

## **SUFFOLK COUNTY PLANNING COMMISSION**

### **MINUTES**

A regular meeting of the Suffolk County Planning Commission was held at the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, NY 11787 on Wednesday, Oct. 6, 2004 in the Rose Y. Caracappa Auditorium at 12:00 P.M.

#### **MEMBERS PRESENT:**

Robert Martin (Smithtown) - Acting Chairman  
Louis Dietz (Babylon)  
Linda Petersen (At Large)  
Thomas Thorsen (East Hampton)  
Frank Tantone (Islip)  
Richard O'Dea (Riverhead)  
Linda Holmes (Shelter Island)  
Laure Nolan (Village 5000 & Over)  
Richard London (Village 5000 & Under)  
Charla Bolton (At Large)

#### **MEMBERS ABSENT:**

John Caracciolo, (Huntington)

#### **ALSO PRESENT:**

Thomas Isles - Suffolk County Director of Planning  
Basia Braddish - Suffolk County Attorney  
Ben Zwirn - County Executive's Office  
Gerald Newman - Suffolk County Chief Planner  
Andy Freleng - Suffolk County Principal Planner  
Ted Klein - Suffolk County Planning  
Claire Chorney - Suffolk County Planning Department  
Chris Wrede - Suffolk County Planning Department  
Peter Lambert - Suffolk County Planning Department  
Kevin LaValle - Aide to Legislator Losquadro  
Charles Bender - Aide to P.O. Caracappa  
Legislator Caracciolo - 1st Legislative District  
Kim Kennedy - Aide to Legislator Caracciolo  
Lisa Greci - Self

#### **MINUTES TAKEN BY:**

**Eileen Schmidt - Secretary**

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

**ACTING CHAIRMAN MARTIN:**

Good afternoon ladies and gentlemen. The Suffolk County 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 go on with the meeting Andy would you want to explain this conference we're having on the 14th so the board members are aware of it?

**MR. FRELENG:**

Sure thing, Mr. Chairman. On October 14th the Suffolk County Planning Commission is going to hold another annual planning basic training conference. We've held many of these and this I believe is our fifth official one that produces a resource manual. We've been doing these conferences since '93 or 4. This one is at the Ronkonkoma Holiday Inn; it goes from 5 to 9:30. We will have County Executive Levy there to kick it off; we will have Richard Johannesen, Suffolk County Ethics Chairman there to give us a key note address. We will have six classes relative to planning and zoning; two sessions so you can take one class per session. And we're hoping that the municipalities send lots of representatives so they can attend all the classes and exchange all their notes. At this point feel free to show up and we'll make sure that we can accommodate you with materials and seating. The deadline was the 24th, but we are still accepting people to come in. This promises to be a very interesting one. We have a session on homeland security -- strategic partnerships in homeland security being provided to us by a registered engineer. So this year we will offer a professional engineering credit. We also offer credits for continuing legal education on some of our classes as well as AICP continuing education credits.

So this is going to be I anticipate another one of our very successful programs. We have about 150 people already interested in attending. So if I can provide you any other information or if you'd like a copy of the flyer I'd be happy to give it to you.

**MS. HOLMES:**

I'd like a copy of the flyer.

**ACTING CHAIRMAN MARTIN:**

I think they were on the desk, weren't they?

**MR. FRELENG:**

Okay, I left out a bunch, but there's a couple of extras and you can certainly have mine.

**ACTING CHAIRMAN MARTIN:**

Are there any other questions? The first order today is the minutes in the July 7th meeting, have you noticed any errors or omissions? Yes, Linda.

**MS. PETERSEN:**

Motion to approve.

**ACTING CHAIRMAN MARTIN:**

Motion to approve.

**MR. DIETZ:**

Second.

**ACTING CHAIRMAN MARTIN:**

All in favor signify by saying aye. Contrary minded. So approved. Thank you. **(Vote: 10-0-0-1 Absent: Caracciolo)** And then we have the August 4th meeting 2004. Do we have a motion on that one?

**MR. THORSEN:**

Mr. Chairman I'll approve the August 4th meeting.

**MR. O'DEA:**

I'll second it.

**SPEAKER:**

I never got that.

**ACTING CHAIRMAN MARTIN:**

Anybody else that didn't get tha?

**MR. ISLES:**

Claire, did the minutes go out already for August 4th?

**MS. CHORNEY:**

Yes.

**SPEAKER:**

I got them.

**ACTING CHAIRMAN MARTIN:**

Oh, you got them, okay.

**MR. ISLES:**

Thank you. We have a second by Mr. O'Dea.

**ACTING CHAIRMAN MARTIN:**

All in favor by signify by saying aye. Contrary minded. So approved. (Vote: 10-0-0-1 Absent: Caracciolo) Now for the Director's Report.

**MR. ISLES:**

Thank you, Mr. Chairman. I would like to begin by noting that joining us today, the Commission today at today's meeting is Legislator Mike Caracciolo from the first district extending from Middle Island to Fishers Island.

**LEGISLATOR CARACCIOLO:**

(inaudible)

**MR. ISLES:**

Thank you, Mike. I'd also like today to acknowledge a new member to the Commission joining us Charla Bolton is the member to the right of me. Charla was appointed by the Legislature -- approved by the Legislature last week. She is a member appointed by the County Executive At Large. Charla has a long history involvement with planning including service with the Town of Huntington as a planner. Currently she works for the Society for the Preservation of Long Island Antiquities and is very involved in historic preservation as well. And has had a broad civic involvement throughout her life so we welcome her to the Planning Commission today.

In terms of the Director's Report at this point to bring you up to date on a couple of items. In terms of the Commission's appointments there are -- there's one appointment currently pending in the Town of Riverhead; a Mr. Taldone is pending. That's tabled right now before the Environment Committee. I will keep in informed as other appointments are presented. At the present time then we have a membership on the Commission of ten members with the passing of Frank Cichanowicz in August. Other points for your information is we had planned on presenting two you with the Health Department today a presentation on the Comprehensive Water Resources Management Plan. In discussions with the Health Department we had to put that off a month or two so we'll not be able to do that today. That is a rather significant planning study that we will be engaged in with the Health Department that will affect such things as potentially as Article (6) density requirements for Health Department purposes; some issues of Smart Growth in terms of downtown transfer development rights and so forth. So I think it's an important presentation for you, but here again that will have to be put to a future meeting.

I will tell that we are beginning on an update of the Agricultural and Farmland Protection Plan. This was done last time in 1996 and adopted by the County. This is the guiding document for farmland protection strategy, the farm districts program and so forth. What we are doing in the Planning Department is the report has become dated in terms of statistics and also to provide an opportunity to review policies. So that'll be progressing within the Planning Department over the next couple of months and we will keep you informed on our progress on that.

I would also like to bring to your attention a matter that will be brought to the voters this November and I'm sure you've heard about it. We've talked about it a little bit and that is the Legislature and the County Executive have approved a referendum to come before the voters this year for authorization to bond \$75 million for the acquisition of farmland, open space and parks. That bond does require that the County Planning Department develop a transferred development rights program that could be applied to sanitary credits that could be lifted off of open space parcels that the County acquires. I've assigned Andy Freleng our principal planner to work on drafting that for the department. Andy is the Vice-Chairman of the Pine Barrens Clearinghouse; he is definitely a statewide-recognized expert on TDR. And so our obligation then if the voters approve this on November 2nd we will then have to deliver to the Legislature a proposed TDR program that would then implement the removal of credits from open space as the County buys land. Puts them into some sort of bank for the duration of holding them and then applies them to properties. Any application of credits would be subject to the approval of the Legislature, but here again the Legislature has directed in legislation in that we actually provide the mechanics and the details of doing that.

So here again I will keep you posted on that in our regular meetings in terms of the progress on that and provide you with a copy of the report that we will present to the Legislature when that is completed. Here again, subject to the approval of the referendum. Associated with that is I will be -- Andy Freleng does our subdivision reviews. I will be pulling Andy off of that and having Ted Klein do the subdivision reviews going forward. So starting with the next meeting Ted will be making presentations to you. Ted is a senior planning in the office and will be making presentations regarding subdivisions and be responsible for the staff review of that.

A couple of other items, I've mentioned to you in the past that the County Executive has proposed a modification of the structure of County government relative to the Real Estate Division in the County Department of Planning. The proposal is to create a new department called the Department of Environment and Energy. I just want to bring you up to date on that that proposal has been submitted to the Legislature recently once again. And also the County Executive's budget actually accomplishes the transfer of positions and so forth. Here again, just to keep you informed of that in terms of the impact to County Planning; the core of the County Planning Department would remain the County Planning Department. The Division of Real Estate would go to this new department generally intact, but there are some variations here and there. And within the Planning Department itself there would be a few positions that would be going to the new department as well including the position of Chief Environmental Analyst, a position of Senior Clerk Typist which is currently vacant. A position of Clerk Typist and one other position that escapes me right now, oh, a position Farmland Administrator. The position of Farmland Administrator is currently contained in the County Planning Department. It is a position that has been budgeted. We've been searching to fill that position, but at this point it is a vacant position. That would go with the Real Estate Division with the idea that the Farmland Administrator would work on securing acquisitions of farmland for the County work on grants. The County Planning Department would still retain the functions of managing the agricultural district program

we have, managing the Farmland Committee and administering the Farmland Committee. Reviewing parcels for the Farmland Committee and so forth. So once again that's pending at this point.

And the last item to bring to your attention is the -- just in the nature of updates the County Executive has proposed a modification to the Long Island Regional Planning Board to bring it more in line with general municipal law which allows counties to create regional planning councils. So the legislation that's been introduced by the County Executive reaffirms the desire to have bi-county planning going-on on Long Island with Nassau and Suffolk County reaffirms a commitment to that. Provides for just a change in the name to reflect general municipal law. It also provides for an expansion in the number of members on the Regional Planning Board and where currently each county can appoint three members to the Regional Board that would be moved to five members each. So there'd be ten members appointed by the combination of the two county executives subject to confirmation of the respective legislatures. They're other changes in the -- from the original legislation of the Regional Board to the current board that deal with such things as requiring annual audits and budgets and things of that nature, general house keeping things. And also reaffirming the charge of the Regional Board in terms of priorities and listing things such as affordable housing, economic development, transportation and so forth that's not to the exclusion of other issues, but it does reaffirm certainly priorities. Fundamentally, the intent is to, here again, to have the board as strong as possible and as beneficially as possible for Regional Planning purposes the two counties. Once again that legislation's been submitted and is beginning the process and review by the Legislature in the next month or so.

So with that that completes the Director's Report items to bring to your attention. As I said, as far as the Health Department presentation, which I think, is very important from a land planning, from a public health standpoint we will bring that back to you at either the November or the December meeting. The November meeting at this point is getting pretty full with a number of major items on it so we might put it off to December depending on the calendar. Thank you.

**ACTING CHAIRMAN MARTIN:**

Thank you, Tom. Does members of the Commission have any questions of Mr. Isles? Hearing none we'll go into the public portion. Is there anybody in the audience that wishes to be heard on any matter that's on the agenda?

**MS. SCHMIDT:**

Please talk into the mike.

**ACTING CHAIRMAN MARTIN:**

I'm sorry.

**MR. ISLES:**

The mike should be within a few inches of where you're speaking.

**ACTING CHAIRMAN MARTIN:**

I'm sorry. Is there anybody in the audience wish to be heard in any manners? Hearing none we'll move on to the Commission's Round Table. Laure.

**MS. PETERSEN:**

I don't have anything to report with regard to villages, but with regard to the Town of Huntington I just wanted to report that the town has accepted a vision document from its' consultant after nine months. A nine month process of community meetings and will be preparing to move into the second phase of development of a new master plan within the next 90 days. And that will be the actually development of the master plan and then the final phase will be rewriting of our codes and that process will probably take almost two years between the master plan and the code writing.

**ACTING CHAIRMAN MARTIN:**

Linda.

**MS. NOLAN:**

Just in the case of Brookhaven Town, they too will have an environmental bond act on the agenda for the November election for \$100,000,000 for the purchase and acquisition of open space.

**ACTING CHAIRMAN MARTIN:**

Thank you, Linda. Charla?

**MS. BOLTON:**

As an At Large appointment I'd only like to make the following statement right now. I work for the Society for the Preservation of Long Island Antiquities. As such I cover both Nassau and Suffolk Counties with respect to preservation issues. I'm frequently involved in communities with planning issues that concern historic buildings with drafting landmark ordinances and other related planning work. So I look forward to being on the Commission and being part of a countywide body and setting policy and comprehensive planning for the County. Thank you.

**ACTING CHAIRMAN MARTIN:**

Thank you, Charla. Richard.

**MR. LONDON:**

I have nothing to report Mr. Chairman.

**ACTING CHAIRMAN MARTIN:**

Okay Richard thank you.

**MR. O'DEA:**

In Riverhead the town board last night approved three commercial zoning districts as part of their long range tackling of the master plan and the zoning following it. I believe they have two to three more to go and then they'll be finalized in that aspect the TDR

process, which my sympathy goes out to Andy to work on a countywide TDR, that will be really fun. The town will leave that for last taking more input and maybe reaching out for some advice from outside sources and then come up -- well, they have a draft, but they tweak it. And they've worked long and hard in many work sessions and they've really got to it lately. Thank you on that. That's about it.

**ACTING CHAIRMAN MARTIN:**

Thank you, Richard. Lou.

**MR. DIETZ:**

I have nothing to report.

**ACTING CHAIRMAN MARTIN:**

Linda.

**MS. HOLMES:**

I'm happy to say that our town board even though there is a big split within the board they are finally going to consider a recommendation from our zoning and planning task force which has been meeting for quite awhile and has recommended limiting for the first time on Shelter Island limiting the size of a house that can be built on a particular lot. And the planning and zoning task force recommended 7% of lot size as being appropriate for a house. Others what 12% some members of the town board said let's compromise on 10%. So the town board finally asked the town attorney to draft proposed legislation at the 7% level just so they would have something solid to discuss. We just have not, we have always had minimums with our zoning, but nobody thought years ago that we would have to restrict {mcmansions} on postage size lots, but that's what's been happening a couple of time.

Meanwhile, I'm happy to say that the town board did appoint a lot clearing committee and I know you won't be surprise to know that I'm on the committee and we had our first organizational meeting last week. We went around this weekend and reviewed different lots to see how people at dealt with clearing and we have another meeting our first full meeting tonight. The town board has given us a charge to consider actually all of the points that I made in my proposal to the town board asking them to consider some sort of ordinance that would protect neighbors from soil and water runoff from an adjoining lot. And that is at the top of our agenda to consider and one other -- several other recommendations. So I'm very glad that we are progressing with that. Thank you.

**ACTING CHAIRMAN MARTIN:**

Thank you, Linda. Frank.

**MR. TANTONE:**

Just briefly, I just want to thank everybody for their consideration from the last meeting where it was basically a Town of Islip day. The number of proposals that went through were significant, large projects almost historical in nature. It's almost a shame that the board didn't get to have a vote on it, but those are circumstances that are unfortunately

beyond our control. So I just wanted to relay the thanks of the staff at the town for whatever input that Gerry had. I know that they went back and forth quite a bit with the number of those projects especially the continued revitalization of Central Islip, which is something that we're quite proud of at the Town of Islip which started under Tom Isles and continues and hopefully will evolve to the point where maybe someday it'll be done totally. But it is significantly far along at this point and that area is coming back very nicely. Other than that we don't have a lot coming up on the agenda; we seemed to have moved our bigger projects along as you saw last month so I really don't have much else to report. Thank you.

**ACTING CHAIRMAN MARTIN:**

Thank you, Frank. Tom.

**MR. THORSEN:**

After a little over four in the making the East Hampton Comprehensive Plan is about to be unveiled. It has been unveiled to the town board by the present consultant Lisa {Licorrie} former planning director. There is a public hearing slated for November 4th, that's one day after our meeting and I believe that there will be a presentation here on the 3rd.

**MR. ISLES:**

Yeah, we have received the referral from the town clerk of the Town of East Hampton of the comprehensive plans. We have started reviewing it; we will send out summaries to you in the packages. So it will be scheduled for your meeting on November 3rd for your consideration.

**MR. THORSEN:**

It's quite extensive.

**MR. ISLES:**

Yeah.

**MR. THORSEN:**

It concerns a zoning, which is sort of odd to have in the beginning, but this is something that the public wanted to know what does the plan mean relative to zoning. And it has a lot to do with what the build out number might be and that sort of thing, which will concern traffic and a whole series of items. But that's being slated as I said for November 4th and Dr. Koppelman took over the first planning plan development and he was assisted by seventeen citizen committees to look into various subjects and interest. And following that there was another planner brought in, a planning firm {Horn Rose} who tried to pull it all together. A good deal of the information at least as using has been cranked in, but there is some new things on the table and it should be very interesting to the board.

**ACTING CHAIRMAN MARTIN:**

Thank you, Tom. It's my town is Smithtown there's nothing new we're just going along and hope someday that we'll have Kings Park State Hospital resolved and that would be the only large thing we'll have. Thank you. Andy, please.

**MR. FRELENG:**

Mr. Chairman the first regulatory matter for the Commission comes to us from Southampton. This is a subdivision; it's the application of Sagaponack Woods. Jurisdiction for the Commission is that the subject property is in the -- in a Pine Barrens Zone of Suffolk County in this case the eastern Pine Barrens Zone. And the applicants are proposing the division of 19 lots, I'm sorry, the division 19 acres into 10 lots in the CR-120/Aquifer Protection Overlay District and this is in the Hamlet of Sagaponack. The map is not being processed pursuant to 278 Cluster provisions. The map is an Affordable Housing Density Incentive Plan pursuant to Subsection 330-9 of the Southampton Town Zoning Law. This allows a 50% bonus on lot density requiring 50% of that bonus to affordable as defined by the town. Nine total lots are achieved this way, six from the customary yield and three additional lots from the density incentive and two of those lots are to be affordable. Finally, a single and separate formerly landlocked parcel is added to the subdivision for the tenth lot. You can see the layout of the subdivision in the staff report also up on the screen.

The proposed lots range in size from 62,796 sq. ft. to 88,302 sq. ft. No open space is proposed, however, a conservation easement ranging in width from 25 ft. to 150 ft. is proposed as a ring around the proposed lots. The subject parcel fronts to the north on Merchants Path, which is a town road. Several detached residential dwellings abut the property to the north and west. At the south end of the subject property East Woods Path, which is also a town road is segmented and terminates at the western calling it Ranch Court and the eastern property lines. Surrounding the subject property is mostly vacant residentially zoned woodland and scattered large lot residential dwellings. A Town of Southampton recharge basin with standing surface water is situated near the southwest corner of the subject site and may have setbacks affecting lot 2 associated with any occurring wetlands.

The character of the area is a mix of developed medium to large lot residentially zoned land, some light agricultural uses. Also is found in the area there's a lot of open woodland in the area. The character of the property itself can be described as vacant, wooded land.

Access for the proposed lots is intended via the continuation of East Woods Road and the creation of a cul-de-sac from the new street northward and you can see that on subdivision map. Access for two of the lots is to be from Merchants Path via a flag lot design. One flag lot, lot 10 contains a dogleg, which is contrary to Commission policy. The access to the lot should be designed so that the angular bend in the access is modified so that it would be capable by itself of accommodating emergency and service vehicles. Our staff acknowledges that there is a common right-of-way planned, however, in our experience court or other action could conceivably extinguish such an

arrangement in the future. If the right-of-way is to be dedicated to the town staff believes it should be designed in such a manner to be acceptable to the town highway system. Typically, a design may incorporate a 50-foot wide access and an appropriately designed cul-de-sac. There is no alternate or emergency access proposed nor does staff believes it's practical for this application.

The subject parcel is located within Ground Water Management Zone V. Potable water to the lots is intended via public supply. Sanitary waste is to be collected and disposed via individual onsite systems. The site is located in the South Fork special Groundwater Protection Area. As such it is a Critical Environmental Area of Long Island. It is located in a Critical Environmental Area. The parcel is located within the Eastern Pine Barrens area of Suffolk County. Moreover being in the Easter Pine Barrens the subject parcel is subject to clearing and fertilizer restrictions pursuant to Commission policy. The staff believes while it's commendable for the applicant to wish to provide affordable housing through the use of the density incentive provision of the town zoning law, this particular site may not be conducive to such an application, particularly with the addition of that tenth lot. The staff believes the balance between the proper subdivision design and providing a range of housing types for the community should not be tipped against sound environmental planning.

Let me just step off the staff report a second and just point out to you that because they're providing a density incentive plan and because they've taken this tenth lot you can see from the tax map they've rearranged this lot and added it. That this parcel is very tight particularly up at the north end they've got a dogleg coming into this lot here. And as I mentioned the dogleg as you have adopted is contrary to Commission policy. If this easement, which connects these two lots for access was to be exterminated and you needed to get a hook and ladder truck or some sort of emergency vehicle back to the bulk of the property to take care of an emergency at the house that dogleg could be a real issue to negotiate a turn.

Back to staff report, due to the subject properties zoning and its occurrence in the Easter Pine Barrens no more than 30% of the subject property may be cleared of naturally occurring vegetation. The proposed map provides for no acreage in contiguous open space. While there is no prohibition in providing the open space via clearing covenants/restrictions or conservation easements on created lots, staff does not believe possible that the requirement can be provided that is the 30% clearing can be provided and still have viable building envelopes without the possibility of over clearing. The more suitable design might be in the form of a cluster map. Staff fiddled with a couple cluster designs, we believe that the cluster could be designed which would form a contiguous block of open space. Furthermore the proposed open space pattern provides little in the way of a wild life corridor to adjacent woodlands and is not in keeping with the intent to providing for contiguous blocks of open space and wildlife habitat. Chris, if you could flip back to the aerial a second?

As you can see to the east of the subject property there begins a long band of contiguous wooded open space and that does continue eastward and northward into

the Eastern Pine Barrens region of the town. To the west there is a small block of undeveloped woodland.

A natural vegetative clearing plan in the opinion of the staff needs to be provided that demonstrates the compliance of the proposed application with the clear restrictions of the Suffolk County Planning Commission. Moreover, due to the subject parcel's proximity to the Eastern Pine Barrens and relatively large tracks of undisturbed woodland the planning board in the staff's opinion should consider creating a block study or mini-master plan to preserve a large portion of open space in the area where large blocks of woods are relatively undeveloped.

Soils on the subject property consist of Plymouth, Haven, and Riverhead associations. Haven and Riverhead soils are considered prime soils in Suffolk County. The subject property, however, is not located in the Suffolk County Agricultural District. With regards to the soils the slopes that are associated with that range from 0-3%.

In conclusion then, issues related to the proposed subdivision stem from the Commission's policies related to subdivisions constructed in a Pine Barren Zone of Suffolk County and issues related to good planning and land use. Staff recommends to the Commission that the subject matter be approved subject to the following conditions. In condition (1), that the dogleg in the access of the flag lot, lot 10 be eliminated and the following paragraph describes the rationale. In condition (2) is that no more than 30% of the overall subject property be cleared of naturally occurring vegetation. The paragraph below describes the rationale and why we believe that that needs to be conditioned. And the third comment is that from Commission policy no more than 15% of each lot be placed in fertilizer dependent vegetation.

And finally, staff is recommending to the Commission that they forward the following comment to the town planning board that being from the staff reporting indicating that while it is commendable for the applicant to wish to provide affordable housing to the use of the density incentive provision in the town zoning law this particular site may not be conducive to such an application particularly with the addition of the tenth lot. Again, the balance between proper subdivision design and providing a range of housing types for the community should not be tipped against sound environmental planning. That is the staff report.

**ACTING CHAIRMAN MARTIN:**

Thank you, Andy. Members of the board.

**MR. THORSEN:**

Mr. Chairman I propose the adoption of the staff's report.

**MS. HOLMES:**

I second it.

**ACTING CHAIRMAN MARTIN:**

All in favor signify by say aye. Contrary minded.

**MR. O'DEA:**

On the motion. You indicate that there's large surrounding areas all open large lots?

**MR. FRELENG:**

Yes. There's a mix of large lots and open space in the area.

**MR. O'DEA:**

I mean, so large like five acres is -- because on the back page here I mean, this surrounding area is all it looks like its been subdivided whether it's wooded or not.

**MR. FRELENG:**

Well, we use large lot as a relative term, but the lots to the east of the subject property range from two to five acres.

**MR. O'DEA:**

Right. Okay, so that's your definition of it? Because on the aerial you get a different --

**MR. FRELENG:**

Yes, it's been subdivided, but it is been subdivided into a large lot type pattern.

**MR. O'DEA:**

With all the negatives of not -- they're buying into affordable housing, but then they're creating the tenth lot. I mean, there's more negatives than positives in this in my opinion to go to the approval route as opposed to disapproval when we're sitting on the middle in a lot of these cases.

**MR. FRELENG:**

Well, Mr. O'Dea, the real problem with the map -- can you skip to the subdivision -- is really the dogleg up in this corner here. If they could eliminate that dogleg other than the fact that this subdivision maybe a little bit denser than the surrounding lot pattern. It's really that dogleg right here that is the problem. If they, and not that we're recommending it, there could be fixed through a cul-de-sac street, but if they were to eliminate a lot then they could eliminate that that dogleg. So putting in that extra lot that tenth lot which came from if you can see from your tax map in the package there was a landlocked parcel right here. So when they opened up the subdivision they were able to add that tenth lot. So it just may be one lot too many.

**MR. O'DEA:**

And that also puts the pressure on the 30%.

**MR. FRELENG:**

Well, yes, because they're not creating any kind of contiguous block and because the building envelopes then will be surrounded by easement land. It's been our experience

that landowners tend to encroach into their easements so that might run afoul of the 30% requirement.

**MR. O'DEA:**

That's putting it mildly.

**MR. ISLES:**

The 30% is required regardless, the question is, is it going to be contiguous and easier to protect or is it going to be strung out around the boundary and less viable at that point.

**ACTING CHAIRMAN MARTIN:**

Ms. Bolton.

**MS. BOLTON:**

Andy I just wanted to ask you, the concluding comment you have really offers two different pictures of what your analysis really, you know, I'm having trouble it's sort of mixed messages. And I'm wondering if what you're saying in this concluding comment is really what you would recommend otherwise I'm not sure why you would even put it in there because the conditions that you're setting forth are not conditions which even address what you're saying in that comment. So I, you know, it's hard I mean, personally I don't feel that there's enough in the subdivision and that they should go back to the drawing boards.

**MR. FRELENG:**

Well, that is the discretion of the Commission. It's the staff's opinion though that certainly site guide is to provide affordable housing right now and staff does not believe that this map is so bad that we would recommend against the map. It's really the dogleg and the map in context to the surrounding area. And yes, we are we're giving the town a heads up and the staff is recommending to give the town heads up that they may be just trying to pack this one in a little bit too tight. However the map is fixable.

**MS. BOLTON:**

If -- but if it were offered in a cluster plan rather than this separate lot plan then you could really achieve both goals, right? You could achieve an environmentally, you know, well planned subdivision, affordable housing and the ten units, the ten unit density is that correct?

**MR. FRELENG:**

Yes. I wouldn't disagree with you; they certainly could do an attached unit map and provide a lot of open space in the center. They could reduce the lots further down. They could do a number of things; they could call it a cluster and then reduce the lots way down. So they do have options.

**MS. BOLTON:**

And they could still get affordable housing.

**MR. FRELENG:**

That would be between the applicant and town on the mix of size, mix of units and all that and on what would be quote unquote affordable.

**MS. BOLTON:**

Well, assuming that that's what the additional density's been achieve by.

**MR. FRELENG:**

Right.

**MR. ISLES:**

And Andy just to clarify, this is not a rezoning of the property. It's an application of the zoning classification that already exists.

**MR. FRELENG:**

Yes. This is an application 330-9 of the Southampton Town Zoning Ordinance allows as-of-right density incentives. You can get a 50% bonus if 50% of your bonus is affordable.

**ACTING CHAIRMAN MARTIN:**

The only question I have Andy, being we agree over affordable housing is the main issue now on Long Island and unless we cooperate with the towns and help them there's going to hard for them to achieve. So I think all the recommendations that you have made should be sent to them too saying that we approve it subject to and then give them all the different scenarios that we can achieve and still get your affordable housing. Because we if don't start we're never going to get it. It's easy for developers to say I'll build it the way it is and forget about it, you know. So I think if you're going to do that why don't we do it that way. Achieve it subject to and put everybody's input into it. Put that, consider a cluster, and all the other things. As far as the other stuff the dogleg and all, the town could work that out within the lot. There's no big deal there; just got to make it larger that's all, right? I don't see any problem in doing that. So why don't you do that? Why don't you make all the recommendations sort of part of the approval subject to and then you could say these are your recommendations that we'd like you to see and do and try to work out.

**MR. FRELENG:**

So just so I can understand, so you would like to relay to the town that they should consider a cluster alternative or attached unit alternative or some other alternative.

**ACTING CHAIRMAN MARTIN:**

Right. And still stay within the affordable housing idea so that we don't get away from that, you know.

**MR. ISLES:**

Well, perhaps what we could do then, you know, we have suggested comment at the bottom that talks about questioning that tenth lot maybe knocking that off, but maybe adding to that the suggestion that another alternative would be to keep the ten lots, but consider a clustered subdivision design, okay. It's only an advisory to the town it's not compulsory.

**ACTING CHAIRMAN MARTIN:**

Yes, what I was thinking with the tenth lot maybe that's what made this viable for affordable housing. Maybe the builder instead of giving them more density he got an extra lot and I think that's very important than giving more density. All they talk about your talking about affordable housing more density, more density, you know, maybe we can work something out that the density don't change we still could do affordable housing, we give a little we get a little and I think that's important today in the world. The price of land is so high maybe we should go that route.

**MR. FRELENG:**

I believe I get the gist of what the Commissioner is conveying; I can write that up, but that again is at the discretion of the Commission.

**ACTING CHAIRMAN MARTIN:**

Yeah, okay.

**MS. HOLMES:**

Do we need a new motion?

**MS. NOLAN:**

Can we agree to eliminate the language that says the site may not be conducive to affordable housing? I think that's what you're saying that we don't really want to say that, but there may be ways to make the site conducive to affordable housing it just needs a different configuration.

**MR. FRELENG:**

My only comment to that and this is the staff's opinion is that when you get into environmentally sensitive or environmentally constraint on a property sometimes wetlands, Pine Barrens other issues may constrain doing a high density or map that provides affordable housing. So the comment is really a heads up that, you know we endorse the concept, but this particular site in the Pine Barrens because of the pattern of development in the area it may not be conducive.

**MS. NOLAN:**

But you have said that it could be reconfigured so that nine or ten units would make sense there.

**MR. FRELENG:**

Yes.

**MS. NOLAN:**

So I think we're uncomfortable with saying that and on the other hand say it's not conducive to affordable housing. I don't think we should be making that judgement.

**MR. FRELENG:**

Understood, that's the discretion of the Commission.

**MR. ISLES:**

So maybe if I could suggest then rather than having it more in the negative it may not be conducive which we do think that that's an issue, but phrasing it that for better site design to accommodate the additional density with the affordable housing the town may want to consider a cluster subdivision arrangement, which also allows a larger block of open space.

**ACTING CHAIRMAN MARTIN:**

Right.

**MR. ISLES:**

So staff if you'd like we can work on that language, okay.

**ACTING CHAIRMAN MARTIN:**

Good. Then there's a motion in order.

**MS. HOLMES:**

Do we need a new motion for the amendment?

**ACTING CHAIRMAN MARTIN:**

Yes, please.

**MS. HOLMES:**

I would move that we ask staff to amend the comment in line with the Commissioner's suggestion and the map as well, yes.

**ACTING CHAIRMAN MARTIN:**

Lou Dietz.

**SPEAKER:**

(inaudible)

**MS. HOLMES:**

No. My motion I think was to approve the language in the comment to be amended as suggested by the Commissioner, by Commissioner Martin.

**ACTING CHAIRMAN MARTIN:**

Well, we have the cart before the horse. We first have to approve the map and the amendment. Okay, we have to go one and the other that's what I mean. I thought she'd start by approving the map first.

**MS. HOLMES:**

I see all right. I'll move to approve the map as submitted with the staff recommendations and then we'll have a new motion --

**ACTING CHAIRMAN MARTIN:**

No, no. You continue and the amendment.

**MS. HOLMES:**

And the amendment as suggested, the wording of the amendment as suggested by Commissioner Martin.

**ACTING CHAIRMAN MARTIN:**

Thank you, Linda. Now do we have a second to that?

**MR. THORSEN:**

Second.

**ACTING CHAIRMAN MARTIN:**

All in favor signify by saying aye. Contrary minded. Abstentions. So carried. **(Vote: 10-0-0-1 Absent: Caracciolo)**

**MR. THORSEN:**

Just one point here. Andy, as I recall this whole area did have a {super block} evaluation back in the eastern GEIS. I don't know where it went to.

**MR. FRELENG:**

Well, you know that's going way back so we don't have a copy of that.

**MR. THORSEN:**

1989.

**MR. FRELENG:**

Okay. You were instrumental in preparing that I believe.

**MR. THORSEN:**

Yes.

**MR. FRELENG:**

Okay the next map is referred to us from the Town of Southold. This is the map of Ioannou Constantine. Jurisdiction for the Commission is that the subject property is adjacent to NYS Rte. 25, which is Main Road and Long Island Sound and Orient

Harbor. The applicants are proposing the subdivision of seven acres into three lots in the R-80 residential zoning category in the hamlet of East Marion. The minimum lot size in the zone is 80,000 sq. ft.

The map is not being processed pursuant to Section 278 Cluster provisions. The proposed lots range in size from 80,000 sq. ft to 92,332 sq. ft. No open space is proposed. However, wetland area and bluff areas are set aside as lot area not within the building envelopes. You can see on the aerial down here that part of the subject property is south of Rte. 25, this is all wetland here and that's basically set aside.

The subject parcel fronts on Long Island Sound to the north and to the east and west the subject site abuts improved residential properties. The subject site fronts on Orient Harbor to the south Main Road State Rte. 25 runs through the southern portion of the property. A dwelling, garage, and shed are situated on site as well. The character of the area surrounding the subject property can be described as a mix of developed medium to large lot residential and open space. The character of the property itself can be described as developed large lot residential.

Access for the proposed lots is intended via Main Road for Lot 3 and via a 25 foot right-a-way across Lot 3 to Lots 1 and 2. By commission definition Lots 1 and 2 are land locked and the creation of such lots is contrary to Commission guidelines. Lot 1 and Lot 2 are proposed to take access from a 25 foot easement as you can see up here on the screen. The bulk of Lot 1 is a landlocked parcel as well as the bulk of Lot 2 and Lot 3 here is providing the easement along it's western boundary. This is the existing structure, the garage and shed. The subdivision map -- the staff believes the subdivision map should be redrawn to show Lots 1 and 2 as flag lots. Each lot should be provided with a minimum of 15 feet of frontage along Main Road. East lot should be designed so that it would be capable by itself of accommodating emergency and service vehicles over the access strip. Again, while the common drive or easement can be established over the access strip to the bulk portion of lots, court or other action could conceivably extinguish such an arrangement in the future and each lot must be designed with good planning principles.

The subject parcel is located within Ground Water Management Zone IV. Potable water to the lots is intended via private well. Sanitary waste is to be collected and disposed of via individual systems. Wetlands occur on the southern end of the subject property. It is not indicated that the most landward limit of wetland vegetation has been flagged a field flag by a qualified expert. It was not indicated on the plan and when went into the field we did not find any flags so we do not know if the wetland lines on the subject property are accurate as demonstrated on the map.

Soils on the subject parcel consist of Plymouth, Riverhead, and Beach associations. The Riverhead association is considered prime farm soil in Suffolk County. The subject property however is not located in the Suffolk County Agricultural District. A small bluff is located along the shoreline of Long Island Sound. It is not indicated on the map that the top of bluff was flagged in the field by a qualified expert. In addition, it was not

indicated on the submitted map that the Coastal Erosion Hazard line was flagged in the by a qualified expert. We went out there and checked there are no stacks or flags out there. Commission policy is to have no sanitary system or structure constructed within 100 ft. setback from such lines. Moreover, the Commission would require restrictions on clearing and grading within 50 ft. of said lines. It is not clear that the proposed building envelopes would be acceptable to the Commission without said field flagging and the location of these lines in the field by a licensed surveyor and represented on all proposed development maps. The issues related to this map then stem from the Commission's policy related to subdivisions constructed adjacent to the shoreline of Suffolk County and issues related to good planning and land use.

Staff is recommending disapproval for the following reasons that the subdivision would result in the creation of landlocked lots. They're strictly contrary to Commission policy. The paragraph, which follows, is the rationale from the staff report. Reason #2, is that the top of bluff the Coastal Erosion line and wetlands line was not flagged in the field. They need to be represented on any plan that the Commission reviews. That is the staff report.

**ACTING CHAIRMAN MARTIN:**

The question I have on the Main Road where you asked for 15 ft. isn't the law say that they must have 40 foot frontage on the road?

**MR. FRELENG:**

For a flag lot the minimum frontage is 15 ft.

**ACTING CHAIRMAN MARTIN:**

I know if you want to give them not the landlock shouldn't the road frontage be 40 ft. so then it would have frontage on the Main Road main road and then put the easements after that?

**MR. ISLES:**

The minimum under NYS law for access defined by access is 15 ft. for access purposes. Obviously, a locality can have a larger requirement if they want to.

**ACTING CHAIRMAN MARTIN:**

So it's only up to the localities?

**MR. ISLES:**

Yes. For state law it's 15 ft as defined access.

**MR. FRELENG:**

That's correct.

**ACTING CHAIRMAN MARTIN:**

I know in Smithtown we need 40 ft. a minimum of 40 ft.

**MR. ISLES:**

Okay.

**ACTING CHAIRMAN MARTIN:**

Why don't we make it a 40 foot or whatever we need and a 50 foot right-of-way we don't have to open it all up just in case someday if they want to widen the road. That's pretty narrow when you get to 15 ft., you know.

**MR. ISLES:**

Well, I believe --

**ACTING CHAIRMAN MARTIN:**

Most trucks can't get down 15 ft.

**MR. FRELENG:**

I believe if they were to redesign the road they would provide two 15 ft. access strips going up this way gives them 30 ft and they could create a right-of-way over those two strips and create one common driveway or country lane.

**ACTING CHAIRMAN MARTIN:**

Well, I meant if you make it wide enough where a car can come in and out. I mean, if there's car traffic you can't get in because the guy doesn't go on the edge he stays pretty much in the middle.

**MR. ISLES:**

Yes. We're basing this on Commission guidelines, but they could take the two 15 footers put them next store to each. Do a cross access easement and effectively have a 30 foot travel way if they wanted to. I mean, the length of the car would only need to be 10 or 12 ft. itself, but here again, the 15 ft. would satisfy state law and you put them side by side to hit 30 ft.

**MR. FRELENG:**

Just for staffs edification then are you recommending that we approve the maps subject to the creation of a right-of-way for access?

**MR. LONDON:**

Would you like to entertain a motion, Mr. Chairman?

**MS. HOLMES:**

May I ask one other question?

**ACTING CHAIRMAN MARTIN:**

Well, let's do this, why don't we instead of approving or disapproving the map and that condition why don't we make that a recommendation that they consider making the access road wider so to accommodate the two cars both egress and ingress at the

same time and then leave it up to the town. I think that's a town problem anyway, you know.

**MR. FRELENG:**

I understand where you're coming from; that of course is at the discretion of the Commission.

**ACTING CHAIRMAN MARTIN:**

Yeah. Okay, good.

**MS. HOLMES:**

My question is about the state requirement for 15 ft. I know there's been -- there's was a lot of discussion on Shelter Island with small road that was being part of a subdivision and the local fire department got very agitated about that 15 ft. because they said the size of the fire trucks is such that 15 ft. is not enough. So I would hope that perhaps we might recommend that in creating the flag lots for access to the Main Road that we recommend that they design them in such a way they could be adjacent. Because I think I'm sorry to see that the state requirement is still 15 ft.; I'm surprised the fire departments in NYS haven't gotten after the state for that because I can see myself that the design of newer fire trucks makes it necessary to have something wider.

**MR. ISLES:**

Yeah. Just so you know the main staff issue here is that the proposal calls for the creation of two land locked parcels.

**MS. HOLMES:**

Right.

**MR. ISLES:**

That is contrary to County Planning Commission guidelines. On that basis we are recommending disapproval of the map to you. As an alternative the town could resubmit the map showing flag lots that would have deeded access to these properties. The minimum would have to be 15 ft. and certainly at that point more is better in that sense and if they're combined or enhanced that's better. But fundamentally we are recommending disapproval based on what's been submitted to us thus far.

**MS. HOLMES:**

Would we be able to ask staff to make that recommendation about resubmitting it with not only the, you know, the flagging, but with that redesign. You know encouraging them to resubmit it with new flag lots.

**MR. ISLES:**

That would be part of the report that goes back to them.

**ACTING CHAIRMAN MARTIN:**

Because you can't change them from their view of it anyway. If they could override us and don't have to send a may.

**MR. ISLES:**

Yes. Right, right.

**ACTING CHAIRMAN MARTIN:**

I mean, I don't think you would gain anything, but if they sent it back they'll just do it they way they want and we'll have no input. Why don't we just make it a recommendation and it will be up to them because they'll just override us.

**MR. ISLES:**

They may or may not override you, but they --

**ACTING CHAIRMAN MARTIN:**

No, but they could, right?

**MR. ISLES:**

But on the other hand the County Planning Commission to say that you're not supporting landlock parcels maybe important for them to hear to convey back to the applicant. And then hopefully, there'll be a new map prepared that does conform to County Planning Commission guidelines that can be resubmitted and entertained at that point. So we would still recommend disapproval.

**MR. DIETZ:**

Mr. Chairman, I'd like to make a motion we approve staff report.

**MR. O'DEA:**

Second.

**ACTING CHAIRMAN MARTIN:**

All in favor signify by saying aye.

**MR. O'DEA:**

Do you want to incorporate the additional comments?

**MS. HOLMES:**

Yes, that's what I was unclear of. We are going to incorporate the additional, okay.

**MR. FRELENG:**

Staff will review the minutes and put something together.

**MR. O'DEA:**

Access apparatus etc. and 15 ft.

**ACTING CHAIRMAN MARTIN:**

We have a motion and a second. Who second it?

**MR. O'DEA:**

I did.

**MR. ISLES:**

Mr. O'Dea.

**ACTING CHAIRMAN MARTIN:**

And now the vote. All in favor signify by saying aye. Contrary minded. Abstentions. It's so carried. **(Vote: 10-0-0-1 Absent: Caracciolo)**

**MR. NEWMAN:**

Today we have two zoning actions on the agenda. The first is from the Town of Huntington. This is an application to rezone a 1.17 acre parcel of land from two single family residences categories namely an R-7 permitting a single family dwellings on 7,500 sq. ft. lots. As well as an R-15 category which permits single family residences on 15,000 sq. ft lots. The intent is to rezone it to a C-1 office residence category for the purpose of erecting a one story building comprising 11,900 sq. ft. on land situated at the southwest corner of Commack Road and Wicks Road at Commack.

The site plan calls for one point of vehicular ingress and egress via each of the adjoining roadways and 59 parking spaces. The northerly R-7 zone portion of the property currently comprising 34,500 sq. ft. the southerly R-15 comprises 16,500 sq. ft. The property is currently occupied by two boarded up residences, which are to be removed.

The property is bounded on the north across Wicks Road by a CVS Pharmacy in the C-6 general business category. To the east across the CR 4, and west by single family residences in an R-7 district. To the south by a single family residence in an R-15 District.

The proposal before you today represents a modification of an initial submission which included all of Suffolk County tax lots, 39 and 42 where the petitioner provided for a two story building with a parking encroachment to the rear of the subject. The petitioner subsequently amended that proposal to the proposal before you today. The essential changes are a diminishment in the building size for two stories to one story. There will be a diminishment in the zoning depth to 150 ft., which is generally synonymous with the C-6 zoning to the north in the rear portion of the combined lots. The intent is to provide for a single family flag subdivision lot, which has 35 ft. of frontage on the County Road. The area of that lot is 30,500 sq. ft. It is the belief of the staff that this proposal appears inappropriate as it constitutes the unwarranted further perpetuation of strip business development along the County Road. It would intend to establish a precedent for further such down zonings along the County Road. The property can be reasonably used and developed in accordance with existing zoning and finally it's inconsistent with

their Town of Huntington master plan, which calls for this area to be developed for single family residence purposes.

The staff recommendation is for disapproval and the information I received from the Town of Huntington is there's a petition submitted by surrounding residences in ordinance with 265 of the town law which states that if 20% or more of the owners within a 100 ft. interpose an objection you need  $\frac{3}{4}$  vote of the town board.

**ACTING CHAIRMAN MARTIN:**

Members of the board.

**MR. LONDON:**

Mr. Chairman, I propose disapproval based on the information provided.

**MS. PETERSEN:**

Second.

**ACTING CHAIRMAN MARTIN:**

Second. Linda. All in favor signify by saying aye. Contrary minded. Abstentions. None, carried. **(Vote: 10-0-0-1 Absent: Caracciolo)**

**MR. NEWMAN:**

Application #2 is from the Town of Smithtown. This is an application to rezone a 3.63 acre "L" shape parcel of land from a one acre single family category to an R-6 townhouse category for the purpose of erecting 18 townhouse units at a density of five units to the acre on land situated on the south side of Rte 25A, 1,272 ft. east of Indian Head Road at Kings Park. The preliminary site plan calls for the erection of three two story buildings one point of vehicular access via the state roadway. 82 parking spaces. A minimum 50 ft. building set back from the periphery of the property and a sewage treatment plant along the railroad right-a-way in the rear of the property. The property comprises a 3.63 acre of a portion of an overall 4.67 acre parcel of which the northerly 1.04 acres along Rte. 25 is occupied by the Kings Park Jewish Center in a one story masonry building with approximately 154 sits and a parking area that currently extends on to the subject property. The Jewish Center is to provide relocating parking that is 43 spaces to the west of the Center with coordinated vehicular access via to the state roadway.

In conjunction therewith the petitioner will need a variance to diminish the lot area and require five acres in the Smithtown code to 3.63 acres and also to diminish the lot road frontage requirement from 100 ft. to 28.33 ft. The property is bounded on the north by the Kings Park Jewish Center across Rte 25A by lands of the Kings Park State Hospital in the one acre single family zone. To the east by the Town of Smithtown Park and Recreation maintenance yard in the R-43 District. To the south by the Long Island Rail Road right-a-way and to the west by the Smithtown Water District offices also in the R-43 District.

It is the belief of the staff that this proposal appears inappropriate as, the property does not comply with required minimum lot area as well as road frontage requirements in the R-6 District in the Town of Smithtown. It appears incongruous with municipal facilities on adjoining lands to the east and west of the premises particularly those to the east. It would establish a precedent of further such zoning reclassifications in the Town of Smithtown for R-6 purposes, which do not comply with requirements in the zoning code. The property could be reasonably developed for alternate community facility institutional uses that are permitted as well as special permits in the R-43 District. The uses that we're referring to is, day care facilities, a public library, a fire substations or nursery schools. These are a number of community facilities that are either special permit or a permitted use in the R-43 District.

And finally, we believe that it prematurely establishes an alternate land use pattern prior to completion of the Town of Smithtown Comprehensive Plan update. The staff is recommending disapproval.

**ACTING CHAIRMAN MARTIN:**

A motions in order.

**MS. NOLAN:**

Mr. Chairman I would move the staff report.

**MS. HOLMES:**

I'll second.

**ACTING CHAIRMAN MARTIN:**

All in favor signify by saying aye. Contrary minded and I abstain. **(Vote: 90-1-1 Abstain: Martin, Absent: Caracciolo)**

**MR. ISLES:**

The next meeting will be here in Hauppauge same time 12:00 on November 3rd.

**MR. O'DEA:**

Motion to adjourn.

**MR. ISLES:**

Second.

**ACTING CHAIRMAN MARTIN:**

All in favor signify by saying aye. Contrary minded. So adjourned.

**(The meeting was adjourned at 1:10 P.M.)**

**{ } DENOTES BEING SPELLED PHONETICALLY.**

