

SUFFOLK COUNTY PLANNING COMMISSION

MINUTES

A regular meeting of the Suffolk County Planning Commission was held in the conference room of the Planning Department, 4th Floor of the H. Lee Dennison Building located in Hauppauge, New York on March 6, 2002.

PRESENT:

Donald Eversoll (At Large) Chairman Robert Martin (Smithtown) Vice-Chairman
Edward Rosavitch (Brookhaven)
Thomas Thorsen (East Hampton)
Richard O'Dea (Riverhead)
Laure Nolan (Village 5000 & Over)
Linda Petersen (At Large)
Richard London (Village 5000 & Under)
Michael Macco (Huntington)
William Cremers (Southold)
Ronald Parr (At Large)
Thomas Isles - Director
Harold Withers - Deputy Director

ALSO PRESENT:

Basia Braddish - Counsel
Gerald Newman - Chief Planner
Andy Freleng - Principal Planner
Kathleen Rigano - Planning Commission Claire Chorny - Planning Commission MINUTES

TAKEN AND TRANSCRIBED BY:

Donna Barrett and Lucia Braaten - Court Stenographers

(*THE MEETING WAS CALLED TO ORDER AT 12:10 P.M.*)

CHAIRMAN EVERSOLL:

I'd like to call our March 6th meeting to order. And in conjunction with that, we received in the mail the verbatim minutes of the January and February meetings, and accordingly, I would like a resolution for the January minutes for approval of those.

MR. THORSEN: I have a correction.

MS. PETERSEN: I have a correction.

MR. THORSEN:

You got corrections, go first.

MS. PETERSEN:

On page 21, it says Ms. Petersen, it's pretty much over -- it should be intensification, and it says densification.

CHAIRMAN EVERSOLL: Tom?

MR. THORSEN:

On page thirty-three in Mr. Cross's comments it was reported that Mr. Hunting was the Chairman of the Town Planning Board, actually it's the Village Planning Board.

CHAIRMAN EVERSOLL:

There being no other revisions, I move -- I entertain a motion for approval.

MS. PETERSEN: So moved.

CHAIRMAN EVERSOLL: Second?

MR. THORSEN: Second.

CHAIRMAN EVERSOLL:

All those in favor?

Opposed?

Any abstentions?

It's unanimous.

And a resolution for the February 6th minutes.

MR. THORSEN:

I also have a correction. On page 18, halfway down, a comment made by me, it says to -- be company programs, be company programs, actually it should be about comparables.

CHAIRMAN EVERSOLL:

Any other? Someone like to make a motion for approval?

MR. THORSEN:

I make it.

CHAIRMAN EVERSOLL:

Do we have a second?

MR. MARTIN:

I'll second.

CHAIRMAN EVERSOLL:

Second. Approved and seconded. Any other discussion? All those in favor? Opposed? Any abstentions? Unanimous. Tom?

MR. ISLES:

Okay. We have no correspondence this month, we have a lot of phone calls, but no correspondence. In terms of the Director's Report, there are a few items I'd like to bring to your attention. Number one is that we have prepared today an annual report for the commission. This is something that was presented to the commission in part in the meeting in January, I believe it was, when Jerry Newman and Andy Freleng presented the information on subdivisions and zoning. I bring to your attention that the County Administrative Code requires that the Suffolk County Planning Commission provide a report to the County Executive and the Legislature each year, so we've put together is a suggested report. I'd like to note that Peter Lambert did the work regarding the demographic population and employment information. Roy Fedelem provided the work for the census information as well as the work from Jerry Newman and Andy Freleng. The administrative code requires that the commission report on the activities of the commission in terms of application reviews, which is contained within this.

Secondly, the administrative code requires that the commission report on population changes, housing employment, those general matters. What I'd like to suggest is that the commission review this information. If you have any suggested changes or additions, please let me know or Harry Withers know in the next week or so. We'll then prepare a final version of this for submission to the County Executive and to the Legislature. We welcome any comments you may have on this. Secondly, I'd like to note that at a meeting a couple of months ago, Roy Fedelem made a presentation regarding the Agricultural District Program. We have before you a formal resolution now for that district. These are Agricultural Districts Number 4 and 5. In the processing of the Agricultural District, Planning Commission must review and make a recommendation on them, so Roy has prepared a resolution. We'd like another briefing on the districts. Roy has brought the map, and we can go over that, but we'd like to request of the commission today consideration of this resolution. If you want to have Roy make -- or unless any of the commission members have any questions.

CHAIRMAN EVERSOLL:

Roy, do you have any further comments?

MR. FEDELEM:

I provided this at the last meeting. You'll see maps up here showing that the Ag District is in parts of Southampton Town, mostly eastern part of the Southampton Town. There's a couple of

parcels in the western part, and a few parcels in the town of East Hampton. Overall the district would be 5094 acres. And it includes 4232.9 acres in east -- Southampton Town, 722.9 in East Hampton town, 15.7 in the Village of East Hampton, and 122.5 acres in the Village of Southampton. This represents an increase of about 1300 acres over the previous renewal. So there's more parcels signing up for the district.

MR. THORSEN:

Are you putting them all in one district now instead of having the two?

MR. FEDELEM:

Right. The resolution -- what happened originally was it spanned two different towns and then there was another district formed because people hadn't gotten into that. So we're -- we're eliminating one district and just creating one district between the two towns.

MR. THORSEN:

The green area to the far east there, is that Amagansett?

MR. FEDELEM:

These parcels here?

MR. THORSEN:

Yeah.

MR. FEDELEM:

I believe they are, yes.

MR. THORSEN:

Okay.

MR. FEDELEM:

Part of them are in the Village of East Hampton, part are just outside the Village. So it's a little bit to the north. I don't know if any of them are strictly in Amagansett.

MR. THORSEN:

Oh, Amagansett has quite a bit of land around farming around Town Lane. The Peconic Land Trust has a large --

MR. FEDELEM:

Yes. On this map you can see Amagansett is over here.

MR. THORSEN:

So they are included?

MR. FEDELEM:

Right. So there are -- you can see these parcels are in Amagansett.

CHAIRMAN EVERSOLL:

Any other questions? Thank you, Roy. Entertain a motion then to accept --

MR. ROSAVITCH:

So moved.

CHAIRMAN EVERSOLL:

We have a second?

MR. THORSEN:

Second.

CHAIRMAN EVERSOLL:

Any other discussion? All those in favor? Any opposition? Any abstentions? Unanimous.

MR. ISLES:

Okay. Just a few more items. Just to let you know that the County does conduct affordable housing auctions periodically. The last one was done in November of 2000. It is part of the Planning Department function, and we will be doing another auction for affordable housing in May of this year. An advertisement will appear in Newsday and other local papers on Friday, and we'll be actually sending out brochures and so forth at that point. We have 23 houses, I think, that are going to be part of this auction. We will be having a housing fair to give potential bidders information on the auction process, hooking them up with bankers and so forth on March 23rd here in the Dennison Building. So just informational item for the commission members.

A couple of other items is that we are providing some planning services to a number of municipalities. The bigger projects we have presented to the commission, including a plan for the Village of Patchogue, which is nearing completion at this point, and we'll report that back to you at an appropriate time. The commission also authorized the department to work with the Town of Brookhaven in the Mastic-Shirley area. I can report on that one that there was a planning {charrette}, a seminar conducted in early February, which I attended most of that session. It turned out to be very interesting and productive, they brought in a national array of planning and architectural experts, and it did generate a lot of enthusiasm in the community. The hard part is now getting it done, but we'll work to the extent that we can with the Town of Brookhaven that.

We're also doing some assistance to the Village of Bellport. They're in the process of looking at their coastal area in the village, and specifically as it relates to docks extending out into the bay. We're not doing any formal planning studies at this point, but we have Dewitt Davies from our staff who's been attending as an advisor at this point. Lastly, the Town of the Riverhead is in the process of updating their master plan. We had done pretty extensive land use work in the East End recently. They had asked for assistance in doing some estimates in population in their Transfer of Development Rights Program, and we have furnished that information to the Supervisor of Riverhead. And just two other -- three other quick items. The Planning Department is being -- has been asked by the County Executive's Office to participate in some bi-county emergency planning discussions that are now under way. This is something will probably or possibly involve the Bi-County Planning Board, the Long Island Regional Planning Board. This has been meeting essentially on a weekly basis now, and as this gets further defined as to what steps we will be taking and what coordination we'll have with the County of Nassau, I'll keep you up to date on that.

The Environment Committee meeting yesterday did consider an appointment of a new Planning Commission member, Nancy Graboski from the Town of Southampton. The commission -- the committee did not vote on the nomination, and as I understand it, there are a number of appointments that are going next week to the Environment Committee as well. I think four other appointments are pending with the Environment Committee at this point. The Environment Committee then has to send a recommendation to the Legislature for final approval. And the last item is Commissioner Tantone noted at a prior meeting that Maurice O'Connell, who was the Planning Board Chairman of Islip for about 40 years and a member of this commission for many, many years has made a decision to resign from the Islip Planning Board. We have prepared for your consideration today is a proclamation to be presented to Mr. O'Connell at his retirement event later on this month, and what we've suggested is it's in recognition of the work which Mr. O'Connell has done, not only for the Town of Islip, but also for Suffolk County. And I'll just note one part of this is "his reputation for running orderly hearings, a balanced respect of scepticism towards experts, for getting to the heart of the matter at hand, courage for making necessary, if sometimes unpopular decisions, and unflagging concern for the residents of the community is as legendary as it is deserved". And having sat with him as a planner in the Islip Planning Board for close to 20 years, all of that is completely true. He's truly a man of character and a person whom I respect greatly. So we'll just ask for your consideration of this. And that's it.

CHAIRMAN EVERSOLL:

Tom, in conjunction with the affordable housing initiatives, there are several organizations, one the Long Island Housing Partnership, and my partner -- former partner is Chairman of that. They do a lot of assistance with helping people into housing as far as counseling.

MR. ISLES:

Right.

CHAIRMAN EVERSOLL:

Not only for homeownership as well as counseling for debt and financial things, as well as the Community Development Corporation of which I'm on the Board. So I just want to make certain that my hands are clean in that regard. But both of those organizations, I think, would be willing to help the County. If they're not on board either one of them, I think could add something.

MR. ISLES:

We've actually just entered into a contractual relationship with the Long Island Housing Partnership.

CHAIRMAN EVERSOLL:

Oh, great.

MR. ISLES:

To assist us on some of those aspects of the Affordable Housing Program. We've talked about the idea of perhaps of homeowner counseling.

We're actually meeting with them next week to set our agenda for the near future in terms of what they'll do for us, but that was approved by the Legislature. We are moving ahead with that.

CHAIRMAN EVERSOLL:

Wonderful. They're a wonderful organization. Okay. The Commissioners' Round Table. Tom, is everybody getting a break out there?

MR. THORSEN:

I think they did and they went back in again. But I think we're going to start budding a little bit in our Town-wide Comprehensive Plan because reading last weeks Star, there's an awful lot of new ideas coming from the -- several committees -- citizen committees that are operating now. It's bound to get charged up after a period of time, because a lot of it is different than what the -- the way planning went in the past. So it will be interesting. So it's going to warm up.

CHAIRMAN EVERSOLL:

Ron?

MR. PARR:

I have nothing.

CHAIRMAN EVERSOLL:

No.

MR. CREMERS:

On a personal note, I missed last month's meeting because I was down on the Island of St. Martin, which I've been going for about 16 years now. And I can just tell that with the security and everything else people are still afraid to fly to these islands. The Island was quite empty compared to other years. The only people that were really there were from the cruise ships, but the hotels were quite empty down there. On a local issue I think last year I mentioned the supervisor announced that she was going for five acre zoning in the agricultural districts, and it became an election issue. And her opponent decided that he was not really for five acre zoning, and if he was elected he would come up with a Blue Ribbon Commission to look at it. That Blue Ribbon Commission has now been appointed, and they've been meeting, and by June they're supposed to come up with an answer as to how they're going to solve the problem of preserving Southold as a rural community. And on Monday, Steve Jones went out there and spoke to the group about balancing preservation and developments, and I didn't go to it, we had a Planning Board meeting, so I don't know what happened at that point, but that's where it stands at this point.

MR. MACCO:

I heard nobody was going to the islands because the former Planning Commissioner of the Cayman Islands messed everything up. That's what I heard, messed everything up.

MR. ISLES:

Shucks, it got out.

MR. O'DEA:

Not too much. Thank you, Mr. Macco, for making the meeting early today. I didn't get that one in. Got to be first.

MR. MACCO:

Riverhead, I got to tell you.

MR. O'DEA:

Riverhead is doing an ongoing project with Long Island Housing projects -- Partnership, and a final coming to the final stages in Millbrook Gables there. So we're doing our bit. Head River, a project that was turned down by this commission, was -- obtained a three two vote from the Planning Board, so it didn't override the Suffolk County Planning. So that I'm sure we'll hear more about that one, but that's about it.

CHAIRMAN EVERSOLL:

Laure.

MS. NOLAN:

Okay. Well, things are heating up in Northport. There's an election in March, and there are three different parties running. So that's a big issue. The Village Board also recently upzoned some of the property within the village, and Asharoken has started the -- it's trial against KeySpan for erosion, and that will be extremely interesting. It's being tried before Judge Oshrin, it's a judge trial, no jury. So.

CHAIRMAN EVERSOLL:

Linda?

MS. PETERSEN:

Okay. I guess you know John Girandola, the Commissioner of Planning, is leaving. This is his last week, Friday will be his last day. Town Board is starting a national search to find a replacement for him. So they're beginning that process. In his absence, Brenda will take over as Acting Commissioner. Also, some bad news, Carol {Swick}, who was our former Planning Commissioner passed away last night. She had been ill with cancer, ovarian cancer, and apparently it spread to her body. So that was kind of a shock to everyone. She worked here in the County for a long time before she came to the town.

MS. NOLAN:

Right. She was a very bright lady.

MS. PETERSEN:

Yes, she's really a nice person. It's a loss, I think, to anyone who knew her. And finally, the community of Yaphank is thinking of incorporating and has filed paperwork with the Town of Brookhaven. The public hearing on that will be March 20th, and if it should happen, it remains to be seen, but they've done all the leg work and the paperwork, and there's a good number of people who want to have control of the zoning issues, primarily within the confines of this five mile -- square mile area that they're allowed to begin a village with and then perhaps an next additional property or land in the future. So it would be interesting to see how that goes. And that's it.

CHAIRMAN EVERSOLL:

Ed, now what is the Town of Brookhaven's official position on it?

MR. ROSAVITCH:

All I know is I heard that the Town of Brookhaven is going to litigate with regard to the power plant, and that's all I have been able to obtain. But as Tom mentioned before, there's some appointments that are going to be made in the future, and as I've been here since, I guess '93, as all the sayings go, it's -- all good things eventually come to an end. And I believe that this maybe the last meeting that I'm a member of the commission. The pay here has been exceeded by all my expectations of my salaries. I'd like to thank Tom Isles. I believe Tom was the Commissioner when I was first appointed on this commission nine years ago and the staff; Harry, Basia, Andy, Jerry, Kathleen, Clare for all their help over the years that I was here.

As I look back on the past nine years all the good things that have been accomplished; there were two projects that I personally take pride in. The first was working with the Village of Patchogue and the County Planning Staff on a plan to revitalize the Patchogue River waterfront, and having the Patchogue River Maritime Center Plan adopted. That was an arduous job, and everybody worked very hard on it. And second I was honored to edit and have my ideas incorporated in developing the primer for the application of Smart Growth principals and to finally adopting Smart Growth Community Growth plan. I hope that applying the Smart Growth principals will conserve our existing resources for the future. I may from time to time stop by to see what's new and exciting, have a free lunch, and get updates on the Macco-Martin chronicles and needle a few commissioners. It's been a pleasure serving with my fellow commissioners, and if I don't see you next month, I wish you well.

CHAIRMAN EVERSOLL:

Thank you very much.

MR. LONDON:

I have nothing to report pertaining to villages, but it would be impossible to follow what Commissioner Rosavitch just said except to say it's been great having you sit at my right side. You're a great guy, and I think it would take a tremendous pair of shoes of anybody to fill yours.

MR. ROSAVITCH:

Thank you.

CHAIRMAN EVERSOLL:

Michael.

MR. MACCO:

You know I'm also a holdover, and in all likelihood this is probably my last meeting too. I'm sure I'm going to find out when I go walk in the building and they ask me what my name is and I'm not on that list. I too share that my salary expectations with you. I've really enjoyed it. I think I've been here eight, ten years now. I forget how long it's been, but I've had a wonderful time. And if I'm not here next month, I just want to tell everybody it's been a real pleasure to work with everybody. I'm glad that Tom came back from Cayman Islands. And but for Commissioner Martin, I will be missing everybody. And I'm still going to your retirement party.

MR. MARTIN:

Let me tell you children, I go back to 1970. Okay? That's what? 32 years. You eight and you nine.

CHAIRMAN EVERSOLL:

Nothing exciting up in the town?

MR. MARTIN:

No. Well, Kings Park State Hospital. It looks like the state may work something out with the Town of Smithtown, but so far it's in limbo.

CHAIRMAN EVERSOLL:

The Town of Brookhaven is doing -- as has been previously mentioned -- has been doing some {charrettes} on properties in, I guess, the Shirley-Mastic area and is trying to adopt many of the Smart Growth principals that we adopted in developing the downtown areas, Patchogue, and it remains to be seen. I think with John's leaving that, I think, the town recognizes that they need to approach their downtown areas and their already developed areas in a manner that can revitalize, revitalize them. Just on, I guess, a personal matter both Ed and Michael, it's been a pleasure to have you have served on the commission and your inputs, you know, have been valuable, and this is a collegial group. And, I believe, one of the things that, I guess, I'm proud of is that we've reached things through consensus, and each of you has made a real contribution to that. So if we don't see you next month, we'll see you -- we'll be seeing you around anyhow.

MR. MACCO:

Thank you.

CHAIRMAN EVERSOLL:

But good luck and Godspeed. I guess we're now on Andy.

S-BR-02-02

MR. FRELENG:

Okay. The first regulatory matter before the commission is subdivision application of Starlight Properties referred to us from the Town of Brookhaven. Jurisdiction for the commission on this property is that it's within 500 feet of Horseblock Road, the bulk of the property is within 500 feet, the property actually does acquire Horseblock Road. The applicants are proposing a subdivision of approximately 89 acres of lands into four lots in the L Industrial 2 Zoning District in the Hamlet of Yaphank. The minimum lot size in the zoning category is five acres. It should be noted that the map is a voluntary reduction in yield from an allowable 14 lots. The map is not being processed pursuant 278 cluster provisions, and the intended lots range in size from 10.1 acres to 23.49 acres. No open space is provided on the map.

The subject property is the location of an existing fireworks manufacturing operation. Several structures including office, warehouse, storage trailers and sheds can be observed on site. The subject property is bound on all sides from unimproved woodland. A fringe of it is owned by Suffolk County where the development rights have been removed. All this land is zoned Light Industrial. The parcel itself is a flag lot with approximately 100 feet of frontage on Horseblock Road. The character of the area surrounding the subject property is predominantly wooded, however, there are some light industrial uses. Way off to the west there is a -- I believe it's a recycling operation, the landfill is in the area over here. And there's some other light industrial uses, but for the most part the surrounding area is wooded and buffered well. The property can be characterized as being uneven as a result of past and current activities on the site that have included mining. The majority of the property beginning at the north end is a depression as a result of the mining operation. The remainder of the site in the form of a wooded buffer on all four boundaries are pine-oak wood covering, you can just make it out on the photo, but there is a fringe that the development rights have been pulled off around the outside of the property over here. You can see it better on the site plan -- on the subdivision rather.

Soils on the subject property consist of mined Plymouth, Carver and Haven series, Haven series soils are considered prime agricultural soils. Access to the proposed subdivision is intended via the creation of 3600 foot long cul-de-sac. This paragraph got left out of the staff report, we'll revise it put it in. Okay. There's a 3600 foot long cul-de-sac that goes into the property. The use of the cul-de-sacs in industrial subdivisions is discouraged by the Planning Commission. And the use of an internal loop road would be a better design element. And there are no immediate opportunities for alternate or emergency access, as you can see. The subject parcel is located within Hydrogeologic Zone VI, potable water to the lots is intended via public supply, sanitary waste is to be collected and disposed of on site with individual systems.

Staff received today communication from the Suffolk County Department of Health Services Office of Ecology regarding an ongoing investigation relating to soil and water contamination on site. They have a file, they're reviewing that with the applicants. However, staff believes that the applicant should be advised to submit an application to the Office of Waste Water Management pursuant to Article 6 of Suffolk County Sanitary Code at the earliest possible date. That requires that subdivisions be filed with Office of Ecology, Suffolk County Department of Health Services. They have no subdivision file -- no subdivision application on file. So they ask that we advise the applicant to do that, so that they can complete a technical assessment of this proposal. Okay.

Then issues for the commission stem from the subdivisions proposal to create an industrial cul-de-sac. Staff is recommending approval with the following conditions; that the internal road design on the map be reconfigured to eliminate the cul-de-sac and provide for an internal loop road, that covenants and restrictions regarding the non disturbance buffer be created for all lots containing Suffolk County Development Rights Property, essentially acknowledging that the development potentially has been removed from these properties and that they have to remain open in perpetuity. Condition number three is that all storm water runoff resulting from the development be retained on site, that's a standard commission policy. Condition number four is that all necessary permits and approvals be obtained from the Suffolk County Department of Public Works. And staff is recommending the condition of another condition; that all necessary permits and approvals be obtained from Suffolk County Department of Health Services. That's staff report.

MR. MACCO:

Andy, are there any environmental problems with the property that you can see, after it's former use?

MR. FRELENG:

Well, staff noted contamination on site of soil and water contamination that the Health Department is reviewing. Other issues that are beyond this commission's jurisdiction may be with any unexploded fireworks that may be laying around or something to that extent. But the site is well buffered. There is really no -- it's not in the Pine Barrens, so there are no clearing of fertilizer restrictions. So environmentally speaking, there are very few issues other than what the Health Department is already looking at.

MR. MARTIN:

The question I have, across the street from this property is the old landfill. Has it ever been monitored; if there's any methane gas come across on this property?

MR. FRELENG:

I know the Health Department is out there poking around, and if they were to come up --

MR. MARTIN:

There's -- that's an awful big landfill over there.

MR. FRELENG:

In addition, the landfill just got a permit to open cell six. So I would imagine that's there has some investigation relating to that activity as well.

MR. MARTIN:

Somebody's doing that.

CHAIRMAN EVERSOLL:

Are there any other questions?

MR. CREMERS:

Andy, could you just outline where the lots are, it's hard to see on the diagram.

MR. FRELENG:

Sure. Sure. The back lot, lot number one, runs across from property line to property line, east-west. That would be this piece. Lot two stems from that boundary and goes down to the recharge basin. That's lot two right about here. That's the recharge basin. Lot three is the southeast corner, and then lot four is the remaining piece over here. As you can see, there's a large depression over here where it was mined up.

MR. ROSAVITCH:

Andy, was there ever a reclamation issued by the DEC with regard to the mining.

MR. FRELENG:

No. Staff had conversations with the Town of Brookhaven and DEC. They received a letter of nonjurisdiction from the State DEC with respect to a mining permit. And that was issued by the Town of Brookhaven. There was no reclamation plan attached to that permit, although there were two conditions as a result of zone change to this property; that the town may revert it back to the L-1 category and that there were conditions -- covenants and restrictions regard the operation of the fireworks manufacturing.

MR. ROSAVITCH:

I move to staff.

CHAIRMAN EVERSOLL:

Is there a second?

MR. MACCO:

Second.

CHAIRMAN EVERSOLL:

Any further discussion?

MR. THORSEN:

Yeah.

CHAIRMAN EVERSOLL:

Yeah, Tom.

MR. THORSEN:

Is there the possibility of a tap street going to the east, I guess?

MR. FRELENG:

There are no subdivisions --

MR. THORSEN:

There's a road going up there.

MR. FRELENG:

There are no subdivisions on file. he tax map does show --

MR. THORSEN:

Looks like an old file map.

MR. FRELENG:

Does show some old file maps and some private land; however, it is buffered by the County Development Rights property, you'd have to break through and change the covenants and restrictions in order to do the tap street.

MR. THORSEN:

So that's possible.

MR. FRELENG:

It is possible. The property doesn't run adjacent to the roadway. They would have to acquire private property in order to get that in.

MR. THORSEN:

Would fireworks still remain a component of the industrial plan?

MR. FRELENG:

No, not to our knowledge, no. It's our knowledge that that old manufacturing operation is being extinguished on Long Island and moving south.

CHAIRMAN EVERSOLL:

Yes, Ed.

MR. ROSAVITCH:

Now, I -- I made the motion, but I have another -- another question. I remember reading in the papers a longtime ago when the property was originally allocated for the Grucci fireworks that the County had put all sorts of restrictions on it. By us approving this subdivision, would we be in conflict with all those County restrictions?

MR. FRELENG:

No. I've researched the actual transfer of property between the original core property that the Grucci's held and this property here. The County made no covenants and restrictions on that transfer with the exception of the development rights being pulled off the fringe of the property.

MR. ROSAVITCH:

So we're okay?

MR. FRELENG:

That was that. Yes, I did speak with Lee Koppelman who arranged that at the time, and he doesn't recall ever wanting any and doesn't recall ever any imposing any covenants and restrictions on that transfer. We looked at that.

MR. ROSAVITCH:

Okay. I just wanted to make sure.

MR. PETERSEN:

The L-1 covenant, is that something that the County imposed or the town?

MR. FRELENG:

No. That's the Town of Brookhaven, Town Board covenant. The operative word is may. There wasn't an automatic reverter, so the Town of Brookhaven left themselves the option of bringing it back to an L-1 category, which is consistent with the land around it.

MS. PETERSEN:

Where does the proposed County golf course come in in conjunction with this site, further north?

MS. NOLAN:

Further north and east, I believe.

MR. FRELENG:

North and east.

MR. WITHERS:

Behind the police headquarters area.

MS. PETERSEN:

Okay. It doesn't come down this far then.

MR. WITHERS:

No. No. It will be divided by those power lines.

MS. PETERSEN:

Oh, okay. Thank you.

CHAIRMAN EVERSOLL:

Tom did you have anything?

MR. ISLES:

In consultation with the County Attorney, we've advised that there's a possibility that there may be some settlement or stipulation language that could potentially affect this. What I think we would like to do is just suggest that in order to provide an opportunity for that review that any approval -- there is a resolution before us today -- be subject to the County Attorney's verification, which we could do that prior to sending it back to Brookhaven. So we're not aware of anything specifically, but just to give the County Attorney's Office the opportunity to do that review and still meet the time frame to get back to the Brookhaven, would suggest that that just be referred to them following a decision by this commission.

MR. MACCO:

Tom, why can't we just make it subject to settlement stipulations.

MR. ISLES:

Yeah.

MR. ROSAVITCH:

I have no problem with that.

MR. THORSEN:

I can see why they have a long cul-de-sac street. They have divide this into some fairly good size industrial units. Now, if you put an oval in there, you're going to cut it down into smaller size lots. There's no way around that. Why not have an alternative here that if they -- if they did pursue acquiring an easterly tap out to that other street, that they could go ahead with this sort of street layout?

MS. BRADDISH:

There's still a development right problem that the -- that the County has around the entire property.

MR. THORSEN:

Right, but we can -- I understand that could be adjusted if all parties agree.

MS. BRADDISH:

Yeah.

MR. THORSEN:

I mean otherwise what we're creating is a box in which we're restricted.

MS. BRADDISH:

Right.

MR. FRELENG:

That would be one issue. The second issue is the commission has a policy not to create cul-de-sacs in industrial subdivisions. The only way out of that is to create a loop or a tap and then you have that second issue with the development rights. I don't know if you want me to make --

MR. THORSEN:

It's too confusing.

MR. ISLES:

Yeah, I think the original intention was to create a box and isolate this as much as possible. If the land use is changing to a typical industrial park, I guess, we could make the tap street consistent with the approval of the modification of development rights. That would be something that would have to generate pretty further along in the process. We'd have to make sure it's possible. So if you want to we could maybe amend the recommendation and put in the stipulation that subject to approval of the listing of the development rights that a tap street would be created to an adjoining parcel, or something like that to provide that future option.

CHAIRMAN EVERSOLL:

Yes.

MS. PETERSEN:

I have one question. Do we know if this is to continue with the present use with the fireworks manufacturing? Because the reason that sand mining those bunkers and everything there was primarily a safety issue and a fire containment issue. If, in fact, it's going to still be there, would we be creating something that is still safe for other people to purchase any of those other parcels in conjunction with the present operation? Do we know that?

MR. FRELENG:

No information came into the application on whether or not this use would be extinguished, although, there was information in the application relative to subdivision that they would grade the property. I have -- we've acquired knowledge outside of this application that the whole manufacturing operation for Grucci fireworks is leaving Long Island and going to Virginia. That kind of comes out of discussions with the Department of Health Services, and their stipulation and settlement discussions. So I do not believe that the manufacturing of fireworks is going to continue on the site for much longer.

MS. PETERSEN:

Okay.

MR. MACCO:

Can we go back to Tom's comments before about the tap street. Shouldn't we put that in as a comment that -- that in the event that the adjoining properties are further developed, that the -- that the developer of that property should consider getting the County to waive the ban on development rights to have a tap street, put that in as a comment just to show that we've been thinking about that? Instead of just ignoring it entirely, because Tom makes a pretty good point that you got this long cul-de-sac, and there's a reason for it, but if there's ever going to be a development next door to one of the adjoining properties, that a tap street would be very beneficial. And maybe we can put it in as a comment and not change the intent of the approval, but at least show that we were thinking about it.

CHAIRMAN EVERSOLL:

I think that's appropriate.

MR. ISLES:

Yeah. I think that's a good idea. Rather than putting in as a condition, we don't have enough information at this point to make that kind of determination.

CHAIRMAN EVERSOLL:

Yes, Linda.

MS. PETERSEN:

First, excuse my voice. Presently it's zoned L-2, that's a heavy industrial use. Would we not be wise to make sure we have some type of good buffer system in place even though it's adjacent to L-1 parcels because of the types of uses that are permitted there in two?

MR. ISLES:

I think what we anticipated is that the buffer that's around it right now for which the County owns the development rights would remain intact. I think what we've talked about today is that rather than the lifting of all of the development rights, that maybe there would just be a 60 foot road cutting through at one point or two points perhaps. So I think you're right, I think keeping the buffer is a good idea. Obviously for fireworks it certainly is a good idea, but as you're saying, it allows more intensive uses of outdoor storage and things like that. I think it could do that purpose as well in protecting it. And the one tap street I don't think would be a compromise of that in a real substantial way. I think the comment is a good idea.

CHAIRMAN EVERSOLL:
Ed, would you then accept that?

MR. ROSAVITCH:
I'll amend the motion.

CHAIRMAN EVERSOLL:
Okay. Any other discussion? All those in favor? Any opposition? Any abstentions? Unanimous. Thank you. APPROVED (VOTE:11-0-0)

BR-02-18

MR. NEWMAN:
The first application in the agenda is from the Town of Brookhaven. This is application to rezone a 20,000 square foot parcel of land from a single family one acre category to a J-4 office category for the purpose of converting an existing single family residence for professional office use, affecting land situated on the east side of William Floyd Parkway just south of Essex Circle at Shirley. All lands surrounding the subject property are in a single family residence zone except lands immediately to the north of the premises. The lands immediately to the north of the subject premises were the subject of two previous applications for consideration by the Planning Commission to a J category, which currently exists as well as a J-4 category, and both of those rezonings were denied by the Suffolk County Planning Commission. In that light, the staff believes that once that zoning is approved, now the pressure, of course, now is to rezone strip areas throughout the entire roadway for non residential purposes. So we're recommending essentially disapproval for the reasons we set forth on the applications immediately north of the subject property previously.

MR. MACCO:
I move to adopt the staff report.

MS. PETERSEN:
Second.

CHAIRMAN EVERSOLL:
Any discussion? All those in favor? Opposed? Any abstentions? Unanimous. DISAPPROVED (VOTE:11-0-0)

MR. NEWMAN:
Application number two is also from the Town of Brookhaven. This is an application to rezone a 7.6 acre unimproved parcel of land from a J -- not to rezone, to erect -- a special exception to erect multifamily residences. In this case, 66 two-bedroom apartment units on a 7.6 acre parcel of land at an overall density of 8.7 units to the acre. Land situated on the south side of Union Avenue, east of Mill Road in a J-7 business district, which provides for business industrial as well as residential uses in close proximity to major transportation facilities. And that district was created not only for the subject property, but all lands immediately the west because of the proximity of the Ronkonkoma Railroad hub. The preliminary site plan calls for the erection of eight two-story residence building, a community building, two points of vehicular ingress and egress via the adjoining roadway, 136 parking spaces, and an on-site sewage treatment facility.

The code in Brookhaven allows multifamily uses in the J-7 district subject to compliance with the MF-2 requirements, which have a maximum of 11 to the acre. However, in this case, because we're referring to the two-bedroom units, the maximum that could be provided is 8.7, and in this particular case, the applicant has maxed out the yield. The town plan calls for this area as well as all the J-7 lands immediately to the north and west of the premises surrounding the Ronkonkoma hub to be designated for commercial purposes. Also, the subject property is situated approximately 1800 feet from the Ronkonkoma Railroad Station. It is the belief of the staff that this proposal appears conditionally appropriate considering the prevailing pattern of zoning and character of the area as a reasonable transition use from the single family residences to the east and the J-7 areas immediately to the west.

It's in conformance with the goals and objectives provided for mixed uses and close proximity to transportation facilities in the J-7 District. It's in accordance with Smart Growth principals to provide to for housing -- intensified housing accommodations in close proximity to major transportation centers. And we also believe it's consistent with the "2001 Suffolk County Planning Commission Study of Railroad Uses by Residents of Multi-unit Housing Complexes Near Railroad Stations," which calls for the placement of new multifamily units of housing near railroad stations.

We're recommending approval subject to seven conditions. Number one, that there be a limit on the number of units to 66 apartments, preferably less. The reason we say less is there might be some concerns about noise impacts associated with the residents. Number two, in accordance with the commission criteria, 20% of the housing units shall be for affordable purposes. Number three, the affordable units shall be appropriately encumbered to ensure long-term affordability. Number four, the residence units will be constructed with noise attenuation construction materials. Number five, enhanced residence setbacks and noise mitigation shall be provided throughout the adjoining lands of the Long Island Railroad. Number six, in accordance with commission criteria, appropriate notification shall be provided to indicate that the property is situated within a mile of MacArthur Airport. And seven, in accordance with Smart Growth policies of the County, we believe that consideration should be given to a pedestrian access easement over either adjoining lands to the west or to the south to provide immediate access pedestrian-wise to Ronkonkoma.

So we're talking about some kind of pedestrian access from the subject property to access the Ronkonkoma Railroad Station. We're recommending approval subject to those conditions. We've also looked at a noise study, the "Par 51 Study" the Town of Islip undertook with the -- in conjunction with FAA requirements. The property is not situated where there's 65 LDN Zone, which is considered undesirable for residence development. The property is outside the noise impact zone associated with the airport.

MR. ROSAVITCH:

I move to staff.

CHAIRMAN EVERSOLL:

Do we have a second?

MR. THORSEN:

Second.

CHAIRMAN EVERSOLL:

Any discussion? All those in favor? Any opposition? Any abstention? Unanimous.

APPROVED (VOTE:11-0-0)

MR. NEWMAN:

Application number three is also for Brookhaven. This is an appeal to the Zoning Board of Appeals for a use variance to erect a 2880 square foot building for office and storage purposes on land situated in the southeast (sic) corner of Route 112 and Jayne Boulevard in a single family one half acre residence district at Port Jefferson Station. A previous application to rezone these lands to a J-2 general business category for the same purposes set forth herein was denied by the

Planning Commission and subsequently withdrawn. I might point out that the property was acquired by the applicant in 1999, and the town plan designates this area for residence purposes. It's the belief of the staff that this proposal appears inappropriate as he has not submitted sufficient information to demonstrate compliance with applicable use variance criteria. Two of those criteria are clearly in noncompliance. Number one, he bought the property with full knowledge it was zoned single family. And number two, the circumstances affecting this property is not unique, it's shared by other residence zoned lands in immediate vicinity of the subject property. Number two, it constitutes an infringement upon legislative powers exclusively delegated to the Town Board. In short, we should be requesting a change of zone from the Town Board. It would undermine the ordinance and establish an undesirable precedence for the continuance of this practice in the locale and throughout the town. So we're recommending disapproval.

MR. ROSAVITCH:

I move staff.

MR. LONDON:

Second.

CHAIRMAN EVERSOLL:

Do we have any other discussion? All those in favor? Opposed? Any abstentions? Unanimous again. DISAPPROVED (VOTE:11-0-0)

Before we adjourn, I'd like to remind you that we have this proclamation to sign for Maurice, our longtime colleague. Also, I'd like to ask you to review the annual report so that we can adopt it at our next meeting. In closing, I would again like to thank both Ed and Mike for their participation and contributions to this commission.

And I would also like to give you my heartfelt thanks for my re-election as Chairman. So that being said --

MR. ROSAVITCH:

Two votes.

MR. MACCO:

I thought I abstained.

CHAIRMAN EVERSOLL:

That being said we'll entertain a motion to adjourn.

MR. ROSAVITCH:

So moved.

MR. LONDON:

Second.

CHAIRMAN EVERSOLL:

So be it.

(*THE MEETING WAS ADJOURNED AT 1:00 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY