

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 May 7, 2003.

PRESENT:

Robert Martin (Smithtown) - Vice-Chairman  
Thomas Thorsen (East Hampton)  
Richard London (Village 5000 & Under)  
John Caracciolo (Huntington)  
William Cremers (Southold)  
Carl Berkowitz (Brookhaven)  
Nancy Graboski (Southampton)  
Laure Nolan (Village 5000 & Over)  
Linda Petersen (At Large)  
Richard O'Dea (Riverhead)

ALSO PRESENT:

Thomas Isles - Director of Planning  
Gerald Newman - Chief Planner  
Andy Freleng - Principal Planner  
Claire Chorney - Planning Commission  
Basia Braddish - Counsel  
Alexandra Sullivan - Deputy Clerk Legislature

MINUTES TAKEN AND TRANSCRIBED BY:

Donna Catalano and Lucia Braaten - Court Stenographers

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

VICE-CHAIR MARTIN:

As of last meeting, I made a recommendation to the board that we have a Salute to the Flag before every -- each meeting. John Caracciolo stood up and said that he would give us the flag. Before I said okay, I made sure it was an American flag, one of ours, he guaranteed that. He has it, I think he'd like to display it and then he can lead us in the Salute to the Flag.

MR. CARACCIOLO:

I have to open it first. If I knew you were going to put me on the spot, I would have had it set up already. But I will attempt to set it up. You're going to have to give me a hand.

MR. LONDON:

I'll give you a hand, and then you can sign this and pass it on.

MR. BERKOWITZ:

It's interesting, it's made in China.

MR. CARACCIOLO:

We're not doing too good here.

VICE-CHAIR MARTIN:

John, thank you for the flag. Could we all rise and join in a salute to John's flag.

#### SALUTATION

VICE-CHAIR MARTIN:

We thank you. Has everybody received the minutes of the April meeting? The motion's in order.

MR. CREMERS:

I make a motion to accept.

MR. BERKOWITZ:

Second.

VICE-CHAIR MARTIN:

Motion, second. All in favor signify by saying aye. Contrary minded?

So accepted. Mr. Isles.

DIRECTOR ISLES:

Okay. Thank you, Mr. Chairman. We have a couple of items of correspondence to bring to your attention. The first is a letter from Janet DeMarzo, the Commissioner of the Department of Public Service -- pardon me, Social Services. Ms. DeMarzo sent a letter to Don Eversoll, the Chairman of the County Planning Commission. And I'm going to read it briefly, but -- "Dear Mr. Eversoll, I'm writing to advise the Suffolk County Planning Commission of the Department of Social Service's efforts to develop a Tier Two Shelter to provide emergency housing for homeless families. Suffolk County is experiencing a growing homeless problem. Today, over 500 families with 1300 children live in emergency housing in our County. More than

120 of these families live in emergency motel placements without the support and case management services provided in the shelter systems. The County is committed to addressing the problem of homelessness. The proposed Tier Two Shelter will be sited in Western Suffolk County.

The shelter to be constructed by the County would be up to 60,000 square feet on a parcel of land between two and five acres. It would be regulated by New York State, owned by Suffolk County and operated by a qualified not-for-profit agency. It would provide emergency housing for homeless families. Depending on the site and other factors, we are looking to develop emergency shelter capacity for up to 100 families. The County Executive has included funding for the construction of the shelter in his recent Capital Budget, and the Department is seeking funds for the land under New York State Homeless Housing and Assistance Program. While no specific site has been identified for the project, the Department has begun to work with the towns and appropriate County departments on our Tier Two initiative. If the Commission has any questions, please feel free to contact me."

This is part of the process where there's a required notification to the Planning Board whether it be a town Planning Board, if there's a specific town that's in mind for the homeless shelter, or in this case, since they have not selected a town yet, it's provided to the County Planning Commission. So we do have formal notification of this. And certainly if any Commission member would like to get further information as the project goes forward, we can contact Social Services on that.

The second piece of correspondence is from the consultant for the Town of East Hampton on their comprehensive plan update. As I indicated at the last meeting, we did receive a copy of the report prepared by Dr. Koppelman last fall. We have received during the month of April a referral on the next phase of that, which is an extension of the plan that's been completed by a firm known as {Horn Rose} from New York City. They have formally submitted a copy of the draft to us. East Hampton is now going through the process of reviewing the draft and making amendments to that document. And I'll keep you posted on that.

We've also received a letter from the Legislature of Rockland County requesting certain information as to how the Suffolk County Planning Commission handles the matter of local jurisdiction versus County-wide jurisdiction. There is a resolution that the County Planning Commission had passed several years ago in terms of defining what duties the staff has. So I will respond back informing the Rockland Legislature of the Suffolk County Planning Commission's procedures on that. In terms of departmental items, just a couple of things I wanted to bring you up to date on. We are proceeding on the review of the smart growth plan. This is something that's of high importance to the County Executive. It is a -- Steve Jones, a former director had worked and with the assistance of the department and the commission in coming up with a smart growth policy plan for the County. The Legislature and the County Executive have directed that we then go through that, prioritize it with another committee consisting of different county departments, village and town representatives. We're in the final stages of that. We expect to have a final report completed in June of which we will certainly bring to the commission. The whole idea of this is to take the general principles and ideas of

smart growth and put them into a more tangible form in terms of how can we as a County implement and try to foster the ideas of smart growth, which another term might be good planning, comprehensive planning, so forth.

We've also completed in the Department another subject. As you know, we've had a longstanding involvement in the aquaculture issue in Peconic and Gardiners Bay. We completed a report last year on that through the authorship of Dewitt Davies of this staff. The Legislature directed us in June of -- pardon me, December of 2002 to then take that to the next step, which was to explore what it would actually take, both process-wise and cost-wise to implement an aquaculture program. We were given four months to complete that assignment, and we have provided that to the Legislature. We did present this at the committee meeting this week, and the Legislature, the committee, has taken action to further the next steps in terms of asserting the County's role in the management of underwater lands in Gardiners and Peconic Bay. It's a little bit of a tedious subject, but if any members want a copy of that report, we can certainly make that available. But just to let you know that that's moving along.

We're also proceed with the renewal of agriculture district number one, which encompasses the Towns of Southold and Shelter Island. The agriculture protection board met approximately a month ago. Roy and I both worked with the ag protection board, and we are preparing a resolution for submission to the Legislature to do a formal extension of the district. So this is just part of the continuing efforts of our responsibility at the County level to maintain the agricultural districts. There will be a public hearing held by the ag protection board at Southold Town Hall. I don't know the exact date --

MR. FEDELEM:

June 11th, 7:30, Town Hall.

DIRECTOR ISLES:

Oka. Thank you. So certainly if any members of the Commission would like to attend. There will also be a subsequent hearing held by the Legislature as they're required to do. We will be bringing this to the Planning Commission for a report and recommendation from the Commission as well during this process. And just two other things I just want to make you aware of too dealing with state law. Several local representatives, state representatives, have put a bill in to amend General Municipal Law Section 247. This is the section that requires that before any municipality purchases property for open space and conservation purposes, there must be a public hearing. It's been in effect for years, and we've held public hearings on all our open space acquisitions. Proposals that's now been draft and submitted to both the Assembly and the Senate are suggesting changes to that that I think are well intentioned in terms of providing more oversight of land acquisitions by municipalities.

We have some concerns with the impact of the legislation on the process, and more specifically on the potential to delay the land acquisition process. And we currently go to the Legislature twice for land acquisitions. There's a very thorough review by both the committee process and the Legislature itself. There are currently

five opportunities for public comment on land acquisition. This would increase the Legislative overview from two appearances at the Legislature to four appearances. So in terms of the effect of that on the time of the process, we are concerned about effect on the open space acquisition program. We are communicating that to the sponsors, and we hope that there will be some considerations as we think there will be to some changes to that.

And the second piece of legislation just to make you aware of is there is legislation also being discussed to mandate training for Planning Board and Zoning Board Members. It's still in the early stages of consideration in Albany. I have no idea if it's going to get passed or not. The New York State County Planning Director Association has weighed in on this, and we've sent a letter expressing some of our concerns on that. We support greatly the idea of training, and we know that many municipalities encourage it or require it locally. We have some concerns with the state legislation as it's now drafted as basically being an unfunded mandate as well as some practical problems on how the training is provided. Those are the -- just a summary of some of the departmental highlights.

What I'd also like to do today is to have two brief presentations by some -- two of our planning staff members. The first being Roy Fedelem, who as you know is our Chief Demographer in the office. Roy has been analyzing the recent census information, and we have some new information regarding the population statistics of the County, immigration statistics. And I'd like to ask Roy to just give us a brief overview of that information.

MR. FEDELEM:

Everybody should have a copy in your packet of several charts. So the first page shows that Suffolk County ranks 23rd among the 3,141 in the country in population, with a population of 1,458,655. What you can say is we're approaching 1.5 million at this point. The second page shows that we have more population in Suffolk County than 12 states. Combined with Nassau County, we have a population larger than 19 states. The third page is a table showing components of the population change. In the last two years, we've added approximately 40,000 people to Suffolk County. And if you look at births minus deaths, that makes up about half of it. The other half is due to migration. And the larger component of that is international migration, from another country. If you look at Nassau County, you'll see that they lose internal migration. A lot of this has to do with people retiring. Suffolk County shows an increase in internal migration, some of that's from Nassau County. As people retire, they retire to Suffolk County, because of housing, you've all reviewed lots of senior citizen housing complexes, a lot of people coming to those complexes are coming from Nassau. A lot are even coming from New York City to retire there. So we're showing a net in migration of senior citizens.

The table below, that shows our rank in New York State. We are the fastest growing county in New York State. Numerically, percentage-wise, we're the sixth fastest growing county in New York State. There are some counties that add 1,000 people and that ends up being a larger percentage. The next table is an older table from the

US Census, which shows income. Suffolk County ranked 34th in median household income of all these counties in the state. The interesting thing here is there is no county with more people in the United States and a higher income than Suffolk County. So that's pretty significant. You might say we're the best market in the United States.

The next table shows you immigrants admitted to the country. And you'll see El Salvador is at the top of the list. We just got to 2001 data in which shows about one out of five immigrants come from El Salvador. Haiti was about one in ten of the new numbers, close to 1,000. And the last page, frequently we get a question what is the undocumented population? So I decided to come up with a number. The US department of Immigration and Naturalization has a number for 1996 for the country, and they did numbers for the state. So what I did was apply them, those percentages, to our population to come up with the first ever undocumented population for aliens. And if you notice, I did this in terms of a range, Suffolk County ranged from 25,000 to 40,000. It depends on whether you think we're closer to the US average or closer to the state average in terms of undocumented aliens. You can make a case for both. New York City is probably well above the state average. We probably are in between New York City and the rest of the state. So hence, it might be good to use the state number. And that's about it. If you have any questions on recent population.

VICE-CHAIR MARTIN:  
Roy, we thank you.

DIRECTOR ISLES:  
Thank you, Roy. The second presentation today, brief presentation, is from Marian Zucker, our director of Affordable housing. And what we've done is the Suffolk County Planning Commission oftentimes places a suggestion or condition on certain zoning and subdivision approvals requiring that certain percentage of a project be set aside as affordable housing. This is something that the Commission's done for at least ten years or so. And what we did is we tracked what happened with those conditions once the Planning Commission put -- put it onto an approval just to see if -- how the municipalities reacted to it, if they applied that condition and get some sort of sense of what the track record was. So I'd like to at this point ask Marian to give us an overview of what the findings are.

MS. ZUCKER:  
And the findings are bleak. Of the 36 projects that the Commission had imposed affordability requirements on, only seven projects of those ended up getting built with affordability requirements. There were 16 other projects which moved forward where the towns ignored your affordability. Advice and the remaining thirteen projects have not moved forward yet or have been withdrawn. Let me go through those numbers again for you. There were 36 projects, 23 of those moved forward. Of that 23, seven had an affordable set aside. And I want to note that affordable set aside, even though the Commission has suggested a 20% set aside, for the most part, the set aside was only 10%. And 16 projects ignored the Commission's requirement. Sobering.

VICE-CHAIR MARTIN:  
Anybody have any questions? Thank you.

MS. ZUCKER:  
You're welcome.

DIRECTOR ISLES:  
That's something we may want to think about in terms of how can we improve the effectiveness of the condition in terms of working with the towns and villages, perhaps getting any feedback that you may receive from the towns and villages in terms of is it a requirement that is felt not to be appropriate in some manner; is there some change that we should consider doing. And so certainly we'd ask your thoughts on that and ask your consultation with your colleagues in the town and village level, and any feedback you want to suggest in terms of perhaps modification of Commission policy in the future, perhaps that's where we should go.

MR. CARACCIOLO:  
I'm sorry.

VICE-CHAIR MARTIN:  
How is it enforced? Oh, excuse me.

MR. CARACCIOLO:  
Out of those 36 projects, was there a more -- were some of them designated to more towns that ignored the ruling? I mean, are some towns complying and some towns not? You know, what was the breakdown of that or was there a pattern?

DIRECTOR ISLES:  
I don't think so.

MS. ZUCKER:  
No, I don't think so. I'll tell you who did -- I don't have the statistics on how many projects were in each town, but I'll run through the ones that did comply, and my guess is it's probably fairly well spread throughout the ten towns in terms of when the -- I don't think you'll find a pattern.

MR. CARACCIOLO:  
I see.

MS. ZUCKER:  
Okay. But of the seven, three were in Brookhaven. I'm sure you imposed a lot more than three such requirements in Brookhaven. Two were in Islip, you probably saw more than two applications from Islip.

One was in Smithtown. It shocked me that we actually saw an affordability set aside in Smithtown, and that was a 20% requirement. It was in a garden apartment development for people fifty-five years of age and older. And one was in Southampton. And that's probably proportionate, I would think. Andy, is that proportionate to what the Commission sees in terms of applications, that the bulk of them in are in Brookhaven?

MR. FRELENG:

The bulk of them are from Brookhaven.

MR. CREMERS:

Question. On many of our resolutions we always said in perpetuity for it. Did any of those seven have that in there?

MS. ZUCKER:

These are actually all apartments. So for apartments you generally will see a fairly long-term affordability --

MR. CREMERS:

Okay.

MS. ZUCKER:

-- requirement.

MS. GRABOSKI:

All were apartments?

MS. ZUCKER:

Yes, yes.

MS. PETERSEN:

All of them were apartment projects?

MS. ZUCKER:

Yes.

MR. THORSEN:

Marian, did they give reasons why they didn't comply with this? Sometimes in overriding, they'll give the reasons.

MS. ZUCKER:

One of the -- first off, let me backup a step and say that the research for this was done by an intern, who we had this semester who's excellent. He's worked with me on a number of projects, and he worked with Andy and Jerry going through their files. So I wasn't close to knowing those specifics, Tom, but what I would say is he went back and looked at the resolutions that came in from the towns and looked at articles also that might refer to a particular project. But what he saw happening is that you didn't necessarily even get the response back from the town when they overrode your decision; is that correct, Andy? I mean, I just -- it seems to me there's -- I don't want to say it out loud, but it almost seems people are not paying attention to what your recommendations are and what the requirements are to report back to the Commission on what they're doing. I don't know if you think that's an overstatement.

MR. FRELENG:

I would just state for the record that the towns are inconsistent in following the directive of sending us the resolutions when they approve their final maps and their final actions, they're just not consistent. So we have a hard time following up and getting the statistics that Marian is looking for.

MS. ZUCKER:

Food for thought.

MR. THORSEN:

There's no way to correct any problems if there is a problem on the outside with our resolutions, unless you knew why, you know, why they're ignoring them.

MS. ZUCKER:

I guess the question is -- I mean, I can't speak for how the Commission acts. I mean, if you get a resolution and somebody says they're overruling your requirement, does it come back to the Commission? Do you look at it? Do you send --

MR. FRELENG:

Yes. Case in point is our current rule of road policy that we have now that came from a longstanding difference of opinion between the creation of flag lots and long driveways and landlocked parcels. Particularly in East Hampton, it creates lots that are what we would consider landlocked. So they consistently overrode the Commission. We were looking for reasons that we could reach a compromise. And we do have a policy now that is sort of a compromise between the Commission's policy on landlocked lots and East Hampton's policy of providing lots -- access through easements. So when we do get the feedback, we are able to work out a rational condition that the Commission can fall on. We don't have that though with at affordability requirement, standing requirement, that the Commission has. We don't have enough input yet from the various towns and villages on why they don't institute that condition.

MS. GRABOSKI:

Just based on my experience, having served on the Planning Board, generally, if a local Planning Board has to override the Commission, one of the Commission's recommendations, they have to justify that by making certain findings. And that certainly should be part of the record if not part of the resolution to act on the application before them. It's troubling indeed that they are -- we're not getting these back. Is there any ability on our part to perhaps put together some kind of a letter --

DIRECTOR ISLES:

Sure.

MS. GRABOSKI:

-- reminding them just across the board, to all of the towns, thanking them in the past for their cooperation perhaps, but pointing out that we're not getting all of these back. And it's important to the Commission.

DIRECTOR ISLES:

It's similar to the situation that Commissioner London brought up a couple of meetings ago where we were having an inconsistent referral -- referrals coming from some of the villages, so about half the villages were making referrals, haven't weren't. The suggestion was made that we do a letter to remind all the villages. And I actually did receive some feedback on that. So that seemed to be helpful to

the villages. So perhaps we could do the same thing on conditions of Planning Commission including affordable housing, just a reminder, refresher on the process.

MS. GRABOSKI:

Good. Thank you.

VICE-CHAIR MARTIN:

Anybody else?

MR. BERKOWITZ:

What happens if they don't follow the due process that's required?

DIRECTOR ISLES:

Potentially it's an defective decision, I would assume.

MR. BERKOWITZ:

So we have no way of knowing if there's a defective decision on our resolution.

DIRECTOR ISLES:

Not necessarily, no.

MS. GRABOSKI:

I guess the other thing would be you could add a standard condition to our resolution that a copy of their -- of their action, you know, as one of the conditions be forwarded back to the Planning Commission, so that they, you know, they set up a little bit taller and take note that, indeed, this is a requirement, this is not -- not a if we choose to, we do, if we don't get around to it, it doesn't make any difference. I don't know.

VICE-CHAIR MARTIN:

Everybody satisfied? Let's go onto the next order of business.

DIRECTOR ISLES:

Just two other things I wanted to mention. I thank Marian for that. As I mentioned at the last meeting, we are open to ideas in terms of having meetings outside of Hauppauge. Commissioner Cremers has suggested once again we could take the trip to Fishers Island, which we haven't done in a few years, since I've been back here. That's one option for the meeting in August, where there are town board meetings held out in Fishers Island and so forth. Another suggestion would be at the Cornell Horticultural Research Center has come in as a suggestion as well. It's an important facility. So those are two ideas we received. We probably want to do July and August somewhere in another part of the county. We can start to firm that up and make arrangements. Any further suggestions, please, pass them along to us.

And just the last thing is we are circulating a proclamation for former Planning Commission member Mike Macco, and we would ask your consideration of a signature on that. Thank you. Thank you. Roundtable.

VICE-CHAIR MARTIN:

Oh, you want to do the round table? Start with Tom Thorsen.

MR. THORSEN:

Just that as we meet here today, {Horn Rose} is making a presentation of the plan to the town board. I went through that document, and it has created a lot of friction among different committees, and so some of those committees have gotten together and under the time limits have sent information into {Horn Rose}. {Horn Rose} is doing what I would say is a maximum type of smart growth provision to the East Hampton plan. The biggest problem there is that they -- they're creating a corridor, Amagansett right through East Hampton essentially and into Wainscott where there would be very little articulation between -- between those hamlets, which is something that the hamlet committees have all suggested they wanted. But they've sort of ignored that. And there's a great deal of talking in there about intensification density, and that is supposed to then lighten density on the outside of these hamlets preventing growth in the outside areas.

I think it's something we're going to have to look very carefully at as we think about smart growth throughout the County, because the very quality of Amagansett is -- will be affected by the intensification that {Horn Rose} is suggesting. Amagansett proper, the center of Amagansett is about half acre zoning. There are a lot of houses in there that were built by the original residents of the community for the last 50, 75, hundred years. And now what's happening in that community is we're getting big houses, trophy houses. Those lots are highly valued. They're selling now for in excess of a million dollars in the hamlet center. And the residential houses belonging to the average guy is being torn down and a trophy house is going up. {Horn Rose} is suggesting that we intensify development in this area, that we intensify development in the estate area, allowing estate lots to have double houses to take care of the workers that are supposed to be in those houses.

So there's a lot of things to digest here, and some of the citizens are up in arms. So I don't know what that meeting is like today, but I would say with politics in the Fall, this is certainly -- I think our plan is going to be up against a wall.

DIRECTOR ISLES:

This will be a case, too, that if prior to the Town of East Hampton adopting a plan, it is required that it be referred to the County Planning Commission for a recommendation. So this will probably come to the Commission if it gets to that point of consideration for approval.

MR. THORSEN:

Just one thing. I don't want to hog the day, but I did -- I borrowed this from Tom and went through it. This is the Dr. Koppelman report. About half of it is his work and the people that work with him, and the other half on the committee, the 17 committees that were appointed by the town. Stuff is very clear, to the point. The committees have a lot of -- well, they're coming from their perspective as attitude on housing or as attitude on open space or recreation and so forth. And so there's a lot of conflict in that last -- in the last half of that book. And I think Rose was supposed to settle that conflict, and I think he's just raised the bar a few more steps. Yeah. That's it.

VICE-CHAIR MARTIN:  
Laure.

MS. NOLAN:

I don't have anything from the villages today, but the Town of Huntington is -- just had presentations from two firms with regard to a visioning process, which they're going to do prior to updating their master plan. And they heard on Tuesday from Wallace Todd}, and I think ACP is the other firm. I think -- did they do -- one of them did the visioning process in East Hampton, I believe.

MR. THORSEN:  
Yes.

MS. NOLAN:

And they'll probably make a selection at the next meeting and start on a nine month visioning process as a precursor to updating their master plan.

MS. GRABOSKI:

Thanks, Bobby. In Southampton, they're, you know, it's been a very quiet winter in some regards, although in others, it's not quiet at all. One thing, and actually Tom just jogged my memory coming in, is a potential proposal for some kind of a gaming facility casino by the Shinnecock Nation in Southampton. I'm sure most of you probably already know that the towns don't really have jurisdiction over tribal lands. And it's -- it's more involved than just the development itself, because the Shinnecock Nation has needs of their of their own that are not currently being met. And they see this potentially as a way to generate income to meet their needs. To me what's interesting is that there's always been a sort of interdependency between the Shinnecock Community and certainly the village, but also the town. For example, they don't have their own schools, their children go to the Southampton -- Southampton Village School. They don't have emergency services, fire department, police department. So there's always been a kind of a coexistence and a willingness to, you know, to go back and forth on both sides. But more recently, that has kind of fallen a part, so that is one situation.

There's a piece of legislation which is currently under consideration by the town board. I'm not sure if I have the exact name correct, I think it's called the Coastal Erosion Hazard Zone Act Legislation. In a nutshell, it proposes to tighten up the zoning restrictions along -- particularly along the areas that are dune front. One of the things that's happened as a course of that legislation is the property owners have hired an attorney, and they're in the process of putting together a petition, which they intend to submit to the town board, which will give them the right to form their own village, and they will no longer be a part of the Town of Southampton. What's interesting is that this village probably would extend from the edge of Southampton Village, or starting at Flying Point, and running all the way to the East Hampton line.

Right away, when you start thinking of a planner -- as a planner, you begin to thing, well, they need to use town roads to get in there. There are town beaches between the private parcels and so forth. So

how does the -- if they should decide that hardened structures to protect their properties are appropriate, would that be permissible? Could they bring, you know, large rocks and put in shore hardening structures? And how would that impact the town properties? And I guess I could probably go on with what begins to go into my head insofar as the complexities. But there's a lot of issues out there. And again, I would -- I would echo what Tom has said about East Hampton with this trophy house issue. Southampton Village is going through exactly the same situation, where the property values have become so high that, you know, the homestead, the houses that professionals back through the earlier part of the century felt were totally adequate and indeed are appropriately sized and scaled for those parcels are being taken down and much larger structures are going up. So the village is in the process of considering the kinds of legislation that would put limits on the number of -- on the square footage and on the heights of these buildings.

And it's frustrating because, as we try and plan comprehensively, sometimes the details and the proposals of these comprehensive plans they seem like a good dream, but the word community character always wants to come circling back in my head. And that's going to change dramatically with some of these -- some of these proposals if they're -- if they're acceptable and accepted by the community. So there's lots out there to attempt to resolve.

DIRECTOR ISLES:

And it's certainly within the power of the municipality to regulate as you say the square footage, the floor area ratio, the setbacks and so forth. So if there was a certain nature, character, to a particular neighborhood and so forth, the zoning code may not really reflect that. It may need to be amended. There are certainly techniques out there for doing that.

MS. GRABOSKI:  
Fortunately.

MR. CREMERS:

No major planning things happening in Southold. There are a lot of other problems, but no planning ones, so I'll pass on that.

MR. O'DEA:

Riverhead's Planning Board is about almost finished and ready to pass their comments on their master plan to the town board, all the changes, additions, subtractions, whatever. And the other issue is, like, underground utilities are an issue out there both in Riverhead and Southold. Fixed based operator proposal for the 10,000 foot runway at the Grumman has been prominent lately, different ways of how to use the air uses within the zoning or whatever else is going to happen in the future. And we've got two concerts coming up, one is in June, and I'm not sure of the second date. But if you are a Radio Head fan or anything like that, there will be plenty of music on that -- on the grounds in the next two months and about 100,000 people at a time, I guess. It should be fun. That's it.

MR. BERKOWITZ:

A couple of times in the past I mentioned that we really need to think

more about transportation. Everyday you pick up the paper and there's a transportation issue. If everybody continues in the planning process without some kind of comprehensive approach to transportation, we're never really going to come close to solving the problem. And I still would like implore that we take a look at the transportation issues facing all the counties as a Commission. The Department of Transportation did I think it was a \$5 million study and came up with nothing really, which was a pity. But I think we really -- if we're going to talk smart growth, we really need to talk smart transportation.

DIRECTOR ISLES:

If I could just say one thing on that. I certainly agree with Mr. Berkowitz's comments. And I will point out that we had a meeting recently -- yesterday, actually, with Dr. Koppelman and also Patty Bourne who's the Director of Planning for Nassau County and talking about a couple of key issues, and one of which is the regional transportation issue. Regional Board is planning to embark on an update to the bi-County plan. They've completed a draft of the housing element to that plan right now. They are planning to also do a transportation element. So we had some preliminary discussions on it yesterday in terms of the content of that. So it is a very timely thing. And whether or not, they have not scoped out what that project will be, what role we will have, but obviously he does want to work with both counties, Dr. Koppelman. So there is some effort at least for you to be aware of and the Commission to be aware of on the Regional Planning Board level.

MR. BERKOWITZ:

Thank you.

VICE-CHAIR MARTIN:

Nice to see you back. How's your mother?

MS. PETERSEN:

Thank you. Everything's okay. Brookhaven Town recently held hearings to change our codes. They're in the process now of undergoing the SEQRA component of that, and hopefully, that will all taken into advisement, as well as all the comments that were made at the hearings. And I think within the next few months, you'll see a big change in the codes of Brookhaven and how they affect site plans and business locations and landscaping, and a multitude of items that have never been properly addressed in the past, which hopefully will be will be addressed in the future.

In addition, we are going forward with the Mastic-Shirley corridor in southeastern Brookhaven along Montauk Highway. We did a visioning there a year ago, and subsequent to that, we are writing a new Main Street Business District Code, which will affect those properties. We will be doing zone changes. We had a great success with reaching out to developers within the community to upgrade their architecture, to consider a number of elements, which are very prominent in smart growth, as far as landscaping, street furniture, lighting, components which make more of a traditional downtown appearance, which was sorely lacking in that area, which will be addressed with our new code. And we're very happy with what we've seen come forward thus far, and that

too should be in place probably by the end of the summer.

MR. CARACCILO:

Nothing to report in the Town of Huntington. But I did want to mention that this week's issue of the Long Island Press features ours a pull out section of the town and an op-ed piece by the Supervisor, where he discusses his improvements in the downtown area and his visioning and some of his projections and some of his failures for improving Huntington Station. But it's a good -- it's a good read about how he's thinking and how he looks at different avenues of smart growth when it comes to the town. I've taken the liberty of mailing a copy to everyone in the Commission. So it's an interesting read in the op-ed piece this week.

MR. LONDON:

The only thing I'm going to discuss is -- it's not on villages today -- but as Rich O'Dea eluded to, the rock concerts coming up June 7th and 8th is the first one. The second one falls somewhere on one of the long weekends of August. I got involved indirectly with this, because those dates used to be dates of horse shows on the Calverton site, and since that person couldn't have his horse shows at the same time, he came to me to see what I could do. And, of course, after investigating and finding out, I couldn't do anything. I mean, it's a fait accompli, it's done.

However, my only concern, and it's kind of -- I don't know what stronger language I could say it in English, except that I'm very concerned about the safety factor of the second show in August. It's my understanding that 100,000 and plus people will be in tents camping out on the facility. We're talking about sort of a mini Woodstock. And if anybody remembers those days, as we're all so young, you know, we were around then anyway, unless it rains, it won't look exactly like Woodstock, but the conditions prevail with the -- I don't want to put any aspersions on anybody, but occasionally there might be one or on two users of drugs that may not be totally legal. It means that they're going to have to have quite a security police force to protect this area, primarily the people.

So having said that, you know, the County having a fiscal problem within itself, I tend to wonder how they're going to pay for all of this. They're going to need help obviously from the State Police. I don't think Suffolk County in and of itself, even with a special assigned so-called marshals, will be able to maintain so-called law and order. But if you have that many people in a confined space, and even though it's a large acreage, it's still confined when you add 100 plus thousand people. Kind of raises my eyebrow quite a bit, and I'm concerned about the welfare and safety of all the people. The highways we know can handle the volume of traffic, because it's right off of the Floyd-Bennet Field to the Expressway. And it is a weekend, so that shouldn't be a problem. But 100 plus thousand people living in tents for a couple of days on those grounds might present other problems. And the only deep concern I would say is, and it was acknowledged publicly already, there has not been enough planning that went into the presentation of how everything is going to be more or less addressed. And I just hope to God that everybody that goes there comes out the same way and has a good weekend without any difficulties

and gets home safe. Other than that, I really have nothing else to say.

MR. O'DEA:  
Dick, I think I'm going sell my tickets.

MR. LONDON:  
Excuse me.

MR. O'DEA:  
I think I'm selling my tickets.

MR. LONDON:  
Hey.

MR. O'DEA:  
You got to step up to the bat and take a shot. That's not my decision, and we'll see what happens.

MR. LONDON:  
The supervisor.

MR. O'DEA:  
Some really odd named groups in there, I'll tell you. It should be fun.

MR. LONDON:  
I wish that's all it was.

MR. BERKOWITZ:  
They're going to camp out all with the deer ticks.

MR. O'DEA:  
Exactly. Comes at no charge for the deer ticks, no extra charge.

S-SM-03-02

MR. FRELENG:  
Okay. The first regulatory matter before the Commission is the application of Hamlet Woods at St. James coming to us from the Town of Smithtown. Jurisdiction for the Commission is that the site is adjacent to New York State 347 and the Town of Brookhaven. The applicants are proposing the subdivision of approximately 108 acres of land into 167 lots in the R 21 C-L zoning category in the Hamlet of St. James. Minimum lot size in the zoning category is 21,780 square feet. The C-L indicates a mandate for cluster.

In addition to the lots, a clubhouse, tennis courts, putting green, basketball court, tot lot, pool, spa, kiddy pool, bathhouse, sun decks and floating docks are also proposed in the 3.91 acre recreation area.

A small amount of subject property at the eastern end is located in the Town of Brookhaven and is zoned B-1. There's a small piece at the edge of the property pretty much right there that's in the Town of Brookhaven. The map is being processed pursuant -- I'm sorry. The map is not being processed pursuant to 278 cluster provisions of town law. Approximately 12.27 acres is proposed as dispersed open space.

Let me correct myself. This is a cluster, it is a 278 cluster.

Two recharge basins totaling 6.19 acres and a recharge pond of 10.7 acres are also proposed. The lots range in size from 12,932 square feet or roughly .3 acres to 37,324 square feet or roughly .86 acres. The lots are arranged in a pattern around an irregularly shaped central pond or lagoon. And the lots are set back from the right-of-way of Nesconset Highway and Moriches Road. The subject property abuts residential dwellings to the west, to the north the property adjoins school facilities and grounds now or formerly of the Central School District Number One. At present, new construction is under way on the school district site. To the east the subject parcel fronts on Moriches Road, which is a town road, and there are four out parcels also on the east side. To the south the subject property fronts on State Route 347, Nesconset-Port Jefferson Highway. There are no structures located on site.

The character of the area surrounding the subject property is predominantly residential. Notable exceptions are to the south across 347, you have Smithaven Mall. And to the east along 347 there's some big box retail. For the most part, to the north, the property is surrounded by residential dwellings. The property itself could be characterized as being generally rolling with slopes ranging from 3% to greater than 15%. The parcel is located within groundwater management zone eight, potable water to the lots is intended via public supply, sanitary waste is to be collected and disposed of on site with individual systems. There are ten different soil types on the subject property. The Haven, Riverhead and Scio series soils are considered prime farm soils in Suffolk County. Close to half of the subject parcel contains prime farm soils. The parcel is not located in a Suffolk County Pine Barrens Region. The parcel is not located in a Suffolk Special Groundwater Protection Area. The parcel does not contain or is adjacent to any wetlands.

There is material submitted to the Planning Commission from the town indicating that a New York State DEC mining permit will be required. Typically cut and fill calculations are balanced on site. When you do a subdivision, staff believes the mining would be associated with the creation of a pond system, talk a little bit more about that in a minute, there's a central pond system as indicated in the staff report. Access to the subdivision is intended via a private road network with outlets to 347 and Moriches Road. There is no outlet to the subdivisions to the west. The access point to 347 is aligned with Alexander Avenue and utilizes the existing signalized intersection. That's down here. This is Alexander Avenue just to the south. So you're coming up here, and the access -- there's one access to the subdivision right here at this signalized intersection. The access point to Moriches Road appears to be at an easterly sweeping curve in the roadway and only some 350 feet south of the school grounds to the north.

It appears that this Moriches Road access would be the principle departure point for motor vehicles leaving the proposed subdivision for points north. So here just to the east of the recharge basin is the other access to Moriches Road. The school district property is here. There is no signalization at this proposed intersection. Okay.

So it appears that northbound movement then would necessitate left turns out of the subdivision across oncoming traffic on Moriches Road, and staff believes undoubtedly this would eventually require traffic signalization in the future. Staff believes a more logical location for the Moriches Road exit would be aligned with Fairfield Drive to the south, which is right here. I think you can just see it on the subdivision. Let me pick it up. The intersection is already signalized and would require less disruption for motor vehicle traffic flow moving north.

So therefore, you would have only have one traffic signal -- from this traffic signal here, you would have only one traffic signal coming up along this length rather than having one at Fairfield and up here. The second access point by Fairfield would be about 1,000 feet south of the school grounds, not the 350 feet proposed. Lastly, there's an extension of Sansun Lane to Pumpkin Road in the southwest corner of the property. This appears really to serve no logical function and further fragments the already fragmented open space. So from Sansun Lane, I believe it's here, they propose to have a connection to the other east-west street down below. There is no possible connection from here to New York State 347. It's not likely that this development would take any access off of 347, if it's residential. So staff doesn't believe that this is a rational connection from here to here. There would be no outlet further south.

Okay. Issues related to the proposed subdivision stem from the Commission's policy on subdivision design, cluster design and the open space provided do not really fully take advantage of the cluster opportunities for the site. Greater efforts should be made to preserve additional open space. The size of the track is conducive to better cluster layout that would follow -- that would allow for better contiguity of the vegetated open space, better buffering from the adverse roadway impacts and preservation of prime agricultural soils. In the Environmental Impact Statement, while staff doesn't advocate this particular alternative, it does show the Commission though that there are other options for this site, which would preserve a much larger amount of open space. This is a two design concept that was alternative five from the impact statement process. It had 100 single family lots and three hundred attached units below. However, you can see the significant amount of open space that is preserved with this plan. Keep in mind that the proposal before the Commission is for 167 lots. This totals three hundred units.

So staff really does believe that there's a lot of flexibility on this site, and the proposal before the Commission is not the optimum cluster design. Staff also had some concerns about the creation of the pond. The mining operation certainly is -- staff believes is associated with the excavation of the pond, and there would be some additional traffic impacts associated with the trucking of the removal of the mind material from the site onto 347. Staff is recommending approval with the following conditions being necessary for good planning and land use.

Number one, staff is recommending that the access to Moriches Road be located to coincide with the access into Fairfield. So that moves this proposed location here further down to the opposite access to

Fairfield Drive. Condition number two is that the private road serving the subdivision be given distinctive names. That's for safety and welfare reasons. Condition number three is that the private be designed and constructed with towns standards and specifications. This is in the event that at some point in the future those roads might be needed to be dedicated the town, they would meet town specifications and town could accept them. Condition number four is that the man-made pond be constructed in accordance with Suffolk County Planning Department report on the designer ponds and also in accordance with any New York State DEC permit requirements for mining or the creation of artificial wetlands.

Staff is also recommending that the Commission condition that 20% of the lots in the subdivision be set a side for affordable housing. Condition number six is that no final approval be granted until the Town of Brookhaven has had a chance to review and approve this minor piece of property that's within the town. And condition number seven, that all stormwater runoff be contained on site and not be allowed to flow onto the state right-of-way. The staff is recommending that two comments from the Commission go back to the town. The first comment being with regard to the cluster design, and that the cluster design does not fully take advantage of the opportunities of this site. And a greater effort should be made to preserve additional open space to provide better buffering from the roadways and to preserve prime agricultural soils. In addition, the comment on Sansun Lane connecting to public -- Pumkin Road, that comment is as far as the connectivity of those two streets and the rational is also put down for consideration. That's the staff report.

VICE-CHAIR MARTIN:

Any other comments? A motion is in order.

MS. GRABOSKI:

I make a motion.

MR. CREMERS:

Second.

MS. GRABOSKI:

I had some questions. I guess -- I kind of wanted to get permission, I had mentioned this before and asked Tom, maybe we should postpone this until we've had a chance to review it and check it with the Town Attorney's Office. Would it be appropriate to insert an additional condition, something along the lines of a copy of the final resolution shall be sent to the Suffolk County Planning Commission?

MR. ISLES:

That would have to be done anyway, Jerry, right?

MR. NEWMAN:

When a decision is rendered -- when the admission renders a condition as you said previous, there has to be a degree of compliance with the statutory requirements in the Suffolk County Administrative Code, which mirrors the General Municipal Law, which states there has to be reason for contrary action to the Planning Commission. If you want to institute that into policy and procedure in all actions that are

reviewed by the Planning Commission where there's affordable housing components to ensure degree of compliance, I think that could be done reasonably and legally.

DIRECTOR ISLES:

Perhaps -- the County Attorney isn't represented here, but perhaps --

MS. BRADDISH:

There are statutory requirements. I would just reiterate, to make it a condition, to be totally honest, the statute supersedes your conditions. So I would just maybe reiterate it in a letter that this is what the statute requires and, you know, please ensure that you continue compliance. Because it doesn't make sense for you to put it as a condition.

MS. GRABOSKI:

I understand what you're saying, it would be redundant.

MS. BRADDISH:

Right. You can either send them a reminder --

VICE-CHAIR MARTIN:

The place on the road, on Moriches Road has not been decided. We're trying to eliminate any access onto Moriches Road and all traffic out to 347. We'll have a crash out onto Moriches Road. And we really don't want all the traffic to be going up to St, James and up Woodlawn Avenue and that. We still have not reviewed the environmental impact statement. I think today is the last day of the hearing, period. We extended that for two more weeks because of the holiday. So that will be considered. The road will be put wherever it's best. I mean, there's no two ways about it. Nobody knows the road better than the town itself. I mean, we live with it, we have a pretty fairly large job across the street, that was a senior citizen type of operation and we have to also consider them, you know. As far as the access soil goes, they're going to build a berm all over the place. So I think if anything, they'll be bringing in soil, not taking the soil out. They'll need every inch of soil, because it's a flat piece of ground, it was a farm. It was a farm up to, I don't know, probably 20 years ago. There's two big farm houses there. There's some greenhouses, which will come down and a barn. So I don't think there are any exits there at all. In fact, I'd be shocked if there was. And basically, we're going to do everything you ask for, but in time, because we don't have the impact statement, you know. I don't think we're going change into a more clustered zone because that's going to overburden the piece of land. There's more units involved. I kind of like the half acre, single ownership. But I think everything else is going to pretty much do what you're asking.

MS. GRABOSKI:

So this is especially a reduced density plan then as well?

VICE-CHAIR MARTIN:

Well, it is, yeah.

DIRECTOR ISLES:

Five units, I think.

MR. FRELENG:

Theoretical yield for the property is a 172, and they're proposing 167.

VICE-CHAIR MARTIN:

We're doing just about what his yield is. It's all half acre because it's zoned half acre. I mean, everything he's asking for he's entitled to under regulation. Half acre piece of land, you know, pretty hard.

MR. THORSEN:

Andy, can you point out exactly the lagoon system?

MR. FRELENG:

Okay.

MR. THORSEN:

Is it that entire banana in there?

MR. FRELENG:

It's hard to see in the staff report, but the blank area in the center of the map. It starts here in the north end of recreation -- three acres of recreation. And this area in here, there's a little canal, if you will, and it goes up.

MR. THORSEN:

How deep is that?

MR. FRELENG:

They don't give -- the bottom elevation's at 87, the high water elevation is 94. It's really not that -- it's really six, seven feet at most.

MR. THORSEN:

These ponds won't work, you know, unless they're deep enough. Otherwise they're just --

MR. FRELENG:

We didn't get in the details of it, but the Commission does have a guide book on creation of these ponds. I have it over there, if you want to pass it around.

MR. THORSEN:

Otherwise there will be a lot of stagnant water.

MR. FRELENG:

And if they're too deep as well, it could be problematic. So they have to be designed properly. I do believe they're proposing some sort of aeration. There's a fountain that's indicated here. There probably should be other fountains around the area, don't know if they're intending to put in fish stock to maintain insects. It has to be well thought out. And the DEC would have jurisdiction on the creation of the pond.

MR. THORSEN:

You know, Southampton dealt with one. I don't know if that was

successful or not, but they went through all that process of --

VICE-CHAIR MARTIN:

The line has got to be considered. Don't forget, you're talking houses in here that will hit near a million dollars, 700,000.

MR. THORSEN:

They'll have waterview.

VICE-CHAIR MARTIN:

They'll pay extra for that waterview. I mean, don't ever think they don't pay extra for it. It's a popular, popular way of doing it. I never liked ponds. I believe everything should be handled directly, but they are something they use today.

MR. THORSEN:

No alligators in there.

MR. FRELENG:

There's no indication how the subdivision would handle access to the water on these particular lots, whether or not there is -- there's a floating dock proposed here. So I would imagine that paddle boats or something would be allowed out here and whether or not individual access to the ponds would be allowed, I don't know. That's something also that the town would have to consider. With regard to the comment of removing soil from the property, Smithtown submitted to us language regarding a mining permit. And if there was a balanced calculation where all the fill was going to be used on site, you wouldn't need the mining permit. So we presumed, I guess, that stuff would be trucked off.

VICE-CHAIR MARTIN:

When he does something, he's pretty -- I'm sure he did it, because there must be somewhere saying you have to. This way you don't have to come later and say, well, why did you move the dirt. I'm just talking from what the land is, it's flat. I mean, I don't know if you've ever seen that, but it's a farm, you know, it's flat. I think by the time they get through with the berm all around the outside on Moriches road, that's all going to be bermed and fenced. That's going to be one of those concrete blocked fences enclosed. They're going to have a five foot berm. (Inaudible) they'll just make the berm a little wider. Six inches wider, you'll need thousands of yards, you know. I don't think there'll about a problem at all. I don't see a problem I should say.

MR. O'DEA:

What kind of construction is going on on the school side? What is that school side?

VICE-CHAIR MARTIN:

The school is extended. Almost all of the schools in Smithtown is extension.

MR. O'DEA:

Now we know why.

VICE-CHAIR MARTIN:

They did want to come in originally with a Fortunoff Department Store.

And the builder has a record in this type of development, you know. Probably the largest ones on Long Island. And they came in and they said the land was so valuable for residential housing, they'll go all residential.

MR. O'DEA:

Can you put in there something about fencing off the school site or something, Andy?

MR. FRELENG:

You could.

MR. O'DEA:

That's the only thing that's a problem I think on the adjacent property.

MR. FRELENG:

If you want to make an amendment.

MR. O'DEA:

I'll make an amendment to fence off the school area.

MR. FRELENG:

Commissioner O'Dea.

MR. O'DEA:

Put a fence on the school boundary.

DIRECTOR ISLES:

He wants to put that in as a condition.

VICE-CHAIR MARTIN:

That's in the plans he submitted.

MR. FRELENG:

That's not a condition.

VICE-CHAIR MARTIN:

They're worried be the roads, there's a pond there too or something. I wouldn't worry about that, but you can put it in if you want.

MR. O'DEA:

Okay.

MR. LONDON:

Question, Mr. Chairman. The access onto Moriches Road, how many means of egress will there be? Are they planning?

VICE-CHAIR MARTIN:

The one that comes out on 347.

MR. LONDON:

One on Moriches Road.

VICE-CHAIR MARTIN:

They're talking one on Moriches, which means maybe -- we haven't gone to that at this point. This is a little more advanced. We're waiting for the environmental impact statement. We want to put the least amount of traffic we can over there.

DIRECTOR ISLES:

Present plans before the Planning Commission show two points of egress on the property.

VICE-CHAIR MARTIN:

It won't be more than two, but two would be most. Where we put on Moriches Road would be a matter of design, where we have all the signals. If it does need a signal, that will have to go in by the department. They'd have to put a signal there.

MR. LONDON:

Thank you.

MS. GRABOSKI:

I just had one more question, just for information purposes. Andy, could you just point out where the access point is. Are there two points along 347?

VICE-CHAIR MARTIN:

No, one point.

MR. FRELENG:

No, one point along 347 right here, opposite Alexander Avenue.

MS. GRABOSKI:

Okay.

MR. FRELENG:

And there's a light on Moriches Road right here. Right about there is what they're proposing. We're recommending it come down to opposite Fairfield, staff is recommending.

MS. GRABOSKI:

Is a traffic light on 347 opposite Alexander?

MR. FRELENG:

Yes. This is a signalized intersection.

MS. GRABOSKI:

Okay.

VICE-CHAIR MARTIN:

Anything else? A motion's in order.

DIRECTOR ISLES:

We have a motion and a second.

VICE-CHAIR MARTIN:

Motion and second. All in favor, signify by saying aye. Contrary minded? Abstain? I abstain. So carried. APPROVED (VOTE:9-0-1)

MR. FRELENG:

I just want to clarify that we're adding a condition amending the staff report to add a condition to have a fence in between the property and the school. Okay.

S-Bt-03-01

MR. FRELENG:

The next subdivision matter before the Commission is also an interesting one. This is from the Incorporated Village of Belle Terre. This is the application of Holterbosch. Jurisdiction for the Commission is that the subject property is adjacent to Port Jefferson Harbor. The applicants are proposing a subdivision of approximately 19 acres of land into ten lots in the A-residence zoning category in the Incorporated Village of Belle Terre. The minimum lot size in the zoning category is 43,560 square feet. The map is not being processed pursuant to 7-738 cluster provisions of village law. The lots range in area from 47,433 square feet, roughly 1.1 acre, to 153,453 square feet, roughly 3.5 acres. The subject property abuts Port Jefferson Harbor and two out parcels; one of them with a dwelling to the west.

To the north and east, the property abuts residential lots with dwellings. To the south the parcel fronts on Motts Hollow Road, which is a village road. A single family dwelling is located on the subject property. And in addition, a small street, Marjory Path bisects the property east-west and provides access to the dwelling adjacent to -- to the west of the subject parcel. Just to recap, we have an existing dwelling here and Marjory Path is a road that cuts through the subject property to the end of Camp Woodbine Road, which is a village road. There is an existing dwelling on site. This is a driveway that comes very far down into the property. You can see -- you can see the swale and sloping -- the slope of the topography. Okay.

The character of the area surrounding the subject property is predominantly residential. The subject property itself can be characterized as being rolling with slopes exceeding 15%. The parcel is located within groundwater management zone eight, potable water to the lots is intended via public supply, sanitary waste is to be collected and disposed on -- disposed of on site with individual systems. Soils on the subject property consist of Plymouth and Carver Series as well as an escarpment, which is a long steep slope separating two comparatively level and more gently sloping surfaces. None of the soils on the site are considered prime farm soils in Suffolk County. The parcel is not located in a Suffolk Pine Barrens Region. The parcel is not located in an SGPA. The parcel fronts on Port Jefferson Harbor and may contain tidal wetland vegetation along the shore. As I stated, slopes on the subject parcel are extreme and in places exceed 35%.

Access to the proposed subdivision is intended via the extension of Camp Woodbine Road, which is a village street, and that's intended to be extended into a cul-de-sac. Access for lots one and two are proposed to be taken off an existing cul-de-sac street, Hemlock Path. This cul-de-sac here will have access to the two lots that are in the northern part of the subdivision. It is noted that lot seven and eight that are -- as proposed are double fronted lots with the street

Motts Hollow Road. No alternate access to the subdivision is proposed, however, Marjory Path does make a connection to Camp Woodbine Road and might serve as an alternate access. In the tax map, you can see that Marjory Path which comes down here actually runs along the lot line and does make a connection to Camp Woodbine Road.

Several of the building envelopes shown on the map, particularly lot seven, are problematic in that the proposed location shown for the intended dwelling are situated on or directly adjacent to the steepest slopes on site. These lots and the envelope should then be redrawn to minimize the disturbance of those slopes to the greatest extent possible. The shape and area of the parcel is such that a degree of flexibility and layout of the subdivision is possible if laid out as a cluster subdivision. A cluster design pursuant to village law would allow flexibility to avoid construction on steep slopes. At the very least, the track should be granted dimensional particularly front yard set back modifications so that the building envelopes could be pulled away from the steep slope areas. And I'm particularly pointing out lots one, two, four, five and eight to that provision and lessen the need for retaining walls.

It was hard to reproduce in the staff report, so we gave you a separate topographic map. But the topography on site as you can see up here, we do have some very steep slopes at the north end of the property. This is the escarpment, and then it runs again along the other edge of the property. If you want to flip up to that. That's basically what the soil -- what the topo map would look. As you can see this is Camp Woodbine, this is the driveway, and this is that other street that connects to the lot over here. As you can see on the site plan, the building envelopes are at the top of all the steep slopes. Some of the envelopes are okay. These envelopes here are fine. That one is pretty much far enough away, you might need a small retaining wall in the corner here. Some of these lots tend to get really problematic, the worst of which is lot seven, which is sitting right on a 35% slope.

So we tried to see if there are other options for the site. Staff has examined the map and envisioned at least two alternative layouts to reconfigure lot seven and eight so that the building envelope of lot seven is pulled off the steep slope area. One alternative pulls the cul-de-sac back, or north, some 150 feet so that they building envelope could be moved eastward. Lot eight then becomes a flag lot. We provided some sketches, and I'll flip this over in a second. The second alternative also moves the cul-de-sac back and shifts the common lot line of -- of seven and eight north-south. Lot seven would then take access off of Motts Hollow Road. The second alternative is preferable to staff as to the impact of the slopes are less. So we wanted to see if there are other alternatives for this site. The staff quickly drew this up, this is to scale. We didn't use a rubber ruler, so it is theoretically possible to redesign the subdivision. We pulled back the cul-de-sac. As you recall, it was up here, we pulled it back some 150 feet or so. This enabled us to pull the building envelope here forward a little bit and got a more buildable building envelope. There are no real steep slopes here. It would require a retaining wall over here, however, in order to keep the side of the house from sliding down the hill.

We redrew this lot here then into a flag lot and maintained most of what the building envelope had already had, and that is one alternative. As you can see, Marjory Path right here runs along the side of the property. So this lot seven then could be redrawn with the building envelope here. Another alternative still pills back the cul-de-sac the same amount. However, what we did was we allowed lot seven to take access off of Motts Hollow Road. Motts Hollow Road doesn't look like much in the air photo, but all the streets in the Village of Belle Terre are rather small narrowly-paved roads. It is a public road. And there are, as you see, houses that do take access off of Motts Hollow. So we redrew this lot and totally pulled the building envelopes off of the slope so that there's a reasonable size envelope for the house here. This lot pretty much maintains most of the envelope in the building area, gets a little bit more up front.

Also, there is a comment in the staff report regarding lot three. Lot three has the building envelope, if you can recall or see, it's also sitting at the very edge or in between two very steep slope areas. There's a separate driveway that comes up to this lot as well as a separate driveway here. Staff felt if you redesign this lot to provide for a common driveway along the lot line, you can pull this house down a little south and get off the steep slope area here. So you would eliminate this common driveway that came up and cut the slope so you would have a common driveway, and this house would take access off it, and this house would take access a little further down.

So those are the two alternatives to redesign the site to be a little bit more accommodating to the slopes. Therefore, issues related to the proposed subdivision stem from Commission's policy on subdivision design on steep slopes and the development of subdivisions adjacent to the shoreline of Suffolk County.

Condition number one reiterates all the rationale of pulling off the building envelopes off the slopes, provides a little description of the two alternatives, and the condition states that the map shall be redrawn to preserve the steep slope areas of lot seven and lot three, as well as lessening the impacts to steep slope areas of the remaining lots. Just turn this around so you can see again clearly. Okay. Condition number two is that no residential -- I'm sorry. Condition number two is that the most landward limit of tidal wetlands as stationed shall be flagged in the field by a qualified expert and verified the appropriate agencies and shown on the plans. The high tide line is shown on here, which may or may not be the most landward limit of wetland. So that needs to be reflagged in the field. Condition three is that no residential structure or sanitary disposal facility be constructed less than 100 feet from the most landward limit from tidal wetland, that's standard Commission policy. Condition four is that a conservation easement of 100 feet be establishes along the shoreline. Now, that's standard Commission policy.

Condition five is standard Commission policy that there not be any individual access structure to the beach from lots one through three and lot six. Access to the beach should be limited to a single structure to serve all residents of the subdivision. The structure shall be designed and constructed in a manner that will result in the least disturbance of the stability of the shoreline of Port Jefferson

Harbor. That would be a standard condition. Condition number six would be no stormwater runoff would be allowed to go into Port Jefferson Harbor. Condition number seven is that erosion and sediment control measures be utilized during -- before, during and after construction. Condition number eight is that the subdivider acknowledge in writing to the Planning Board that this subdivision in no way commits either the Village of Belle Terre or the County of Suffolk to any program to protect the shoreline from erosion. Condition number nine is that clearing and grading within each lot be limited to that necessary for the siting and constructing a house and typical accessory structures with the attempt to preserving as much of the natural vegetation on site as possible to minimize the run off. Condition number ten, be that an alternate means of access, emergency access, be provided. And we specify in the staff report that Marjory Path shall be made to accommodate emergency service vehicles. They could brush cut the path through here and allow it to regrow with weeds or something. It would be a vegetated strip in here, but still emergency vehicles could make their way up into the subdivision during a hurricane or whatever the emergency might be. And condition number 11 is that lot seven and eight are multiple fronted lots and that provisions shall be made to prohibit access to abutting streets other than at the front yard of each lot. So no matter how you redesign lot seven or lot eight for that matter, they will both be double fronted in terms of the extension of Woodbine Road. In addition, you'll have this issue of Marjory Path to deal with for lot seven. So we're just recommending a condition preventing access anywhere except at the street line. And that is the staff report.

VICE-CHAIR MARTIN:

Andy, I got one comment. With all the things that's the matter with this map, it's mind boggling we can send an approval subject to. I think the map should be sent back, and redesign it. If they want to go over all the conditions with you to work it out, we can work out. But to tell them to move this stuff ten feet and that lot 15, it ain't going to work. You're not going to get it.

MR. FRELENG:

The Commission should know the staff really does debate approval or denial on these maps all the time. It's my position that a flat denial really doesn't get to the issues of the map.

VICE-CHAIR MARTIN:

No. I'm saying, send your conditions, but in no way approve the map at this point. Send all the conditions back and say they should meet them, because all they'll do is override you and it's over. But if we deny the map, then it's got to come back.

MR. FRELENG:

Hopefully they'll override them one at a time and put them into the record. That's the Commission's prerogative.

VICE-CHAIR MARTIN:

And I think the important thing here is there's so many things wrong with this, I don't think the village can handle it. I don't think they have the people there, the expertise there. I'm sure they'll go for outside help, but how far will they go, you know.

MR. FRELENG:

Right. We have staff report, that's why we --

VICE-CHAIR MARTIN:

That's my feeling. I don't know how the other board members feel.

MR. O'DEA:

I'll make a motion to approve the staff.

VICE-CHAIR MARTIN:

Any other board members, any comments?

MR. O'DEA:

There's no motion. I'm making a motion to approve the staff report.

VICE-CHAIR MARTIN:

That's it?

MR. O'DEA:

Yeah.

MS. GRABOSKI:

I'll second.

VICE-CHAIR MARTIN:

There is a second to that. Any other comment?

MS. GRABOSKI:

I just had a question. Andy, when you're talking about the access to the beach --

MR. FRELENG:

Yes.

MS. GRABOSKI:

-- are you thinking stairs or are you thinking a walkway or?

MR. FRELENG:

Well, it's going to probably about a little bit of both at the shoreline. There's not much in the way -- probably have some sort of boardwalk or something like that going out to the shoreline. There's not much in the way of changing the topography. But getting from the back of any of these houses or getting from either one of the streets, you're going to have to negotiate these slopes, which would probably require some stairs. So to the extent that there's only one access point on the beach, that's probably going to be a bulk -- a boardwalk or something like that. And how a community structure is made to get to that access point, no matter what that is, it's going to have to negotiate this really steep slope. So I'm not sure what we envision, but standard Commission policy is to limit the damage to the shoreline with one access point to the beach.

MR. BERKOWITZ:

Are you suggesting that we send the comments back with the staff report, but not approve?

VICE-CHAIR MARTIN:  
That's right.

MR. BERKOWITZ:  
The motion that's made did not do that?

VICE-CHAIR MARTIN:  
No, he didn't do that. He's approving the map according to --

MR. BERKOWITZ:  
I'd like to make a motion to amend that motion to your suggestion.

MR. O'DEA:  
My feeling is that the amount of work they did on this is certainly a little mind boggling to me. I think they should send a bill out with it. Frankly. If they put this much thought into the process, I bow to their thoughts on this.

VICE-CHAIR MARTIN:  
Sure. Fine. Put it to a vote.

MS. BRADDISH:  
If it fails, then you can entertain another motion.

VICE-CHAIR MARTIN:  
We'll entertain another motion.

MS. BRADDISH:  
It either passes the motion to approve --

MS. NOLAN:  
I know, but my question is really how does that work if it goes back to them as disapproved with conditions? Do they have to react to each condition at that point or can they just --

MS. BRADDISH:  
No, it's disapproved. If they override that, then it goes without conditions.

VICE-CHAIR MARTIN:  
If we just go without disapproval, okay, with conditions, they'll just override you and that map as you see it now can be done. If we disapprove it and give the conditions with the reasons we're disapproving it, the map has to come back.

DIRECTOR ISLES:  
But they can still override the disapproval.

VICE-CHAIR MARTIN:  
Right. But it's still got to come back to us.

MS. NOLAN:  
No.

MS. BRADDISH:  
No. How are you sending this back?

VICE-CHAIR MARTIN:

It would have to be disapproved. They'd have no status. They can't override a disapproval.

DIRECTOR ISLES:

They can disapprove it themselves and require a new map or they can say, we don't agree. We can disapprove, give reasons and approve the map.

VICE-CHAIR MARTIN:

They have to go through a regular process.

DIRECTOR ISLES:

It doesn't necessarily come back, right.

VICE-CHAIR MARTIN:

No, it doesn't have to come back, but it will come back.

MR. CARACCIOLO:

Is it a better chance of coming back if we disapprove it?

VICE-CHAIR MARTIN:

Of course. It wouldn't come back at all if you don't -- if they don't have to. And they could just leave the map the way it is. That map is in no condition to be built. It's got to be put into a smaller area, clustered a lot. Every lot has got -- some lots got 35 foot status and some slopes on it. How you going to --

MR. BERKOWITZ:

Good skiing in the winter.

VICE-CHAIR MARTIN:

You're like this.

MR. THORSEN:

Andy, just one thing. Is there -- in the surrounding lot configuration just outside this map, is there a landing there that the people use?

MR. FRELENG:

Landing?

MR. THORSEN:

Is there an existing landing?

MR. FRELENG:

To get to the water?

MR. THORSEN:

Yeah.

MR. FRELENG:

Well, this house has one. I don't see one for this house, although, I see a path here. And this likes like this bluff is starting to pick up a little bit.

MR. THORSEN:  
As long as their individual lots.

MR. FRELENG:  
I don't see any existing structures here. Obviously, we couldn't go out there, but we didn't see any existing structure at the time. This house here is probably a very substandard house in my opinion for the area. I wouldn't be surprised if it was a rental. So it doesn't look like this property was developed at all for any type of intensive residential use, doesn't look like there was any access. There might be a path that goes down to the water, but we couldn't tell.

MR. THORSEN:  
But the road that comes down along that -- I'd call it south.

MR. FRELENG:  
This one here or Camp Woodbine?

MR. THORSEN:  
Yes, right there.

MR. FRELENG:  
This is a private lot. This is a house, a dwelling there.

MR. THORSEN:  
So there's no landing there that the subdivision could use?

MR. FRELENG:  
No. There is no -- I must say being a resident of the area, there is no public access to any of the water in Belle Terre. You have to be a village resident.

VICE-CHAIR MARTIN:  
Even where the golf course is?

MR. FRELENG:  
No. No access to the water from the golf course.

VICE-CHAIR MARTIN:  
I don't mean from the golf course, I mean over to the west.

MR. FRELENG:  
Well, in Port Jefferson there is a village beach below the country club at the end of the golf course, but you can't park there if you're not a resident. So to answer your question directly, no, there is no access to the waterfront. I just wanted to follow-up, when staff considers whether we would recommend a denial or approval with conditions, we feel it's more difficult for the town to override each and every one of the conditions. They have to deliberate the rationale and then override the condition. If we sent a single denial, then they just override the denial, they don't have to worry about deliberating all the reasons why they override the denial. We always felt that if a municipality was inclined to approve a map anyway, they would have to go through and deliberate each one of the conditions any override them separately. And when Southampton returns their resolutions, they do just that, they go through and they give

rationale for why they're overriding the conditions that we tack on it. So in my opinion, it's a little bit more difficult for them to override a Commission approval with conditions than it would be for than just a Commission denial. It's tough to get five or seven members to line on each and every issue to override something. So that's my rationale on that. Plus, when you approve something with conditions, you are more or less sending a positive message rather than sending a negative message, and I know that the Commission has gone back on forth on that issue a lot. That's just the thoughts of the staff as you consider whether or not you want to deny the map.

MS. GRABOSKI:

You know just kind of echoing what Andy's saying and having sat on the Planning Board in Southampton, periodically you'll see a map before you that you're really not all that happy with. On the other hand, the question for the board ultimately comes down to be a legal question on the basis of the zoning code and the standards that we have. Can the Planning Board deny the map? Sometime you can't deny the map, or -- I mean, you can deny the map, but Your Honor is going to remind you that you're arbitrary and capricious. And at that point, you have no ability to get any conditions. He's going to say, you must approve the map. So, you know, I mean, I hear what Bobby is saying and I -- my heart tells me one thing, however, I'm going to, you know, support the staff report and essentially commend staff for coming up with a list of certainly thoughtful and pertinent conditions that conceivably are going to give the Village of Belle Terre something to think about.

And if they should decide to go forward and approve it, it will be approved with these modifications taken into consideration.

VICE-CHAIR MARTIN:

That's your opinion. I don't have any problem with that. I'm not voting for it, but you have -- I don't feel the same way you do.

MR. THORSEN:

The staff saved the applicant a little money.

MR. O'DEA:

They redrew all the plans.

VICE-CHAIR MARTIN:

Okay. The motion's on the table to vote, all in favor? Carried -- against? Me, Linda, that's four against. I don't know if it's carried.

DIRECTOR ISLES:

No, it's not.

VICE-CHAIR MARTIN:

It's not carried?

DIRECTOR ISLES:

No, you need eight votes to carry.

VICE-CHAIR MARTIN:

Okay. So it don't carry.

MR. LONDON:

I'd like to make a motion now. Are you ready? I'd like make a motion that we do not approve the application as presented to this board.

VICE-CHAIR MARTIN:

Is there a second to that? Carl. All in favor, signify by saying aye.

MR. BERKOWITZ:

Fails also.

VICE-CHAIR MARTIN:

We lost on that.

MS. BRADDISH:

I'd just like to make a comment. If you don't get a motion that passes, it goes back without recommendation so.

DIRECTOR ISLES:

De facto approval.

MS. BRADDISH:

It's a de facto approval without comment at this point.

MR. BERKOWITZ:

That's no good either.

MR. THORSEN:

How many for the map?

VICE-CHAIR MARTIN:

How many for the map again? Not me. For the map.

MS. BRADDISH:

Back to the original motion.

DIRECTOR ISLES:

The names of those in favor of the maps are Commissioners O'Dea, Cremers, Graboski, Nolan, Thorsen, Caracciolo, Petersen voting in support.

VICE-CHAIR MARTIN:

I certainly don't want the map to go back without any conditions, because I think the map is a disaster. But if the only way we are to get it to go anywhere, then I'm going to ask the three of us that were against the map to vote -- or at least one of us, if you want, I'll be the one, I don't care. I feel the map was a disaster.

MR. BERKOWITZ:

You're suggesting making this all unanimous?

VICE-CHAIR MARTIN:

Yeah. I mean, after we did it, we can show --

MR. BERKOWITZ:

Okay. Then I'll change.

VICE-CHAIR MARTIN:

Because if it goes back the other way, they're certainly not going to get anything. I still don't think you're going to get any anyway. I think the village has been naughty with the recommendation, because they would have never accepted this map. They accepted this map in the village. I mean, I'm going by my town. I've been there -- we probably are a town that's had more maps in here without being asked than anybody. Even though we're the smallest town, because we -- we never sent a map that wouldn't think had a chance for approval. Sometimes we have the map approved already preliminarily. So to me, that's the map we're going to get if we go the other way.

MR. BERKOWITZ:

You're saying we need one more vote for --

VICE-CHAIR MARTIN:

Yeah. I'm going to vote for it too.

MR. THORSEN:

It makes it stronger, it supports the staff.

MR. BERKOWITZ:

I support the staff's comments, but I don't have great confidence in Belle Terre.

MS. GRABOSKI:

I would only beg the Chair's indulgence to add one more comment, and that is that in all due respect to staff where I think you have really struggled to try and figure out a way to preserve the integrity of lots seven and eight, the thought occurs to me that those two lots really should be and could be combined into one lot.

DIRECTOR ISLES:

We've thought about that one.

MS. GRABOSKI:

Do we have the authority to -- they also have the wisdom and wherewithal --

DIRECTOR ISLES:

It could perhaps be a comment or suggestion.

MR. FRELENG:

All the lots are in conformance with the zoning. Therefore, we saw that it would be a lot easier to design this map if it didn't have one of the building envelopes. So we could make a comment to that effect that the map could be easier to redraw with five lots rather than six, whatever -- I'm sorry, seven lots rather than eight.

MS. GRABOSKI:

All right. Then I would propose that as amended the board -- the Commission reconsider our vote. I make -- do we need a new motion, I guess is the question?

VICE-CHAIR MARTIN:

I don't want it to sound like we're approving the map now, because

that might be taken out. I'm not sending that message. I want the message -- I think the three of us that supported the map, it's the overall map that we're against, not just one lot. And if they have to design it and only get five lots, so be it. I mean, that's all the yield may be there is for five.

MS. GRABOSKI:  
Understand.

VICE-CHAIR MARTIN:  
I mean, if the terrain is 35 feet, maybe some of the lots should be taken out. But I think that's going to be their condition. We'll just send it back.

DIRECTOR ISLES:  
Okay. So the motion that was carried was to approve subject to staff recommendations.

VICE-CHAIR MARTIN:  
Subject to staff recommendations only.

DIRECTOR ISLES:  
That was a unanimous vote then, just in terms of outcome.

VICE-CHAIR MARTIN:  
Yes, unanimous.

MS. CHORNY:  
For the record, could we go over the final decision?

VICE-CHAIR MARTIN:  
It's a unanimous vote to approve staff recommendation.

MS. CHORNY:  
Okay. Motion was made by Commissioner O'Dea and seconded by Commissioner Graboski and carried. APPROVED (VOTE:10-0-0)

MS. GRABOSKI:  
Andy, feel free to make a comment to that.

BR-03-22

MR. NEWMAN:  
The first is from the Town of Brookhaven. This is an application to rezone a 3.6 acre unimproved parcel of land from a light industrial category to a single family one acre category for the purpose of dividing the property into three separate single family resident lots on lands situated to the easterly terminus of Statler Drive which is unopened, you can see that on the aerial right in through here, between Sleepy Hollow Drive and Yaphank Manor Road in Yaphank. Each of these lots in the subdivision is in this area here. There's a common driveway, 16 foot wide paved area will provide a flag lot access to each of the three lots. All of these lots have very limited frontage in accordance with the Brookhaven Code. It will be necessary to apply to the Zoning Board of Appeals for lot frontage variances for each and every one of the these lots.

The property is bounded on the north, east and south, all these unimproved lands. This is all zoned for light industrial purposes. Lands to the west align right through here, all this land through here, is all zoned for single family one acre with a minimum lot area requirement of one acre. It is the belief of the staff that this proposal appears inappropriate as it constitutes the unwarranted piecemeal encroachment and rezoning and development only a portion of the significant industrial zoned lands in the locale. In this case, we're taking about a 265 to 270 foot encroachment into this industrial zone. The residence development appears incongruous with permitted development on surrounding industrial zoned land. Lands to the north, east and south could all be developed for industrial purposes in accordance with exiting zoning.

Again, it constitutes the encroachment, as I said, it's about 265 feet, and it's inconsistent with the town plan, which calls for this development, this area to be developed for planned industrial purposes rather than on a piecemeal basis. If this application were to be considered, it should be done on a comprehensive basis, including significant lands to the north and south of the property rather than encroaching into this industrial area. So the staff is recommending disapproval saying that it should be done on a comprehensive basis only.

VICE-CHAIR MARTIN:  
The motion's in order.

MR. LONDON:  
Staff.

MR. O'DEA:  
Second.

VICE-CHAIR MARTIN:  
Second. All in favor signify by saying aye. Contrary minded? So DISAPPROVED. (VOTE:10-0-0)

MR. THORSEN:  
Jerry, sorry. One question, that means that industrial land -- this industrial land use will then go out into residential streets.

MR. NEWMAN:  
No. The industrial land use would come off the main road here. There's a bunch of old filed maps. This is all industrial in this complete area here. Rather than doing this piecemeal, we're saying it should be done on comprehensive basis if they're going use some of that industrial zoned land for residential purposes. In other words, if they want to they can swap something like this, and do it on a comprehensive basis rather than piecemeal going in in just one area.

MR. THORSEN:  
Does this applicant have access through there to North Street?

MR. NEWMAN:  
No, he does not. The only access he has is right here on this unimproved paper street right in through here. He would have to, if

this were to be developed for industrial purposes, obtain access in either lands to the north, south or east or he could also try to get it through a residential area, which obviously would be inappropriate from a planning standpoint.

VICE-CHAIR MARTIN:

He's got to be part of the rest of the land being developed, because he needs a road, a 50 foot road. You can't put a 16 foot.

DIRECTOR ISLES:

He may to try to force access in the neighborhood just to get his right to develop. It's going to be an issue in terms of protecting the neighborhood, but I think not to get hung up on that issue, but the longer term is that it's really not a good location for residential unless they do it more comprehensively as Jerry's indicated.

MR. THORSEN:

Okay.

MR. NEWMAN:

Application two. Before I proceed with application two, I believe Commissioner Petersen has a comment or two on that.

MS. PETERSEN:

Yes. On behalf of the Town of Brookhaven, I respectfully request an extension on the change of zone for Country View Estates. The town just received new information relative to the density of the site, and we request an opportunity to review that new information. And I would ask that we could adjourn this to the June meeting. Is that okay?

MR. BERKOWITZ:

Making the motion?

MS. PETERSEN:

Yes.

MR. BERKOWITZ:

Second.

MS. PETERSEN:

You need a motion or just a request?

MR. NEWMAN:

I believe that upon mutual consent of the Planning Commission and Town of Brookhaven, you can extend a period of time. The forty-five day clock will be restarted upon submission of the new and additional information from the Town of Brookhaven.

VICE-CHAIR MARTIN:

But we have to get new information.

MR. NEWMAN:

Right.

VICE-CHAIR MARTIN:  
Okay. Good. We have a second.

MR. LONDON:  
Second.

VICE-CHAIR MARTIN:  
All in favor, signify by saying aye. Contrary minded? So extended.

MS. PETERSEN:  
Thank you very much. I appreciate it. The town appreciates that.

SM-03-7

MR. NEWMAN:  
Application three is from the Town of Smithtown. This is an application to rezone a two acre parcel of land from a neighborhood business category as well as a single family quarter acre category to a wholesale service and industrial category to, and I quote, to petition, assemble and sell PVC fences, railings, sheds, gazebos, with a sales office and showroom and outdoor storage and display. This effects land situated on the north side of Vets Highway, east of Harned Road at Commack. Two existing buildings on the property, one is vacant, and one is used for office purposes which will apparently accommodate the intended uses. The easterly portion of the property is zoned for half acre and here zoned for single family residential, the rest is zoned for NB.

The property is bounded on north and east by single family dwellings and single family district. To the south lands, I believe the Post Office, PC Richards in here, and there's also retail uses. Both of these are NB category. It is the belief of the staff that this rezoning appears inappropriate as it is inconsistent with the pattern of zoning in the surrounding area and must be considered as spot zoning, it would establish a precedent for further such downzoning in the locale along Vets Highway, the property can be reasonably developed for NB purposes, and it will unduly alter the character of the development throughout the Route 454, namely, the Vets Highway corridor as there's no WSI currently existing in this area. The WSI essentially permits outdoor storage whereas the NB does not. The NB allows retail without outdoor storage. And finally, the staff believes that there are ample lands for WSI purposes, not only throughout the town, but immediately to the north of the property along Jericho Turnpike. So we're recommending disapproval.

MR. THORSEN:  
I move approval of staff.

MR. BERKOWITZ:  
Second.

VICE-CHAIR MARTIN:  
I got a second. All in favor, signify by saying aye? And I abstain. Anybody against? For? Abstain? DISAPPROVED (VOTE:9-0-1)

MR. NEWMAN:

The next application is something unique. I haven't received anything like this in the past. This is an application to the Zoning Board of Appeals in the Town of Brookhaven for a use variance to establish a heliport landing pad, accessory to an existing single family residence on a 5.6 acre parcel of land situated on the west side of Adelaide Avenue 681 feet south of Montauk Highway. It's in a single family one acre zone, and it's situated at East Moriches. There are absolutely no provisions in the zoning code that allow this use, not only in the A-1 for an accessory use. The heliport landing pad, the main residence is here, it's going to be in this area here. There's going to be some type of lighting associated with it. It's surrounding by land zoned for single family residence purposes with a school immediately to east and some duck farm uses in the K Business Zone to the west. If this is to take place, they would have to apply to the town board for change of zone to allow a heliport use. This is a blatant circumvention of Legislative powers that are only delegated to the town board. He would have to demonstrate compliance with use variance criteria. There's no way can he can do it in this case. We're recommending disapproval.

VICE-CHAIR MARTIN:

Motion?

MR. LONDON:

I'm going to recommend staff disapproval. And I have a little background on this stuff.

VICE-CHAIR MARTIN:

Second. Let's get a second first.

MS. GRABOSKI:

Second.

MR. LONDON:

You need to get FAA approval to land an aircraft that can fly higher than 600 feet. That's the law, so.

VICE-CHAIR MARTIN:

Okay. All in favor signify by saying aye. Contrary minded? So DISAPPROVED. (VOTE:10-0-0)

VICE-CHAIR MARTIN:

Jerry, we had one like this one before.

MR. NEWMAN:

No, I don't remember.

VICE-CHAIR MARTIN:

Cold Spring Harbor or some place.

MR. NEWMAN:

That was years ago. We had a hearing on that years ago.

VICE-CHAIR MARTIN:  
Yeah, I remember. A motion to adjourn.

(\*THE MEETING WAS ADJOURNED AT 2:10 P.M.\*)

{ } DENOTES BEING SPELLED PHONETICALLY