

SUFFOLK COUNTY PLANNING COMMISSION

MINUTES

A regular meeting of the Suffolk County Planning Commission was held at the Evans K. Griffing County Center in the Maxine S. Postal Legislative at 300 Center Drive, Riverhead, New York on June 2, 2004 at 10 A.M.

MEMBERS PRESENT:

Robert Martin (Smithtown) - Acting Chairman
Louis Dietz (Babylon)
Thomas Thorsen (East Hampton)
John Caracciolo, (Huntington)
Frank Tantone (Islip)
Richard London (Village 5000 & Under)
Linda Holmes (Shelter Island)
Frank Cichanowicz (Southold)
Laure Nolan (Village 5000 & Over)
Linda Petersen (At Large)

MEMBERS ABSENT:

Richard O'Dea (Riverhead)

ALSO PRESENT:

Thomas Isles - Suffolk County Director of Planning
Gerald Newman - Suffolk County Chief Planner
Andy Freleng - Suffolk County Principal Planner
Claire Chorney - Suffolk County Planning Department
Chris Wrede - Suffolk County Planning Department
Nicole DeAngelo - Aide to Presiding Officer Caracappa
Kim Kennedy - Aide to Legislator Caracciolo

MINUTES TAKEN BY:

Eileen Schmidt - Secretary

(THIS MEETING WAS CALLED TO ORDER AT 10:00 A.M.)

ACTING CHAIRMAN MARTIN:

The Planning Commission is now in session. Will you please rise and join us in the salute to the flag.

SALUTATION

ACTING CHAIRMAN MARTIN:

We thank you. Before we get under way this morning I'd like to introduce Linda Holmes from Shelter Island. Will you please stand up so everybody recognizes you, Linda?

MS. HOLMES:

Yes.

ACTING CHAIRMAN MARTIN:

Linda, it's nice to have you aboard.

MS. HOLMES:

I do appreciate it.

ACTING CHAIRMAN MARTIN:

Thank you. Tom.

MR. ISLES:

Thank you, Mr. Chairman. Today we have the -- for the Director's report, and correspondence several items I'd like to bring to your attention. First off is to mention to you that there are several pieces of legislation that are pending with the Legislature right now that do affect the County Planning Department and potentially the County Planning Commission. One is a bill initially sponsored by Legislator Crecca that would modify the land acquisition process. This would reform or change a lot of the requirements that went into effect two years ago and put into place an environmental trust fund review board that would then review acquisition amounts and make recommendations to the Legislature. It is rather significant in terms of the County's open space and farmland program and is being heard by the Environment Committee today.

Another proposal to make you aware of is and I believe I might have mentioned this in the past is the County Executive has put in a proposal to create a new department of energy and environment. That would affect the Planning Department in the sense that the Division of Real Estate would be included in that new department and potentially one position of a chief environmental analyst in the department as well as potentially the Council of Environmental Quality. That's still pending with the Legislature at this point.

There are three bills pending to provide additional funding for open space acquisitions including a \$50 million farm protection plan by Legislator Caracciolo. A bill known as SOS by Legislator Fisher that would add \$46 million for open space and park development. And then an extension of the sales tax proposed by Legislator Fisher as well. We are moving through a lot of the funding; we currently have so these bills will become more significant going into next year. We have put in a grant for a federal farm grant to purchase farmland development rights that went in in May for a little over \$5 million in grant fund request.

We've also submitted and the County Executive has submitted a capital budget including \$13 million for open space and farmland acquisition and affordable housing. And there's also a new proposal for funding infrastructure for affordable housing to the tune of \$15 million spaced over three years.

The County Real Estate Division will be conducting an auction on June 15th. We will be auctioning off 21 houses; the auction will be contingent upon the property owner agreeing to {deep} covenant that they reside on the premises for at least five years that would be owner occupied. We haven't had an auction since May 2002. We are hoping to do a general auction in November of this year, but this would be our first auction out of the box in two years. This is actually stimulated by a legislative requirement that we have to have an auction within six months of a resolution passed in April with the idea of generating revenue for the County.

To update you on the appointments to the Planning Commission, there is a matter before the Environment Committee later on today which is to appoint a representative from the Town of Riverhead, Mr. Tuccio. His name was submitted earlier this year and was not approved by the Legislature. It failed to get a vote, as I understand it; it is now been resubmitted. I am not aware of any other names that have been put in for reappointments or replacement of vacant appointments at this time. The Legislature meets again on Tuesday, June 8th and new appointments could be made or new names could be submitted at that point.

Two other things to bring to your attention and I'd like to ask Andy Freleng to speak on this one. And that is one of the powers of the Planning Commission under General Municipal Law is you have the authority to review highway improvement plans for both the state and county highway projects. We do have one that was referred to us last week actually which is for state Rte. 112, which extends through the Town of Brookhaven. We have provided to you a staff report on this that's in your package today. Here again, we only received this last week so we were not able include it in the mailing. The time limit we have to get comments back to the state is June 28th, so it's before our next meeting so we we're not able to get you to have it on that agenda.

So what I'd like to do at this time is to ask Andy to give a brief summary of what the project entails. Your role under General Municipal Law is that you are required to review these plans and offer "suggestions" is what the law says. So you have no ultimate decision making powers, but you can provide comments and then further it's an

opportunity for you as the County Planning Commission and the County Planning Department then to know what projects are being planned and how that may impact on Suffolk County in certain ways. Andy.

MR. FRELENG:

Thank you, Tom. Just to go through the regular procedure, let me just tell you that this application is being referred to us from the NYS Department of Transportation. The project is in the Town of Brookhaven and the subject of this application is the reconstruction of NYS Rte. 112 otherwise known as Port Jefferson and Patchogue Road. The proposed project will reconstruct NYS Rte.112 from Old Town Road to NYS Rte. 347. The project is designed to improve operation and address high accident intersections. The project will reconstruct existing pavement; it will include some widening to provide one travel lane in each direction and there will be a center median and left turn lane throughout the entire strip of reconstructed road. The right of way will increase from approximately 66 ft. now to approximately 72 ft. and at the intersection where there are turn lanes approximately 100 ft. There are no structures or buildings to be taken during this project and the project is anticipated to begin April 2006.

There were some alternatives that were analyzed in the project; there were two of them. They're listed in the staff report. The project was initially conceived do to accident rates, which were higher than the statewide average.

NYS Rte. 112 is located in what they called a suburban area and serves both commercial and residential properties. The general statements of the goals of the project and I should point out to the Commission that we do have the engineering report and the reconstruction plans for this segment of Rte, 112 here if you want to look at them later on at your convenience. The major objectives that were indicated in the engineering report were to improve the overall operation of state Rte. 112 to correct safety deficiencies. To improve pedestrian and bicyclist safety. To correct identified pavement deficiencies and to correct drainage deficiencies.

The DOT did consider other plans, official plans of other government agencies. A review of the 1996 Brookhaven Comprehensive Land Use Plan indicated that the town recommended the NYS Rte. 112 corridor for widening and a future bicycle route. The plan called for the reconstruction of 112 to add a two-way turn lane. Ultimately, the plan called for a grade separation of the intersection with NYS Rte. 25. That is not in this particular reconstruction segment.

The Central Pine Barrens Land Use Comprehensive Plan proposes the transfer development rights from the core of the Pine Barrens to properties along the Rte. 112 corridor. So there was some anticipated density in addition to the as of right zoning realized by the DOT.

There are also future plans for abutting highway segments; this includes further segments of Rte. 112. They're listed, four of them are listed; I'm not going to read through them for you.

With regard to the existing and proposed location and intensity of land uses the Brookhaven Planning Board had received several petitions for zone change in various different states of progress. They are also listed. With regard to the location and types of transportation facilities there is a bus route, route S-61 controlled by Suffolk County Transit Service. This is the only service route within the 112 corridor. There are eight designated bus stops in the northbound direction and 12 in the southbound direction.

There are generators of bicycle and pedestrian travel in and adjacent to the project limits, such as, County bus stops, shopping centers, and a nursing home. There was a significant amount of pedestrian traffic observed by the DOT when they did their surveys. Again, the staff has DOT reports here in case you want to take a better look at them. I should emphasize that during the widening and reconstruction there are no businesses or structures or homes taken in the widening. So staff had limited comments. That's the staff report, Tom.

MR. ISLES:

So the last paving on this road was in 1931. It's an old concrete road for most of it. The project itself as Andy's indicated is represents a pretty minimal approach in terms of there's no extensive widening. There is some widening done for turning lanes at intersections. So it's primarily viewed as a safety improvement at intersections and just a enhancement of the current pavement conditions. So we feel that it's a relatively low impact although a positive project in terms of a highly traveled road in the Town of Brookhaven.

ACTING CHAIRMAN MARTIN:

They're staying right in the right a way in other words?

MR. ISLES:

Generally speaking most of it -- the right of way I think is generally 66 ft. now it's going to widened out to 72 ft. except at the intersection where it might go out to a 100. So it's a relatively small strip widening, here again, not affecting any buildings as what they've depicted so far.

ACTING CHAIRMAN MARTIN:

Board members have any questions?

MS. PETERSEN:

It would appear that there's no pave median or planted median in the middle that it's going to be a continuous left turn lane like that suicide lane that they talk about that's caused all the accidents on 25.

MR. ISLES:

I believe they are showing a median.

MR. FRELENG:

Yes, there's a raised median in most of the corridor with the exception of as you approach the intersections it goes down to a painted median and then turn lanes.

MS. PETERSEN:

But the raised won't be planted or anything?

MR. FRELENG:

I didn't see any plantings, no.

MS. PETERSON:

Okay.

MR. ISLES:

If that's something that you want to consider as the Commission suggesting that that be treated in some manner they're definitely showing a median, a raised median. What's not clear to us on the engineering plans is that will be landscaped or not.

MS. PETERSEN:

All right.

MR. ISLES:

Okay.

ACTING CHAIRMAN MARTIN:

Anybody else?

MS. HOLMES:

(inaudible)

MS. SCHMIDT:

Please turn your mike on.

MS. HOLMES:

Thank you. I just would agree that anytime you can create a little landscaping or suggest landscaping is a very good thing. It's very good for night glare for one thing especially, when you're approaching an area that's busily traveled, and it's just such an enhancement. It just kind of takes the edge off people's road rage, but I think it would be a good idea to suggest it if we could.

ACTING CHAIRMAN MARTIN:

Thank you. Anybody else wish to be heard? Do you want a motion adopted?

MR. ISLES:

So if you'd like -- yes. If Commission wants to consider a resolution to note that the project has been reviewed by the Commission at today's meeting to note a suggestion

that the state consider landscaping the median to the extent practicable in the plan and otherwise recommend the project to the state at this point.

ACTING CHAIRMAN MARTIN:

Okay. Do you have the resolution you want to put?

MR. ISLES:

That's a suggested resolution, we can draft it.

ACTING CHAIRMAN MARTIN:

Does anybody wish to make that?

MS. PETERSEN:

I'll make a motion.

MS. HOLMES:

I'll second it.

ACTING CHAIRMAN MARTIN:

All in favor signify by saying aye. Contrary minded?

MR. CARACCILO:

Contrary minded.

ACTING CHAIRMAN MARTIN:

Abstentions? Okay, so we have one vote on the planning. Okay. Still carries.

MR. ISLES:

Thank you. The last item on the Director's report is and perhaps we can talk about this at the roundtable is regarding the summer meeting schedule and we had talked about this a little bit. I think Mr. Cichanowicz might have some suggestions for us and whether you want to do that now or during the roundtable. We would just request any direction the Commission may want to provide to this staff in the summer meeting scheduling. The next item on the agenda Item #3 is the 2003 Annual Report. We'd like to present this to you today which copies have been made, have been passed out to all of you. And this is a requirement of the County Code is that the Commission adopt an annual report -- prepare an annual report. The purpose of that is as spelled out in the County Charter is for the Commission to report on the economy of the County, on development issues, on changes that have occurred in the County from a demographic standpoint, for example. And also to report on activities of the County Planning Commission and Department. So we've done that for you and have presented the report, which would then from here would go to the County Executive and to the Legislature.

A brief summary of the report is that the County Planning Commission has reviewed through the County Planning Department over 2,200 zoning referrals that have been made by the municipalities. We've also provided responses to 2200 demographic

requests. We are the NYS Data Center on Long Island for Nassau and Suffolk Region and often times get requests not only from municipalities, not-for-profit groups, but also from business groups as well. The County achieved the purchase and protection of 723 acres of open space and farmland at a cost of about \$24 million. We ran a very successful training seminar in October through the Suffolk County Planning Federation. Several major reports were complete during the past year including a survey plan for the development of an agricultural leasing program in the Peconic Bay system, which is now by the way pending with certain state legislation that we've requested. We've also completed the land acquisition program summary that was provided to you last summer. The Smart Growth Committee also completed its report in November of this year, which coincidentally will be reviewed by the Environment Committee today at the Legislature.

From the affordable housing front, an affordable housing project in Bay Shore was approved. The County provided funding of \$300,000 towards that project that's currently under construction. 51 parcels that were surplus parcels that we obtained through tax auction were transferred to the municipalities for the development of affordable housing. So the report summarizes all those activities and certainly if you have any questions feel free to speak to me about that. I would certainly like to acknowledge the County Planning Department staff; they're the ones who do all the work on all this. Not only the report itself, but the work behind the projects and also to express my appreciation to the Commission. Here again, this will be given to the Legislature and the County Executive and obviously, any feedback I get I will relate to you as well and that completes --

ACTING CHAIRMAN MARTIN:

Okay. So on the actual vote on this we'll leave it to the next meeting, right so the people have a chance to look at it and read?

MR. ISLES:

For the annual report?

ACTING CHAIRMAN MARTIN:

Yeah.

MR. ISLES:

If you'd like to do that, that's fine. It's not time sensitive.

ACTING CHAIRMAN MARTIN:

I think an adjournment is in order.

MR. ISLES:

Sure.

ACTING CHAIRMAN MARTIN:

I don't think anybody read it. Has anybody read it?

MR. ISLES:

No, you just got it today I realize.

ACTING CHAIRMAN MARTIN:

I realize that.

MR. ISLES:

That's fine.

ACTING CHAIRMAN MARTIN:

I'm saying I don't like to vote on anything, at least have a chance to read it.

MR. ISLES:

Okay, that's fine, we'll consider it at the next meeting.

ACTING CHAIRMAN MARTIN:

But unless the Board wants override I don't have a problem with that either.

MR. ISLES:

Okay. Thank you.

ACTING CHAIRMAN MARTIN:

So a motion to adjourn the vote until the next regular meeting?

MR. LONDON:

So moved.

ACTING CHAIRMAN MARTIN:

So moved. All in favor signify by saying aye. Contrary minded. So adjourned to the next regular meeting.

MR. ISLES:

We next go to the public portion.

ACTING CHAIRMAN MARTIN:

Tom, is there anybody in the audience? Is there anybody in the audience that wishes to be heard?

MR. ISLES:

Okay, we're done with that.

ACTING CHAIRMAN MARTIN:

There are no replies, lets go on to the next item.

MR. ISLES:

Okay, the next item Mr. Chairman is the Commission's roundtable.

ACTING CHAIRMAN MARTIN:

Laure.

MS. NOLAN:

I have nothing to report.

ACTING CHAIRMAN MARTIN:

Frank.

MR. CICHANOWICZ:

I have very little to report, but the Southold Town has just started I was talking to Tom Isles on our whole new land acquisition. We've just went through public meetings last night and I'm hoping that maybe at our next meeting I'll have our supervisor come and introduce our whole prospect of how we're trying to keep open space together where we last year the political battle was five acre zoning. So we're trying to take that out and giving tremendous incentives to builders and keep as much of the land in open space and affordable housing and working housing. So it's quite an aggressive project and we're very proud of it. And they had meeting last meeting till 11 o'clock and I got the supervisor up this morning to fill me in on some more of it so, but he'd like to at our next meeting if we have it in Greenport or the following month. I don't know when, but he will address it and bring it through to everybody.

ACTING CHAIRMAN MARTIN:

Thank you. Linda.

MS. HOLMES:

I do note that, in fact, I was just getting a little guidance from Andy Freleng before. Citizens are really quite concerned in Shelter Island that neither the planning board for the past 20 years of debating it has passed any land clearing limits for subdivisions. But we feel more urgently the town board needs to develop some sort of basic restrictions on individual lot clearing because we've had several instances recently where people have one in one case clear cut and in another case cut so much leaving no vegetation. And in both of those incidents, very recent incidents, that type of clearing has caused water in the neighbor's basements. So it's Oliver Wendell Holmes' axiom here coming to life. Your right to swing your arm stops at my nose and what we're trying do is get the town board to consider it a priority that their job is to protect people's rights from harm by others whether it's intentionally or inadvertent. Or just, you know, not aware, but we feel that's a big priority. And we also are hoping that the town is going to be able to revive the discussions with an individual who had quite a bit -- has quite a bit of property that he was going to dedicate to the town and develops some of -- and he ran into hitch where the Shelter Island planning board may have over stepped its purview because they were insisting on some pesticide banning and that really kind of stalled the project and we're hoping that the discussions can revive with that individual. So that's -- those are our two hot bottom issues at the moment.

ACTING CHAIRMAN MARTIN:

Thank you, Linda. Tom.

MR. THORSEN:

Really I don't have too much to report. There's one ordinance that falls pretty closely to what Linda was talking about that's a restriction on individual lot clearing and I believe (inaudible) just at the verge of passing that legislation. Its got good points and its got some weaknesses I feel so it's going to be interesting to see how it progresses and whether its challenged in court or what have you. But you won't be able to cut down honeysuckle and things of that order that are choking trees on your property. I mean, they want to keep the under story and they want to keep the trees as well. So it's something that's going to continue in debate I think.

ACTING CHAIRMAN MARTIN:

Thank you, Tom. Linda.

MS. PETERSEN:

I believe the largest issue that's facing Brookhaven at the moment is the town board's initiative to eliminate the planning board and have the town board take on the responsibilities that the planning board normally would review. There will be a public hearing tomorrow evening starting at 6 o'clock in the new town complex.

ACTING CHAIRMAN MARTIN:

Linda, can I interrupt you for a second?

MS. PETERSEN:

Yes.

ACTING CHAIRMAN MARTIN:

It's on our agenda today to be heard.

MS. PETERSEN:

Okay.

ACTING CHAIRMAN MARTIN:

Would you want to leave the comments until that time?

MS. PETERSEN:

Well, I was just -- this is a roundtable so what's going on in town is --

ACTING CHAIRMAN MARTIN:

Yeah, but we got it on the agenda so lets keep the comments to that time and it will speed up the whole operation.

MS. PETERSEN:

All right, fine.

ACTING CHAIRMAN MARTIN:

Richard.

MR. LONDON:

Thank you, Mr. Chairman. Pursuant to what Linda started to say, I had a discussion earlier with Chairman Isles -- Director Isles and I'd like to make a motion from this board that the planning board disagree with intent of abolishing the planning board in Brookhaven. And that we would like to see it stay in its collective togetherness as it has been for so many years previous and I will make that in the form of a motion that this board go with that.

ACTING CHAIRMAN MARTIN:

Dick, just one second. This was set up to be a town (inaudible) enough from the Town of Brookhaven. So that motion my feeling is out of order, but you can make that motion later on when we hear the whole statement. We'll review it. I like to stay to town issues from the town that whoever you represent.

MR. LONDON:

Okay. Thank you.

ACTING CHAIRMAN MARTIN:

John, Huntington Town.

MR. CARACCILO:

A couple of issues that I just to go over. I want to update the Commission on the Long Island Association's agenda for this summer and the strong agenda from the Association is to get the Balboni-DiNapoli affordable housing bill passed. If you recall this bill has passed the Assembly, but it is stalled in the Senate and you will see a strong effort from the Long Island Association this summer to get this bill moving.

And the Town of Huntington the comprehensive plan that they have undertaken, the community development impute sessions and the results of that impute session are on the website, the Town of Huntington website now. And if anybody has the time they should look at it; there's some very interesting comments from residents of the town. Things that they like in the town such as parks and open spaces, the cultural, the educational recreational activities. They like the fact that we have owner occupied housing. And some of the threats that the residents see to the town is a loss of small town quality, a loss of residents due to high cost of living and poor planning and careless development. So it's a very interesting, very comprehensive study that's on the town website that I think is some very good reading and it's very good impute as to what the residents were thinking. And lastly, today Charles Wong will be unveiling, I don't know if everybody saw in Newsday yesterday, his plan for a mini city in the Town of Oyster Bay and we'll be keeping a close eye on that as it does border the Town of Huntington by about 50 feet right on Round Swamp Road. So we're very anxious to see his plan for the development of the Town of Oyster Bay, his little mini city. That's it, sir.

ACTING CHAIRMAN MARTIN:

Thank you, John. John, could I ask you one question?

MR. CARACCILO:

Yes, sir.

ACTING CHAIRMAN MARTIN:

The Balboni-DiNapoli bill, I don't think everybody understand what that bill is, would you explain it?

MR. CARACCILO:

Yes. It's a -- Senator -- Assemblyman DiNapoli and Senator Balboni have put a bill before the state to, they call it their affordable housing bill, that every new development that is built on Long Island will have 10% -- is it Tom?

MR. ISLES:

Yes.

MR. CARACCILO:

10% --

ACTING CHAIRMAN MARTIN:

15% I thought it was, wasn't it?

MR. ISLES:

No, I think it's 10.

MR. CARACCILO:

Yes. 10% of the structure of the new development will be put aside for affordable housing and that bill passed through the Assembly pretty quickly. It had a lot of support from everyone on Long Island and it has stalled in the Senate and we really can't figure out why just yet. And the Long Island Association is going to really push to get that through.

ACTING CHAIRMAN MARTIN:

Okay, John. Thank you.

MR. CARACCILO:

Your welcome, sir.

ACTING CHAIRMAN MARTIN:

Lou.

MR. DIETZ:

Nothing today.

ACTING CHAIRMAN MARTIN:

Frank.

MR. TANTONE:

Basically, the one issue that I'd just like to bring to everybody's attention that's going on in Islip is I mentioned a little while ago that we were through certain larger applications, I guess I spoke too soon. On June 17th, we're bringing back a substantially changed plan for the Gardiner Manor Mall, which is proposed to be a Lowe's Home Improvement Center. We're going to rehear it from the beginning as a public hearing. So I really don't want to comment on the application because we haven't seen it technically at this point in its new form. But given the size of the application I just thought I'd bring it to the Commission's attention in case there's any interest from any other department or any other Commission members seeing as it's one of the two or three extremely significant projects that we have pending right now in the Town of Islip and that's all I have.

ACTING CHAIRMAN MARTIN:

Okay, Frank. Thank you. In Smithtown there's nothing we can talk about. Kings Park State Hospital is a really a big issue. The only thing is a man doesn't own it. He hasn't submitted any plans to the town itself or to Planning Commission we haven't. So we're not making any talk about it. You can't do something unless you own it, you know, and after he owns it we'll discuss it and I hope by that time I'll be here and maybe be able to explain what we want on that. I'd still like to see a nice big park or a college or something in that order, but we'll see what comes up in the future. Anybody else?

MR. ISLES:

Just in terms of the meeting if I could bring that up at this point. We've had three meetings now in Riverhead based on this schedule adopted by the Commission in February. Our next meeting is at this point scheduled in Hauppauge on July 7th I think it is. The meeting after that is August back here in Riverhead. Traditionally, as we've talked about, the Commission has meetings in the summer at other locations in the County. Commission Cichanowicz's suggested a location in Greenport. It would be helpful to us from the staff standpoint if we could zero in on what you want to do with that. I realize we've come out east three times in a row now so if you wanted to have the July meeting in the west end of the County and then have the August meeting in Greenport perhaps. I appreciate Mr. Cichanowicz's efforts with the restaurant in Greenport and if that's okay with them that might be a way of balancing the trips a little bit. We've thought about a suggestion at maybe having something at Republic Airport because I don't think we've ever been there. And we've had some issues in that area, Babylon has been very strongly promoting redevelopment of areas around the airport. We had one application come before you last year, so that's one thought and certainly we're open to whatever suggestions you may have on that.

ACTING CHAIRMAN MARTIN:

Okay, good. I was going to say where would we meet in Hauppauge? Linda's probably not too familiar with all the buildings in Hauppauge. Would you send her a map so she goes to the right building?

MR. ISLES:

Yes, we certainly will. She's been to the Legislature, but, yes.

ACTING CHAIRMAN MARTIN:

Okay. Just so, you know, everybody else knows where the other hall is, right?

MS. HOLMES:

I use to go the state substance abuse offices there so I sort of know my way, but you'll need to drop breadcrumbs.

ACTING CHAIRMAN MARTIN:

Okay. Good.

MR. ISLES:

Frank, would that be okay in August do you think at Greenport?

MR. CICHANOWICZ:

Yeah. Well, you know, to be fair with everybody what I've done is, Claudio's Restaurant in Greenport which everybody knows and Bill Claudio is like the unofficial mayor. So he wants to give you a little background of Greenport and then Josh Horton our supervisor would like to also explain to the Commission at that time our new proposals on the subdivision layouts with the farmland too. So we can do it in August; that should be fine. And probably what we might do a little bit of a walking tour in Greenport if you'd like to, you know, and then have lunch at Claudio's. So if that's all right with everybody we can do that.

MR. ISLES:

It's up to the Commissioners.

ACTING CHAIRMAN MARTIN:

Okay, Frank. Thank you, Frank. As long as it's not an inconvenience we'd rather move it to August. If an inconvenience then we'll just go to July that's it.

MR. ISLES:

Okay.

ACTING CHAIRMAN MARTIN:

Okay. Anything else?

MR. ISLES:

No, that's all.

ACTING CHAIRMAN MARTIN:

Okay. Andy's up.

MR. DIETZ:

Well, are we going set up then that we're going to Republic in July and Greenport in August? Is that what we're going to do?

MR. ISLES:

It's up to you. I mean, here again, we can make the arrangements of -- and that's our suggestion is that might be something interesting.

MR. DIETZ:

Do you need a motion for that?

MR. ISLES:

No, I don't need a motion I need a consensus of the Commission if that's what you want us to do.

MR. DIETZ:

All right.

ACTING CHAIRMAN MARTIN:

If everybody agrees --

MR. DIETZ:

(inaudible) give a talk or something in July; I could reach out to him if you want.

MR. ISLES:

Well, we'll reach out to the airport to see if they can make a room available for the meeting and then we'll contact Lou to make the arrangements then. Thank you.

ACTING CHAIRMAN MARTIN:

Why don't we do this, let's leave it open until you get it in concrete and if you can get it for July maybe we can get it for September.

MR. ISLES:

Yes, we can do that.

ACTING CHAIRMAN MARTIN:

I mean, so this way that we'll all know that there'll be a meeting. We'll just have to let you know where its going to be.

MR. ISLES:

Just that if we don't get Republic do you want to have the meeting in Hauppauge or do you want to go out to Greenport? Maybe Hauppauge.

ACTING CHAIRMAN MARTIN:

Just set the place and we'll all try to be there.

MR. ISLES:

Okay.

ACTING CHAIRMAN MARTIN:

Okay. Andy.

MR. FRELENG:

Okay. The first regulatory matter before the Suffolk County Planning Commission is the application of Whispering Hills and this comes to us from the Town of Brookhaven. The jurisdiction for the Commission is that the subject property is adjacent to Yaphank-South Manorville Road and subject property is within the Pine Barren Zone. The applicants are proposing a subdivision of approximately 38 acres of land into 32 lots in the A-1 residential zoning category in the Hamlet of Yaphank. The minimum lot size in the zoning category is 40,000 sq. ft.

The map is being processed pursuant to Section 278 "cluster provisions" of town law. Lots range in area from 21,296 sq. ft. to 93,192 sq. ft. Open space is proposed in a block at the south end of the subject parcel. Two Drainage Reserve Areas are proposed one within the open space area and one at the north end of the site. That would be in the loop of the road there.

The subject property fronts on Yaphank-South Manorville Road which is Main Street CR 21 to the south is where road is. The property mostly abuts unimproved residential land to the north and west. To the east, the subject property abuts residentially zoned land that has been extensively mined for sand and gravel. And that's evident on the photo.

The character of the property itself can be described as mined land wherein the majority of the parcel has been extensively mined for sand and gravel. The character of the area surrounding the property can be described as predominately undeveloped residentially zoned land with the exception of mining operations to the east. There is an existing structure on site and we believe this is most likely a yard office building, trailer type of field house.

Access for the proposed lots is intended from CR 21 in the form of an internal loop road. A tap street is proposed to access lands to the east in the future. You can see the tap street on the map up on the board here. This tap street location forms a cross street intersection, which is contrary to Commission policy. The T-type intersection has been found to be safer and staff is recommending that redrawing the map would result

in two T-type intersections offset from one another. And when an offset intersection is required the distance between the centerline of the two intersections must be at least 125 feet. So staff is recommending that this cross intersection here which generally has been observed to cause people running stop signs or running right through these intersections taking this tap street and shifting it down even south or north 125 feet all, so you still have access to the properties to the east as proposed. In addition, lands to the north and west are residentially zoned and subdividable, yet no provisions were made for access to these lands or man made slopes are problematic for coordinated access the southern end of the subject parcel is less so. This needs to be further analyzed so that the number of intersections along the County Road can be held to a minimum as land in the area is improved to insure that there are satisfactory traffic flows and we reduce the potential of turn movement conflicts.

The properties over here are less steep in terms of grade. We were out on site yesterday and this is very steep slope right here, however there is sort of a cut in the slope and we did observe a truck driving around on these road over here. So at first blush it may seem impossible to cross these slopes, but, in fact, there are ways up and through the properties to the west and you could actually since there is no native vegetation here it could be {reterraformed.}

The subject parcel is located within Ground Water Management Zone III. Potable water is intended via public supply. Sanitary waste is to be collected and disposed of via individual on site sanitary systems. The site is located in a Suffolk County Special Groundwater Protection Area otherwise known as a SGPA and hence the site is in a Critical Environmental Area of Long Island. The parcel is located within the Compatible Growth Area of the Central Pine Barrens and the property is also situated in the Yaphank Historic District.

The proximity of the site in the Central Pine Barrens, the availability of adjacent developable land and the influence of the town's historic district overlay necessitate the creation of a block study or a mini master plan for this area. We're recommending that the Commission recommend this to the town. Such a study would allow for the coordinated development of the region and the simultaneous preservation of large blocks of contiguous open space. If you can see from the air photo there is an awful lot of A-1 residentially zoned land and we believe that this should all be mapped out in some sort of mini master plan, mini block study so you can start to link up large contiguous blocks of open space in the central compatible growth area of the Central Pine Barrens. So in essence such a plan will insure that areas to be reserved as open space will be contiguous to one another of an area and shape that will insure the integrity of the environment and the Pine Barrens habitat.

The majority of the site has been mined and slopes on the subject parcel range in the area of 0-54 %. Several of the lots (lots 26-32) have slopes well in excess of 15% within the building envelope and would be problematic for the placement of dwellings without additional significant grading. As you can see these lots here have some real steep slopes in the building envelopes themselves while these lots here have steep

slopes in the back there still is a buildable envelope all throughout the rest of the subject site with the exception of these lots here. We believe that is very problematic. No copy of a reclamation plan was submitted to the Planning Commission. We do not believe Brookhaven has one on file. Such a plan is required pursuant to NYS Environmental Conservation Law, which guarantees the stabilization of steep slopes to prevent erosion. A revegetation plan demonstrates reclamation with native Pine Barren species and that would require 37% of the site. The maximum site clearance in the Pine Barrens is 57% -- I'm sorry -- so we're looking for another 37% of the site to be revegetated. Now there's only 20% on the site that has remained in natural vegetation. Therefore, issues related to the proposed subdivision stem from the Commission's policy related to subdivisions with poor internal road design, development within a Pine Barrens region of Suffolk County and issues related to good planning and land use.

The staff is recommending disapproval for the following reasons. The internal road layout is unacceptable in accordance with Suffolk County Commission policy. The paragraph below explains why. The second condition is that the proximity of the subject parcel in the Central Pine Barrens, the availability of adjacent developable land and the influence of the town's historic district overlay necessitate the creation of a block study or mini master plan for the area. The paragraph describes how you would connect all the proposed open space. And second to last, that several of the lots 26-32 have slopes well in excess of 15% within the building envelope and would be problematic for the placement of dwellings without additional significant grading. And it goes on to discuss the necessity for a revegetation and restabilization plan.

And finally, there was no indication that 20% of the lots within this subject subdivision were set aside for affordable housing purposes. That is the staff report.

ACTING CHAIRMAN MARTIN:

Thank you, Andy. Any board comments?

MS. PETERSEN:

I'd just like to say I'm familiar with that site and it was so excessively sand mined that the area that shown on the site plan for drainage, you can hit groundwater if you put a shovel and dig in that spot. It's unfortunate that that whole area was mined the way it was; most of it was done without proper permitting along the way and it's really created a horrendous situation on the east end of Main Street in the Historic District.

ACTING CHAIRMAN MARTIN:

Thank you, Linda. The thing I got a problem with is that when they mined it like that and they have the slope of land is actually on people's property yet. So you know what's going happen they're going to put a pool in; they're going to cut right into the bank unless we have some restrictions there that they can't do that. You know or maybe the land the slopes should belong to somebody else and then who's going to take it because whenever we have slopes in Town of Riverhead it's a problem and not like this. I mean, our slopes were natural slopes here these were created.

MS. PETERSEN:

If you were to stand on --

ACTING CHAIRMAN MARTIN:

It's sad when you think of what they did.

MS. PETERSEN:

It's unbelievable what they did. If you're in a plane and you fly over it and you look down it is horrendous and it really should be forbidden. I don't know how the DEC goes along with this and I don't know I never saw a reclamation plan for it, but I think it's a horrendous result of something that isn't properly being monitored. I don't know how it is the rest of the towns, but I know in Brookhaven if this is any indication there need to be more stringent regulations by the DEC and anyone else who governs giving permits for this type of activity. You can see it even on this aerial, but it's just the slopes I don't know how you can put a house on there it's like living in a hollow.

MR. ISLES:

I'm not sure if you can get a full appreciation of the grades looking at the plan here, but as you're saying it's a very severe 50, 60, 70 foot grade drop into the site. And your point about the groundwater, I think is a very good point and we've talked about that on the staff side that here in the upper reaches of the Carmen's River here and with this excavation, I'm not sure of the exact distance, but you're very close to groundwater. You then run into potential problems of controlling drainage, of flooded basements and things of that nature that become chronic problems.

MS. PETERSEN:

Exactly.

ACTING CHAIRMAN MARTIN:

And the other problem I have, not problem, but if the Assembly passed the bill for 15% -- you said 10% for affordable housing, why are we asking now for 20%?

MR. ISLES:

Well, that hasn't been passed.

ACTING CHAIRMAN MARTIN:

I mean, should there be some kind of a coordination?

MR. ISLES:

The 20% is Commission policy. The Commission adopted that quite sometime ago.

ACTING CHAIRMAN MARTIN:

And then if that changes in Albany that we'll change it?

MR. ISLES:

You can always consider that, yeah.

ACTING CHAIRMAN MARTIN:

Okay, that's what I meant.

MR. CARACCIOLO:

Do we, Mr. Chairman, have to change? Could we still recommend 20?

ACTING CHAIRMAN MARTIN:

Yeah, that's what I'm asking. I mean, I'd like to keep it 20 because you don't even get the 20.

MR. CARACCIOLO:

Right.

ACTING CHAIRMAN MARTIN:

But at least if we keep 20 we might get something.

MR. CARACCIOLO:

Right.

ACTING CHAIRMAN MARTIN:

Well, that's what I meant I just--I didn't want to be held now to 10%. Well, this here one is -- if you go any place they mined in Brookhaven -- what's that around 112 they mined in the back there where they put the apartments? Same conditions in there. They stopped when they hit gravel or water. They take it out and then they backfill it; they'll do anything I mean, a sand miner is a sand miner. That's his job and that's what he does best. So I would say be very critical and very close to the Town of Brookhaven.

MR. LONDON:

Mr. Chairman, I'm going to motion for refusal of this application.

ACTING CHAIRMAN MARTIN:

There's some other people that want to be heard. Tom.

MR. THORSEN:

Yeah. I wanted to ask a question of Andy, there's another sand mining operation just off to the other side. Isn't this all by the same operator?

MS. PETERSEN:

You have five different operators that own these different sections.

MR. THORSEN:

Oh, and their each going to probably come in with something like this.

MS. PETERSEN:

Yes, it's such a scare on the land and it was so beautiful before they started. It was rolling hills, beautiful woodland and this is what it is today.

MR. ISLES:

One of the staff comments was that we suggest that a block study be done to look at the adjacent sites and so forth.

MR. THORSEN:

That's an excellent recommendation and an idea of a master concept plan for the whole area. How is historic effect this?

MS. PETERSEN:

The historic district runs along Main Street roughly from where a little bit north of the "L" see where it say LIE all along further heading in a westward direction down into town. And there are a number of historic homes along the roadway on the north side of that road that backup to where the sand mining occurred. Some of them were farmers who sold their land to excavators to do the sand mining. And they were not even -- they were informal, I guess you'd call them land splits, they were never filed properly and in order to move forward with this subdivision they had to file land division because they had been, I guess it was just a verbal. You couldn't have 20 acres of land here or 50 there to do this type of activity and it just happened and it's hidden from the road by the woodlands. You can see it if you're in a plane; you can see it if you walk back in the woods. To the west of this property is a piece called Fox Lair which is the number one acquisition property in Brookhaven Town which would back or which would be south of something called Warbler Woods which we all the County already owns. So it's unfortunate that we have a whole area to the west and the north where we're trying to preserve it and then to the east you have this piece that came in and really is a detriment to that area. And as you see on the real far east that's the old racetrack that Mr. Parr developed that's been subsequently removed from the site. They demolished it about maybe two or three years ago.

ACTING CHAIRMAN MARTIN:

Okay, Linda, thank you. Linda.

MS. HOLMES:

We have had some sad results with allowing development on steep slopes in Shelter Island; and I was just wondering, some years ago, quite a few years ago, the planning board was considering allowing lots to be on a steep slope above, you know, a state titled wetland in that instance. And at that time an engineer from the Attorney General's Environmental Protection Office came to several Shelter Island Planning Board meetings and pointed out that when somebody is talking about a builder's acre that with a steep slope you really do not have land that meets the percentage requirements. And for that reason alone he said you really can't allow a lot to be designated that is mostly dotted lines out in space. And I was just wondering are there some criteria here that would address that because for sure with steep slope like that and particularly with clearing that's gone on you need to have an awful lot of drainage on any nearby road in order to avoid the gullies which have happened in this part of that subdivision and you know you just get these steep gullies through people's properties and undermining there driveways and everything. I would just certainly concur with any

recommendations that would address better consideration of that site.

ACTING CHAIRMAN MARTIN:

We thank you Linda. We'll ask Andy to look into all those.

MR. FRELENG:

Just so the Commission knows, the Commission does have any prohibitive standards on construction on steep slopes. What we do have in your guidelines are concern for erosion and stabilization when you do construct on slopes. The guidebook also does frown on construction of slopes in excess of 15%, but it does not prohibit it in any way. So if that was the only thing wrong with this map the Commission would be based on their own standards would have a difficult time denying this map.

ACTING CHAIRMAN MARTIN:

Lou.

MR. DIETZ:

Well, the staff recommended denial so. I'd like to make a motion to deny it and that stops it. It kind of goes along with what everybody's saying.

ACTING CHAIRMAN MARTIN:

Mr. Dick London.

MR. ISLES:

Mr. Cichanowicz had a comment.

ACTING CHAIRMAN MARTIN:

What's that?

MR. ISLES:

Mr. Cichanowicz had his hand up too.

ACTING CHAIRMAN MARTIN:

Oh, I'm sorry. I'm sorry, Frank, I didn't realize you were waiting.

MR. CICHANOWICZ:

I'm going along with Shelter Island here as far as why even count that land in especially if it's man made. If it was a natural slope that's one thing, but something in the Planning Commission might get some teeth is that when this was a man-made slope which is mining that that should be discounted off of the amount of land. So that area that's problematic should not even be counted in as a density factor and that way, you know, you would lower that density factor down and that would discourage this as well.

MR. ISLES:

It's going to depend on the local requirements.

MS. NOLAN:

But to do that it has to be in the local ordinance; we can't do that.

MR. DIETZ:

So then I make a motion that we deny the application.

MR. LONDON:

Second.

ACTING CHAIRMAN MARTIN:

We deny the application and let the Town of Brookhaven handle it that's all. It's their job anyway. Everybody okay. We'll bring it to a vote for denial. All in favor signify by say aye. Contrary minded. Abstentions? So carried.

MR. NEWMAN:

Today we have four zoning actions on the agenda; they're all from the Town of Brookhaven. The first action involves a rezoning of a 31.2-acre parcel of land from a single family one acre category as well as a general business category to an entire general business category affecting land situated between Montauk Highway and Sunrise Highway west of Park Avenue at Shirley. A key aspect of this proposal is the rezoning of a small portion of the overall property comprising 1.1 acres that is currently zoned for single family residence purposes which has 420 feet of frontage on Park Avenue. And the area I'm referring to is on the aerial here where the houses are situated, it's an appendage into an existing single family area. Within that area there's a 420 feet of frontage on Park Avenue and extends westerly 110 feet as previously mentioned. It's occupied by dwellings to be demolished. The intent here is to erect a Marshall's building comprising 30,359 square feet and you can see the Marshall's building on the site plan and this is the subject piece that would be zoned to J-2 from a residence district.

This is part of a modified spatial arrangement of parking and internal vehicular access ways and the existing shopping center to the west of the existing single family resident zoned area. This comprises a shopping center it's known as Southport; it's to the west of the area to be rezoned. It's currently in the J-2 business category. Within that shopping center area there's seven retail buildings totaling 271,454 square feet; that portion of the subject property comprises 30.1 acres. That's all remaining lands throughout the -- the 30.1 acres here and this is the major component that is currently zoned for J-2 business purposes. As a part of this project there will be retaining primary vehicular access via the County Road 80. There will be total of 1984 parking spaces; it will include 876 to the landbanked with this 213 in the rear of the property over an existing sump. The sump in the rear of the property is in here. And they have landbanked parking on a deck over that sump as a part of this proposal. There are 15 spaces more than is required in the Brookhaven Town Code. In conjunction with this request they're also paving existing landbanked parking spaces on the west end of the property in this area on the aerial. This area here that's dark they're going to be paving that. The question of course come about is to what value that would have because it's

extremely remote from most of the major retail buildings. Now within the residents area to be rezoned there'll be approximately a third of the Marshall's building, you can see that on the aerial here so, it's about a third of the Marshall's building in the area to be rezoned from residence to J-2. There will be a relocated internal vehicular access roadway. There'll be 54 landbanked parking spaces within that area, however there will be no vehicular access via Park Avenue. In conjunction with this request a vacant historic residence known as the Petty House located on Montauk Highway within the project area is to be restored by the town with funds supplied by the owner. That is a building right along Montauk Highway roughly in that area on the aerial.

The property is bounded on the north by Sunrise Highway and lands of the County of Suffolk; to the east by single family residences and unimproved land in the single family one acre as well as the general business district. To the south and across County Road 80 by retailing uses and unimproved land and the J-2 business district into the west by single family residences and unimproved land and business uses in the Residence A-1 and J-2 Business Districts respectively.

It is the belief of the staff that this rezoning is inappropriate, as it constitutes the unwarranted encroachment of commercial development into a residence district. It unduly impairs the integrity of the residence neighborhood to the east of the premises. It would tend to establish a precedent for further such downzonings in the area particularly along the west side of Park Avenue where that parcel area encroaches in that residence area. It constitutes the unwarranted overintensification of use of the property in this case the petitioner exceeds the required {floor area} ratio by approximately 2% and is inconsistent with the town plan which designates the existing residence zoned area namely that appendage on the easterly portion of the property for development consistent with existing zoning namely single family residence purposes.

We're recommending disapproval.

ACTING CHAIRMAN MARTIN:

Thank you, Jerry. Board members. What's your pleasure?

MS. NOLAN:

One correction?

ACTING CHAIRMAN MARTIN:

Sure.

MS. NOLAN:

In one of the paragraphs you mentioned the main paragraph --

MS. SCHMIDT:

Use your mike.

MS. NOLAN:

-- it's to be restored by the town with funds, the Petty House, it's going to be restored by the owner with his own funds through a non-profit.

MR. NEWMAN:

Okay. I didn't realize that, that is a direct quote from the petitioner I received on that so there's a correction duly noted.

MS. NOLAN:

There's been litigation so that's the result of the litigation.

ACTING CHAIRMAN MARTIN:

A motions in order here and not only comments.

MR. TANTONE:

I'll make a motion to adopt staff.

MR. CICHANOWICZ:

Second.

ACTING CHAIRMAN MARTIN:

All in favor by signify by saying aye. Contrary minded. Abstentions? So carried for denial.

MR. NEWMAN:

Application number two is also from the Town of Brookhaven. It's an application to rezone an unimproved parcel of land comprising two acres and the intent is to rezone it from a single family five acre category to a J-4 Office category for the purpose of erecting a one story 10,000 square foot medical office building on land situated on the west side of Belle Mead Road 800 feet north of Research Way at East Setauket.

The preliminary site plan calls for two points of vehicular access via Belle Mead Road, 67 parking spaces and buffers of 25 and 15 feet throughout the periphery of the property. The property is situated in the Suffolk County Pine Barrens Zone, the South Setauket Woods Special Groundwater Protection Area as well as the south Setauket Critical Environmental Area.

The property is bounded on the north, east and west by open space lands of the Town of Brookhaven in the A-5 Business District into the south by a building in the L-1 Industrial District. You can see on the color shot here actually this is facing the wrong way. There's open space lands are entirely around to the north, west and east of the property and this is an appendage sticking right into that open space lands that are currently owned by the Town of Brookhaven.

On or about August 13th of '93 the town board on its own motion rezoned the subject property as well as lands to the north, east and west from a Residence B-1 and L-1 to

the five acres zoning category as part of a series of upzonings in the surrounding area. Thereafter, the surrounding town open space lands were apparently obtained from the AVR Corp. as part of a stipulation of a settlement due to the fact that the five-acre zoning was challenged in court. And in conjunction therewith the settlement called for the town acceptance of a special exception to permit the erection of a shopping center on nearby lands along Rte. 347 where a town vote of 4-3 was insufficient to override a disapproval of the Suffolk County Planning Commission. I think that shopping center is right in this area here, this is the AVR shopping center. These open space lands were apparently the subject of an environmental spill and cleanup associated with Northville Industries to the north of this area. You can see that on the aerials as the Northville tank farm. It is all open space land in through here. In conjunction with that spill Northville cleaned up this area and I believe donated or gave the County \$5 million for open space acquisition purposes.

It is the belief of the staff that this rezoning is inappropriate as it is inconsistent with the pattern of zoning in the surrounding area and therefore must be considered as spot zoning. It is congruous with surrounding open space lands of the Town of Brookhaven. It contravenes past actions of the town board in rezoning premises the subject property as well as other lands in the locale to the five acre category as part of a series of upzonings in the surrounding area. I think the town at that time recognized the importance of insuring continuity of a five acre zoning classification by including the subject property as well. It is inconsistent with the South Setauket Woods Special Groundwater Protection Area Plan which designates this area for cluster purposes as inconsistent with the town plan which designates this area for park open space purposes. We're recommending disapproval.

ACTING CHAIRMAN MARTIN:

Thank you, Jerry. Board members.

MS. PETERSEN:

I make a motion.

ACTING CHAIRMAN MARTIN:

Make a motion.

MR. CARACCILO:

Second.

ACTING CHAIRMAN MARTIN:

Where's the second. Oh, right here, John.

MR. CARACCILO:

Yes.

ACTING CHAIRMAN MARTIN:

All in favor signify by saying aye. Contrary minded? Abstentions? So carried for denial.

MR. NEWMAN:

Application number three involves the rezoning of an unimproved parcel of land comprising 2.5 acres from a single family one acre category to a J-4 Office category for the purpose of erecting two office buildings comprising 10,000 sq. ft. on land situated at the southeast corner of Rte. 25A and Ridge Road at Shoreham. The preliminary site plan calls for the erection of two one-story buildings each comprising 5,000 sq. ft., one point of vehicular access via Ridge Road, 52 parking spaces and approximately 40% of the easterly portion of the property being retained in its natural state. The property is situated within a Compatible Growth Area of the Central Pine Barren Zone. It's also situated within the Central Suffolk West Special Groundwater Protection Area.

The property is bounded on all sides by unimproved land and single family residence in the Residence B-1 as well as Residence A-1 Districts. A previous application on the exact same parcel to rezone it to the category set forth herein was disapproved by the County Planning Commission on October 3rd. of 1990.

Reiterating previous staff contentions, it constitutes the unwarranted further perpetuation of strip business development along Rte. 25A. It is inconsistent with the prevailing single-family residence pattern of zoning in the locale throughout the south side of Rte. 25A. It would tend to establish a precedent for further such downzonings in the locale. And finally it's inconsistent with the Central Suffolk West Special Groundwater Protection Area Plan as well as the 1996 town plan, which designates this area for residence purposes.

The staff recommendation is for disapproval again.

ACTING CHAIRMAN MARTIN:

Thank you, Jerry. Any comments.

MR. CARACCILO:

I make a motion to accept the staff report.

ACTING CHAIRMAN MARTIN:

Staff report.

MR. THORSEN:

Second.

ACTING CHAIRMAN MARTIN:

Tom. All in favor signify by saying aye. Contrary minded? Abstentions? So carried.

MR. NEWMAN:

The final application is also from the Town of Brookhaven. This is an application on the town board's own motion to amend the zoning ordinance to abolish the Planning Board and return all functions and duties to the Town Board. The obvious question is why the staff has no information on that. I can only surmise that there's a degree of unhappiness maybe with some of the members or some of the decisions rendered by the board. We have no information on that. A copy of the local law as proposed by the town board is attached to the staff report. The functions that will be taken over by the town board were primarily involved the review of site plans and subdivisions. This law is to be effective for two year period from September 1, 2004 to September 1, 2006 unless repealed or extended by the town board. So there is a sunset provision as a part of this legislation. Upon repeal and expiration of the local law a planning board would be established comprising seven members, each with three-year terms and the town board will appoint a chairman and vice chairman.

It's the belief of the staff that this proposal is inappropriate as, any alleged lack of performance of the administrative review responsibilities as a town planning board can be reasonably remedied by the replacement of members through the appointment process. Or failure of such members to attend a minimum of six hours of relevant training courses within each year from the date of their initial appointment to such board as set forth in town zoning code Section Article IIIA, Section 85-25 which was enacted November 12th of 2002. I believe Brookhaven is one of four towns that have these training requirements in their local codes.

Secondly, if the appointment process or compliance with these training course requirements cannot effectuate the removal of the board members a local law should be enacted to allow such planning board member replacement as part of a reorganization process or through requests for voluntary resignations. When we say reorganization that might want to have a representative on the planning board from each of the new {councilmatic} districts or the Commission of Planning might assume some of those functions.

Number three, an independent functioning planning board would appear to best serve the interests of the town as provided in all of the towns in Suffolk County.

And finally, the staff believes that the town board will be unduly burdened by the acceptance of all the functions and duties of the planning board.

We're recommending disapproval and we also have an alternative if the Commission feels that is inappropriate.

ACTING CHAIRMAN MARTIN:

Members of the board have any questions? Yes, Linda.

MS. HOLMES:

My first question is, does New York State town law permit a town to not have a planning board because I was under the impression that a state town law requires if you have zoning in a town you have to have a planning board and a zoning board of appeals. Maybe I'm mistaken, but I fully agree with what the staff is saying. The town board certainly has the remedy of all of these people serve at the pleasure of the town board and they could replace people instead of abolishing the planning board. And also I would note that on Shelter Island some years ago the town supervisor got the town board to expand the planning board from five members to seven and the immediate result was a tremendous drop off in attendance. It was like a Murphy's Law, as soon as a people thought there were lots of us on the planning board people started to stay away saying well, there will be enough to be a quorum, and it really became a problem. So I would certainly concur with that part of the staff recommendation is under no circumstances should they try to go to seven members, but I think the basic issue is that the town board in its fit of peak is doing something that would be very damaging to the town.

ACTING CHAIRMAN MARTIN:

Just to get the record straight, there are seven members now.

MS. HOLMES:

There are?

ACTING CHAIRMAN MARTIN:

Yeah, and most towns have seven members.

MS. HOLMES:

Oh, they do? Okay. I take that back.

ACTING CHAIRMAN MARTIN:

Town of Smithtown has only five, but every other town has that I know has at least seven members.

MS. HOLMES:

And you don't have the kind of problem we had.

ACTING CHAIRMAN MARTIN:

So seven is a good number.

MS. HOLMES:

Seven is good for larger towns I guess.

ACTING CHAIRMAN MARTIN:

Okay, just so you understand. We'd like to keep all your -- everybody's comments to the actual thing in Brookhaven not what's in your town or any other town. Brookhaven would be better off with or without a planning board. I think that's the issue. Right, do

you feel that way?

MR. ISLES:

Right. And in terms of state law my understanding is that if you have a zoning board then you must have a board of appeals. You're not required a towns not required to have a planning board.

MR. HOLMES:

You're not required to have a planning board.

MR. ISLES:

They may create one if they so chose.

ACTING CHAIRMAN MARTIN:

Anybody else have any comments, if not a motions in order for denial.

MR. CARACCILO:

I have a question.

ACTING CHAIRMAN MARTIN:

Yes.

MR. CARACCILO:

What is our power with this? I mean, is it just a recommendation that we're making I mean, can we make this, you know, is this before us for approval or disapproval on just the recommendation or can we enforce this?

ACTING CHAIRMAN MARTIN:

No, you can't enforce it.

MR. NEWMAN:

The recommendation of the Planning Commission is semi-advisory. There's seven members on the board. Normally, you need four out of the seven to approve, but if you disapprove it they need five out of the seven to approve this text change to the zoning code.

ACTING CHAIRMAN MARTIN:

A majority and one, they need a majority and one.

MR. NEWMAN:

Right, a majority plus one.

MR. ISLES:

Right. So it does have that affect. It does require an additional vote on the town board to overrule the County Planning Commission.

ACTING CHAIRMAN MARTIN:

Yeah, so they could overrule you.

MR. CARACCIOLO:

Right, right.

MR. ISLES:

Right.

ACTING CHAIRMAN MARTIN:

Yeah, Linda.

MS. PETERSEN:

Public hearing for this is tomorrow night at 6 o'clock in the new town hall at -- was the old All State building it's One Independence Hill in Farmingville if anyone is interested. There's been a huge amount of discussion in the town and by the different civic organizations and others involving this issue. So we expect quite a number of people to turn out for the public hearing; it's very controversial.

MR. LONDON:

Mr. Chairman, I'll make the motion to accept the staff recommendation for disapproval.

ACTING CHAIRMAN MARTIN:

Do I hear a second?

MS. HOLMES:

Second.

ACTING CHAIRMAN MARTIN:

Okay, that's a second, Linda. All in favor signify by saying aye for denial. Contrary minded? Abstentions?

MS. NOLAN:

Abstain.

ACTING CHAIRMAN MARTIN:

On abstention.

MR. TANTONE:

I'm going to abstain also.

ACTING CHAIRMAN MARTIN:

You abstain too. Okay, what do we got now? We have two abstentions, oh, the motion carries, right?

MR. TANTONE:

I think Linda abstained also.

ACTING CHAIRMAN MARTIN:

Who?

SPEAKER:

Three abstentions.

ACTING CHAIRMAN MARTIN:

You abstained also, Linda? So we got one, two, three abstentions. How many board members do we have today?

MR. ISLES:

Ten.

ACTING CHAIRMAN MARTIN:

So it didn't carry.

MS. PETERSEN:

Then I won't abstain.

MR. CARACCILO:

We'll have to put a motion to put it to a second -- another vote?

ACTING CHAIRMAN MARTIN:

Yes. On the motion.

MR. LONDON:

Okay. I'll make the motion that we accept disapproval of staff report.

MR. CARACCILO:

Second.

ACTING CHAIRMAN MARTIN:

Second, John. Put up your hands one at a time for the motion.

MR. TANTONE:

I'll vote for it. I'll let Linda abstain, you abstain I'll vote for it.

MS. PETERSEN:

Thank you.

MS. NOLAN:

Abstain.

ACTING CHAIRMAN MARTIN:

Okay. So we got one, two, three, four, five, six, seven, eight. The motion's carried; we're going to recommend that they do not absolve the planning board. We thank you.

MR. CARACCIOLO:

You're welcome.

ACTING CHAIRMAN MARTIN:

Thank you, you're a gentleman. There's a motion in to order to adjourn.

MR. CARACCIOLO:

I'll second it.

ACTING CHAIRMAN MARTIN:

You second that one too. All in favor? See you next month.

(The meeting was adjourned at 11:15 A.M.)

{ } DENOTES BEING SPELLED PHONETICALLY.