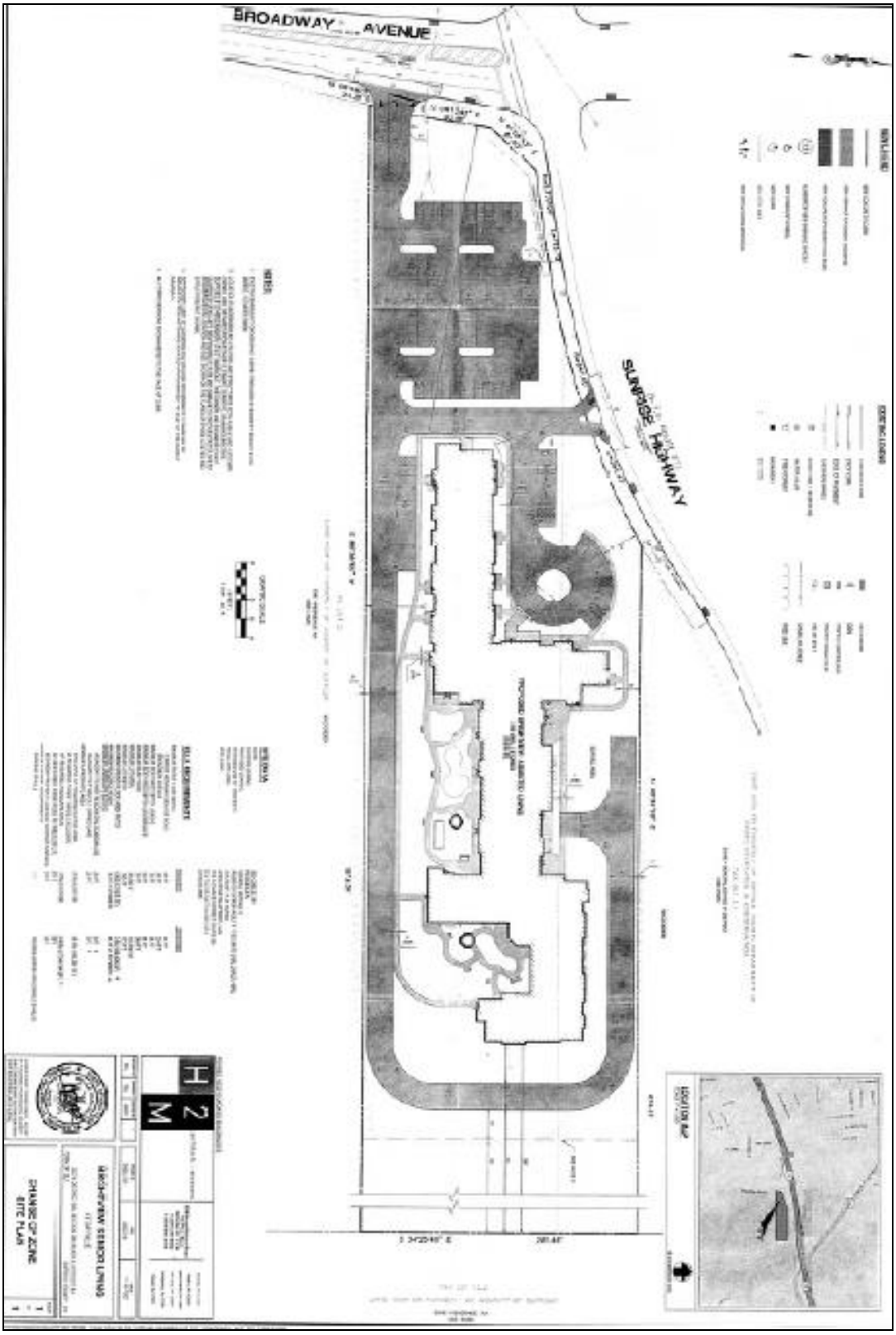
Location Map

File # IS-16-02



Tax Map

File # IS-16-02



Site Plan File # IS-16-02

On a motion of, Councilman Cochrane and seconded by Councilperson Bergin

BE IT RESOLVED, that on January 28, 2016, the application of Shelter Development - T.C. #5221 for a Change of Zone from Residence AA District to General Service C District in order to construct an assisted living facility was granted. Site plan modifications are also required as part of this application. This property is located in the Sayville Union Free School District and located on the Southeast corner of Broadway Avenue and Sunrise Highway (S.R. 27) South Service Road, Sayville (445 Broadway Avenue), Town of Islip, Suffolk County, New York also known as SCTM# 0500-238.00-02.00-033.002 & 004.000. A public hearing of which was held on Thursday, January 28, 2016 and after determining that there would be no significant adverse environmental impact, be and the same is hereby granted and described as follows:

METES AND BOUNDS

ALL that certain plot, piece, or parcel of land situate, lying and being at Sayville, Town of Islip, County of Suffolk and State of New York, bounded and described as follows:

BEGINNING at the southwesterly end of a line that connects the southerly side of Sunrise Highway (N.Y.S. Route 27) with the easterly side of Broadway Avenue;

RUNNING THENCE North 41 degrees 05 minutes 43 seconds East, 64.00 feet along said line to the southerly side of said Sunrise Highway;

THENCE along the southerly side of said Sunrise Highway, the following two (2) courses and distances:

1. Easterly, along the arc of a curve to the Left, having a Radius of 5,777.00 feet, a Length of 115.73 feet; and

2. Easterly along the arc of a curve to the Left, having a Radius of 847.00 feet, a Length of 293.47 feet to land now or formerly of the Suffolk County Department of Parks, Recreation & Conservation;

THENCE North 85 degrees 36 minutes 55 seconds East, 814.31 feet along the last mentioned land to land now or formerly of the County of Suffolk;

THENCE along said land now or formerly of the County of Suffolk, the following two (2) courses and distances:

1. South 04 degrees 25 minutes 49 seconds East, 281.48 feet; and

2. South 85 degrees 36 minutes 55 seconds West, 1,272.56 feet to the easterly side of Broadway Avenue;

THENCE along the easterly side of Broadway Avenue, the following two (2) courses and distances:

1. North 08 degrees 49 minutes 01 seconds East, 34.31 feet; and

2. North 04 degrees 13 minutes 42 seconds East, 92.58 feet to **THE POINT OR PLACE OF BEGINNING.**

Containing 319,783 Square Feet or 7.34 Acres, more or less.

Reference SCTM 0500-238-02-3.2, 4

BE IT FURTHER RESOLVED, that this application be granted subject to the compliance with the following:

DEED COVENANTS and RESTRICTIONS

1. A change of zone from Residence AA to General Service C District is granted as part of this application. The use of the subject parcel(s) shall be limited to an assisted living and congregate care facility licensed by New York State with a maximum of 150 units and 169 beds. Applicant/owner agrees to provide verification of the New York State license for the assisted living facility to the Town of Islip upon request.

2. Prior to the issuance of any building permits or Certificates of Occupancy, there shall be submitted to the Town of Islip Planning Department for review and subject to approval the following items. The approved site plan shall supersede this plan for the purposes of regulating the subject property.

a. Exterior architectural drawings of all proposed buildings. The Planning Department shall review said drawings for overall design, color, materials, and design and location of any exterior mechanical equipment. The submitted architectural drawings shall be in substantial conformance to the plan(s) prepared by JSA Architects, Architect and which is dated 05/11/2015. Said plan shall also show the following design elements:

1. The structure shall be Colonial or Victorian style with gable, gambrel or hip roofline(s), dormers, and porches.

2. All exterior mechanical equipment shall be screened from public view and for sound attenuation purposes.

b. A site plan showing the improvements specified in the Subdivision and Land Development Regulations including but not limited to: building locations, parking, curbs, sidewalks, curb cuts, landscaping, and drainage. The submitted plan shall be in substantial conformance to the plan(s) prepared by H2M Architects & Engineers and which is dated received by Planning on December 10, 2015. Said plan shall also show the following design elements:

1. A total of 110 parking stalls shall be provided on-site.

2. Any proposed garbage dumpster shall be located at the direction of the Town Engineer and shall be enclosed within a decorative or split faced concrete block enclosure with opaque gates. Dumpsters shall be emptied on a regular basis to prevent overflow. Food waste shall be stored inside the building. The subject site shall be maintained in a neat, clean, and litter free condition.

3. All stormwater drainage shall be contained on-site in accordance with the current Subdivision and Land Development Regulations. In addition, applicant/owner agrees to incorporate non-point source pollution mitigation into the overall drainage plan by incorporating one or more of the following stormwater mitigation techniques:

   a. Natural retention area(s) such as vegetated swales and bioretention cells/rain gardens
   b. Permeable/porous pavement surfaces
   c. Manufactured treatment devices, i.e. catch basin inserts designed to filter hydrocarbons and other pollutants from stormwater runoff

c. A site plan showing the improvements specified in the Subdivision and Land Development Regulations including but not limited to: building locations, parking, curbs, sidewalks, curb cuts, landscaping, and drainage. The submitted plan shall be in substantial conformance to the plan(s) prepared by H2M Architects & Engineers and which is dated received by Planning on December 10, 2015. Said plan shall also show the following design elements:

   1. Existing vegetation shall be maintained in landscape and buffer areas to the maximum extent practicable.

   2. Street trees shall be installed and maintained 20' on center along all street frontages.

   3. All parking shall be screened by landscaping to the satisfaction of the Town Engineer.

The Planning Board reserves the right to modify any site plan requirements with the consent of the applicant/owner after due public hearing. The Commissioner of Planning is hereby authorized to waive the requirement for such public hearing if any future site plan modification is reasonable, is evident within the documentation submitted as part of this application, and is within the spirit and intent of this grant.

3. Applicant/owner agrees that one year after the issuance of a Certificate of Occupancy, or if a fatality from an accident involving an exiting vehicle making a left turn movement out of the property onto Broadway Avenue occurs beforehand, the applicant shall submit a study of accident data involving exiting vehicles making a left turn movement out of the property onto Broadway Avenue compiled by the Suffolk County Police Department. Said study shall be reviewed by the Town's traffic consultant. Upon review of such study, the traffic consultant shall present his or her findings and recommendations to the Planning Board. The Board may opt to prohibit left turn movements onto Broadway Avenue during peak traffic periods or altogether if supported by the findings and recommendations.

Applicant agrees to prohibit left turn movements in and out from Broadway Avenue during construction.

4. All plantings shall be maintained to the satisfaction of the Planning Board and all plant material shall be kept in a healthy well maintained condition. The subject property shall also be kept clean of litter and debris at all times. The Planning Board shall be solely responsible for the determination regarding adequate maintenance and litter clean up. Failure to maintain the on-site landscaping or failure to clean litter, graffiti and debris may result in the revocation of the Certificate of Occupancy and termination of the operation of the subject use. The applicant/owner shall be solely responsible for the cost of the maintenance and litter clean up. In the event applicant/owner fails to maintain the landscaping or clean up litter and debris as so directed, the Town of Islip also reserves the right to enter onto the subject parcel and complete the required maintenance and assess all costs associated with same to the applicant/owner's next tax bill.

5. Applicant/owner agrees to maintain a contract with a private ambulance company for the residents of the facility, and shall provide proof of such contract to the Town of Islip upon request. Applicant/owner further agrees to make a one-time donation to the Holbrook Fire Department in the sum of $10,000.

6. Loitering shall be prohibited on the subject parcel. Applicant/Owner agrees to install fencing, lighting, and/or cameras at the direction of and with the approval of the Planning Board after due public hearing, in order to ensure compliance with this requirement. Should these methods prove ineffective, the Planning Board reserves the right to require the applicant/owner to take other appropriate measures, after due public hearing. The Planning Board reserves sole jurisdiction of determining if the applicant/owner is in compliance with this requirement.

7. All lighting shall be positioned or shielded so as to illuminate only the subject parcel. Within any rear or side yard adjoining residential uses, only downward facing pin-lighting having a post and/or mounting assembly no more than 4.5 feet high may be used. For security purposes only, supplemental motion sensitive lighting may be used in the rear or side yards of any of the subject parcels that adjoin residential uses or districts. Said motion sensitive lights shall be extinguished no more than 15 minutes after detection of movement ceases. The Planning Board reserves the right to further limit or shield lighting fixtures if it is determined that light is not being contained on the subject property. The Planning Board reserves the sole responsibility of determining if lighting is properly contained on the subject property.

8. Prior to the issuance of any sign permits, all exterior signs shall be subject to review and approval by the Town of Islip Planning Department. Any ground sign shall be a monument style sign, unlit or indirectly lit only, with landscaping at its base to the satisfaction of the Planning Department. The Planning Department shall review the signs for design compatibility, color, materials, height, the Zoning Board of Appeals without the prior approval of the Planning Department.

9. Except as provided herein, applicant/owner agrees to comply in all respects with the Subdivision and Land Development Regulations and the Islip Town Code.

10. All required permits, plan submissions, and physical property improvements described herein shall be completed within 30 months of the date of the Town Board resolution approving this application or 24 months from the date of site plan approval, whichever date is earlier, unless otherwise extended by the Town Board of the Town of Islip. Applicant/owner further agrees to permanently maintain all improvements and landscaping to the satisfaction of the Planning Board. If the applicant fails to comply with this restriction then the Town Board reserves the right, after due public hearing, to revert the zoning of the subject property, rescind any special permit(s) and approvals on the subject property, or revoke the property's Certificate of Occupancy. The applicant/owner shall waive any right to non-conformity in the event that any of the above Town Board actions are taken.

11. The above-mentioned covenants and restrictions shall be and constitute real covenants running with the land and shall be binding upon the Declarant and any and all subsequent owners of the said real property or any part thereof, and upon their heirs, executors, and administrators (or their successors and assignees) subject, however, to the right of the Town of Islip after a public hearing to amend, alter, annul or repeal any or all of the foregoing covenants and /or restrictions at any time with the consent of the owner or owners for the time being of the premises herein described, and such right shall be effectual and may be exercised without the consent of any adjacent owners or other owners or lienors of any other property.

Following approval of such Declaration of Covenants and Restrictions by the Town Attorney, said instrument shall be recorded in the Suffolk County Clerk's Office by the applicant, at the applicant's expense.

UPON a vote being taken, the result was: Unanimous.

Town of Islip Planning Board Resolution

WHEREAS, an application was received by the Department of Planning and Development to request permission to alter a land use or to authorize construction within the Town; and

WHEREAS, a meeting was held by the Town of Islip Planning Board on Thursday, January 07, 2016 to deliberate the merits of the application; and

WHEREAS, the details of the application are as follows:

Shelter Development, LLC. - CZ2015-017 - Southeast corner of Broadway Avenue and Sunrise Highway (S.R. 27) South service Road, Sayville (445 Broadway Ave.) - Applicant seeks a change of zone from Residence AA District to General Service C District in order to construct an assisted living facility. Site plan modifications are also required as part of this application.; and

WHEREAS, the Planning Board reviewed the environmental impacts associated with the request and has fully complied with the New York State Environmental Quality Reivew Act;

NOW THEREFORE, on the motion by Anthony Musumeci, seconded by Kevin Brown

BE IT RESOLVED that the Planning Board Recommended Grant to the Town Board AM/KB with MK/JD opposing a change of zone from Residence AA District to General Service C District in order to construct an assisted living facility along with site plan modifications. 5-2

Town of Islip Planning Board Resolution

WHEREAS, an application was received by the Department of Planning and Development to request permission to alter a land use or to authorize construction within the Town; and

WHEREAS, a meeting was held by the Town of Islip Planning Board on Thursday, January 07, 2016 to deliberate the merits of the application; and

WHEREAS, the details of the application are as follows:

1248 Montauk Highway, LLC. - CZ2015-025 - Southwest corner of Montauk Highway (SR 27A) and Snedecor Avenue (1248 Montauk Highway), West Islip - Applicant seeks a change of zone from Residence A District to General Service T District in order to use the building for a professional office with one residential unit on the second floor. Site Plan modifications are also required as part of this application. ; and

WHEREAS, the Planning Board reviewed the environmental impacts associated with the request and has fully complied with the New York State Environmental Quality Reivew Act;

NOW THEREFORE, on the motion by Kevin Brown, seconded by Donald Fiore

BE IT RESOLVED that the Planning Board Recommended Grant to the Town Board a change of zone from Residence A District to General Service T District in order t use the building for a professional office with one residential unit on the second floor 7-0

Town of Islip Planning Board Resolution

WHEREAS, an application was received by the Department of Planning and Development to request permission to alter a land use or to authorize construction within the Town; and

WHEREAS, a meeting was held by the Town of Islip Planning Board on Thursday, January 07, 2016 to deliberate the merits of the application; and

WHEREAS, the details of the application are as follows:

Main Street Bar & Eatery - PB2015-046 - Northwest corner of west main street (S.R. 27A), (# 2-6 4th Avenue), Bay Shore - Applicant requests a Planning Board special permit for a restaurant in the Downtown Development District pursuant to TC4884.; and

WHEREAS, the Planning Board reviewed the environmental impacts associated with the request and has fully complied with the New York State Environmental Quality Reivew Act;

NOW THEREFORE, on the motion by , seconded by

BE IT RESOLVED that the Planning Board

Town of Islip Planning Board Resolution

WHEREAS, an application was received by the Department of Planning and Development to request permission to alter a land use or to authorize construction within the Town; and

WHEREAS, a meeting was held by the Town of Islip Planning Board on Thursday, January 07, 2016 to deliberate the merits of the application; and

WHEREAS, the details of the application are as follows:

Harnam Enterprise - CZ2015-034 - Northeast corner of Washington & Suffolk Avenue, Brentwood (785-793 Suffolk Avenue) - Applicant seeks a modification of Deed Covenants and Restrictions associated with TC5115 in order to allow for an internally illuminated ground sign.; and

WHEREAS, the Planning Board reviewed the environmental impacts associated with the request and has fully complied with the New York State Environmental Quality Reivew Act;

NOW THEREFORE, on the motion by Michael Kennedy, seconded by Joseph DeVincent

BE IT RESOLVED that the Planning Board Recommended Grant to the Town Board a modification of Deed Covenants and Restrictions associated with TC 5115 in order to allow for an internally illuminated ground sign 7-0

Town of Islip Planning Board Resolution

WHEREAS, an application was received by the Department of Planning and Development to request permission to alter a land use or to authorize construction within the Town; and

WHEREAS, a meeting was held by the Town of Islip Planning Board on Thursday, January 07, 2016 to deliberate the merits of the application; and

WHEREAS, the details of the application are as follows:

SPJLLC - CZ2015-036 - Southeast corner of Higbie Lane and Union Blvd (C.R. 50) West Islip (300 & 306 Union Boulevard). - Applicant seeks a change of zone from Business One District to Business Three District. Applicant also seeks a Town Board special permit for a gasoline station pursuant to Town Code section 68-302 (C). Applicant also seeks two Planning Board special permits for a convenience store and minor restaurant pursuant to Town Code section 68-302.1 (D) and (A). Site plan modifications are also required as part of this application. ; and

WHEREAS, the Planning Board reviewed the environmental impacts associated with the request and has fully complied with the New York State Environmental Quality Reivew Act;

NOW THEREFORE, on the motion by , seconded by

BE IT RESOLVED that the Planning Board

Town of Islip Planning Board Resolution

WHEREAS, an application was received by the Department of Planning and Development to request permission to alter a land use or to authorize construction within the Town; and

WHEREAS, a meeting was held by the Town of Islip Planning Board on Thursday, January 07, 2016 to deliberate the merits of the application; and

WHEREAS, the details of the application are as follows:

Clinton Bay LLC - CZ2015-037 - West side of South Clinton Avenue, 85' south of South Bay Avenue, Bay Shore. - Applicant seeks a change of zone from Business One District to General Service T District in order to construct a mixed use building. Site plan modifications may be required as part of this application. ; and

WHEREAS, the Planning Board reviewed the environmental impacts associated with the request and has fully complied with the New York State Environmental Quality Reivew Act;

NOW THEREFORE, on the motion by , seconded by

BE IT RESOLVED that the Planning Board

Town of Islip Planning Board Resolution

WHEREAS, an application was received by the Department of Planning and Development to request permission to alter a land use or to authorize construction within the Town; and

WHEREAS, a meeting was held by the Town of Islip Planning Board on Thursday, January 07, 2016 to deliberate the merits of the application; and

WHEREAS, the details of the application are as follows:

Pineaire Estates, Bayshore - MS2006-003 - Central Boulevard, between Pineaire Drive and Forrest Place, Bay Shore - Applicant seeks a bond release in connection with a 14 lot subdivision and dedication of the road and recharge basin.; and

WHEREAS, the Planning Board reviewed the environmental impacts associated with the request and has fully complied with the New York State Environmental Quality Reivew Act;

NOW THEREFORE, on the motion by Michael Kennedy, seconded by Joseph DeVincent

BE IT RESOLVED that the Planning Board granted release of Surety Bond #530631S in the amount of $170,132.00 and Cash Bond of $34,026.00. Additionally, the Board recommended to the Town Board to accept the dedication of the road and recharge basin.

Town of Islip Planning Board Resolution

WHEREAS, an application was received by the Department of Planning and Development to request permission to alter a land use or to authorize construction within the Town; and

WHEREAS, a meeting was held by the Town of Islip Planning Board on Thursday, January 07, 2016 to deliberate the merits of the application; and

WHEREAS, the details of the application are as follows:

700 Suffolk Ave LLC - PB2015-045 - South side of Suffolk Avenue (C.R. 100), (#700), approximately 200 feet west of 4th Street, Brentwood - Applicant requests a Planning Board special permit for a single-user freestanding retail use in excess of 10,000 square feet of gross floor area in the Business 1 district pursuant to 68-257.1 J. A parking and landscaping relaxation are requested as part of this application.; and

WHEREAS, the Planning Board reviewed the environmental impacts associated with the request and has fully complied with the New York State Environmental Quality Reivew Act;

NOW THEREFORE, on the motion by Michael Kennedy, seconded by Joseph Devincent

BE IT RESOLVED that the Planning Board Motion by Michael Kenney, seconded by Joseph DeVincent