

# SUFFOLK COUNTY PLANNING COMMISSION

c/o Suffolk County Planning Department  
100 Veterans Memorial Highway, PO Box 6100, Hauppauge, NY 11788-0099  
T: (631) 853-5192 F: (631) 853-4044  
Thomas A. Isles, Director of Planning

## NOTICE OF MEETING

**DATE:** November 4, 2009

**TIME:** 12:00 P.M.

**LOCATION:** Vail Leavitt Theater, 18 Peconic Avenue in Riverhead  
Take the Long Island Expressway (LIE) to exit 71, bottom of the ramp go right. Go approximately 4 miles to the traffic circle in Riverhead, take Peconic Avenue off the circle and cross the river. The parking lot is on the right. The parking lot entrance has a green awning and pink ramp. Enter in the EXIT door.

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### The Tentative Agenda Includes:

1. Adoption of minutes for August 5, 2009
2. Public Portion
3. Chairman's report
4. Director's report
5. Guest Speakers
  - Hon. Philip J. Cardinale, Supervisor, Town of Riverhead
  - Tom Neely – Public Transportation and Traffic Safety Director, Town of Southampton
6. Section A14-14 thru A14-23 & A14-25 of the Suffolk County Administrative Code
  - Comprehensive Master Plan      Village Wide      Village of Lloyd Harbor
  - Water's Edge      0206-01100-0600-018000 et al.      Village of Port Jefferson
  - Intro. Law #26 of 2009      Town Wide      Town of Brookhaven
  - Westhampton Senior Living      0900-33200-0200-001000 et al.      Town of Southampton
  - 1545 Route 25 Project      0200-48800-0400-004000      Town of Brookhaven
7. Section A14-24 of the Suffolk County Administrative Code
  - Fairfield at Rocky Point      0200-07600-0600-007000      Town of Brookhaven
8. Discussion
  - Suffolk County Comprehensive Plan
9. Other Business –
  - Nominating Committee

NOTE: The **next meeting** of the SUFFOLK COUNTY PLANNING COMMISSION will be held on WEDNESDAY, **December 2<sup>nd</sup>** in the Legislative Auditorium in Hauppauge.

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## AGENDA

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3. Chairman's report
4. Director's report
5. Guest Speakers
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  - Tom Neely – Public Transportation and Traffic Safety Director, Town of Southampton
  - Hon. Leland Hairr, President, Suffolk County Village Officials Association
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SUFFOLK COUNTY PLANNING COMMISSION  
VAIL-LEAVITT THEATER  
18 Peconic Avenue  
Riverhead, New York

November 4, 2009  
12:00 a.m.

F I N A L

BEFORE:

DAVID CALONE, Chairman  
Town of Babylon

REPORTED BY:

THERESA PAPE, Court Reporter/Notary Public

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A P P E A R A N C E S:

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- 3 CONSTANTINE KONTOKOSTA, Vice Chairman  
Commi ssi on Member  
4 Vill ages Under 5,000 Popul ati on
- 5 ADRIENNE ESPOSITO, Secretary,  
Commi ssi on Member  
6 Vill ages Over 5,000 Popul ati on
- 7 LINDA HOLMES, Commi ssi on Member  
Town of Shel ter Isl and
- 8 BARBARA ROBERTS, Commi ssi on Member  
9 Town of Southampton
- 10 CHARLA BOLTON, Commi ssi on Member  
At Large
- 11 THOMAS McADAM, Commi ssi on Member  
12 Town of Southold
- 13 SARAH LANSDALE, Commi ssi on Member  
At Large
- 14 JOSHUA HORTON, Commi ssi on Member  
15 At Large
- 16 VINCENT TALDONE, Commi ssi on Member  
17 Town of Ri verhead
- 18 JOB POTTER, Commi ssi on Member  
Town of East Hampton
- 19 MICHAEL KELLY, Commi ssi on Member  
20 Town of Brookhaven
- 21 MATTHEW CHARTRAND, Commi ssi on Member  
Town of Islip

22 ABSENT MEMBERS:

- 23
- 24 JOHN CARACCI OLO, Commi ssi on Member  
25 Town of Hunti ngton

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2 S T A F F A P P E A R A N C E S:

- 3 THOMAS A. ISLES, Di rector of Pl anni ng
- 4 DANIEL GULIZIO, Deputy Di rector of  
5 Suffol k County Pl anni ng Department
- 6 ANDREW P. FRELENG, Chi ef Pl anner  
7 Suffol k County Pl anni ng Department

11 04 09\_Planning.txt  
8 TED KLEIN, Senior Planner  
Suffolk County Planning Department  
9 PETER LAMBERT, Principal Planner  
Suffolk County Planning Department  
10 JOHN CORRAL,  
11 Suffolk County Planning Department  
12 LINDA SPAHR, County Attorney  
13 DOTTY SONNICHSEN, Staff  
14

15 G U E S T S:

16 HON. PHILIP J. CARDINALE, Supervisor  
17 Town of Riverhead  
18 TOM NEELY, Public Transportation and  
19 Traffic Safety Director  
Town of Southampton  
20 HON. LELAND HARR, President,  
21 Suffolk County Village Officials  
Association  
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1 Suffolk County Planning Commission 11/4/09 4

2 (WHEREUPON, this proceeding convened at  
3 12:00 p.m. Off-the-record discussions  
4 ensued, after which the following  
5 transpired:)

6 (Time noted: 12:09 p.m.)

7 CHAIRMAN CALONE: All right. Welcome to  
8 the November meeting of the Suffolk County  
9 Planning Commission. I would note that we  
10 have a quorum present, and I would ask the  
11 vice chairman to lead us in the Pledge. The

12 flag is over to our right -- stage right.

13 (Pledge of Allegiance)

14 CHAIRMAN CALONE: Thank you.

15 Obviously, we're here in Riverhead which  
16 is -- we enjoy being here. We're actually  
17 here in a very historic place, I think  
18 Mr. Trias is here somewhere. He's up in the  
19 lighting -- lighting booth.

20 We want to thank you, sir, for your  
21 hospitality. And I know you just wanted to  
22 say a word or two, so -- so thank you.

23 MR. TRIA: My small word is, I think the  
24 Vail-Leavitt is honored to have you here.  
25 This is the first time that we've ever

1 Suffolk County Planning Commission 11/4/09 5  
2 honored and had Suffolk County Planning  
3 Commission in particular.

4 You all know that this building is  
5 128 years old, we celebrated our birthday  
6 September the 11th. We have a historic  
7 standing, thanks to Thomas Edison who  
8 developed his talkie here, and that's how we  
9 got our historic standing.

10 I'm not going to bore you with a lot of  
11 details, but this is pretty much the way it  
12 was in 1881 (indicating). The paint is  
13 pretty much duplicated. The fans are not  
14 original because they didn't have electricity  
15 then. They had candle power, which is up  
16 front, then they went to gas. These here

17 lights were once gas lit, now, of course,  
18 it's electric lit. And other than that, I'm  
19 here to listen.

20 CHAIRMAN CALONE: Thank you, sir.

21 Thanks for having us.

22 (Applause)

23 CHAIRMAN CALONE: And I assure you, if  
24 Thomas Edison had the first talkie here, we  
25 certainly are good at talking. So we'll

1 Suffolk County Planning Commission 11/4/09 6  
2 continue his legacy.

3 I want to quickly -- I know the -- I  
4 want to -- the Supervisor of Riverhead is  
5 here, and I want to thank you for being here  
6 and -- and acknowledge him and give him a  
7 chance to say a few words, and first let me  
8 say a few words to him on behalf of the  
9 Commission.

10 We've had the great pleasure to work  
11 with you and have very much appreciated your  
12 support for what we're doing and your  
13 leadership on a county-wide level as well as  
14 here in Riverhead. So, again, thank you for  
15 everything you've done, and we hope that  
16 we'll have a chance to work with you again  
17 sometime in the future.

18 SUPERVISOR CARDINALE: Thank you, Dave.

19 I wanted to be here just to welcome you  
20 to Riverhead. We're really pleased you're

21 here and meeting in our town, and also to  
22 this great facility that has been restored  
23 through the hard work of Vince and others  
24 recently. The -- and also to commend you for  
25 the reforms that you've made since -- over

1 Suffolk County Planning Commission 11/4/09 7  
2 the last year, which have made -- as I'm sure  
3 the planning board chair who is here today  
4 will confirm, it has made it a lot more  
5 sensible, the referrals that you receive and  
6 avoid a lot of unnecessary duplication of  
7 work and delay in the process of -- process  
8 of handling applications.

9 I'm told that it is tradition that  
10 when -- when you're in a town, you take some  
11 remarks about the planning issues in the  
12 town. I think you know them, we've discussed  
13 them personally. We are trying to  
14 re-establish Main Street as a new Main Street  
15 with -- since we've been -- as like many  
16 other Main Streets, have had the guts of our  
17 retail thrown to the bypass. We're trying to  
18 re-establish it as a -- as a tourist area,  
19 and we do have some success.

20 The Hyatt is going to come in next to  
21 the Atlantis Aquarium in the next year, and  
22 the Summer Wind project, as you know, which  
23 is financed in part by the county, affordable  
24 housing will be breaking ground shortly.

25 And at EPCAL, of course, we're going to

1 Suffolk County Planning Commission 11/4/09 8  
2 need the county's help as we develop that  
3 site. And the two deals that have been  
4 pending, still pend- -- are pending out  
5 there. And we're looking forward to Vince,  
6 our representative on the Board, and the rest  
7 of the Board giving us some planning insights  
8 as we move along in that process.

9 So welcome to this great historic  
10 structure. And as Vince just said, I think  
11 I'll sit down for a minute and listen, too.

12 So thank you.

13 CHAIRMAN CALONE: Thank you, Supervisor.  
14 And, again, thank you for, you know, your  
15 support. And, also, the role you played on  
16 our task forces, certainly on both housing  
17 and on smart growth, and we certainly trust  
18 that you will remain involved going forward.

19 SUPERVISOR CARDINALE: Thank you.

20 CHAIRMAN CALONE: Thank you.

21 The next item on the agenda is the  
22 adoption of the minutes for August 5th --

23 COMMISSIONER HOLMES: Which were such a  
24 disaster.

25 CHAIRMAN CALONE: Well -- okay --

1 Suffolk County Planning Commission 11/4/09 9  
2 which -- which were challenging. And I think

3 I speak for the editor-in-chief when I say  
4 we -- we had a number of changes. So I think  
5 it may make some sense for us to -- we've  
6 given them to Teri, and just to be fair, it  
7 was -- Teri was not the person taking the  
8 minutes that day. But we've handed those to  
9 Teri, I think it may make sense for us to get  
10 those back just because they were so  
11 substantial.

12 So why don't we -- without objection,  
13 I'd like to table the minutes, and we'll wait  
14 to get the corrected minutes on that.

15 Seeing none, we move on to the public  
16 portion. We have a few speakers here.

17 First, I'd like to recognize Mark Lyon.

18 Mr. Lyon, you have three minutes.

19 Please, if you would --

20 Do we have a mic for --

21 MR. FRELENG: Yeah. I'm going to get  
22 it.

23 CHAIRMAN CALONE: Okay.

24 While we're waiting, I would just note  
25 that Director Isles is not here, but he will

1 Suffolk County Planning Commission 11/4/09 10  
2 be here in a little bit. Director Isles and  
3 I are both on the -- were asked to serve on  
4 the Long Island Leadership Cabinet, which is  
5 an entity that the Regional Planning Council  
6 put together. And there was a meeting this  
7 morning of that, which I only attended for a  
Page 8

8 half hour or so, but Tom was going to stay a  
9 little bit longer to make sure that Suffolk  
10 Planning is used where -- we're adequately  
11 addressed at that. So --

12 And I will inform you if there's  
13 anything interesting that comes out of that  
14 group. Basically, it's an advisory group to  
15 the Regional Sustainability Plan. But  
16 there's -- there's some good folks in there.  
17 I mean, Kevin Law was there from LIPA, and  
18 the heads of some of the banks, Pat Foye and  
19 others who are -- you know. And they are  
20 leaders in the community, and so therefore  
21 they're involved.

22 Okay. Are we good to go?

23 MR. LYON: I think we're good.

24 CHAIRMAN CALONE: Okay. Mr. Lyon, if  
25 you could spell your last name for the

1 Suffolk County Planning Commission 11/4/09 11  
2 record, and you have three minutes.

3 MR. LYON: It's Mark Lyon, L-Y-O-N, 503  
4 Main Street, Port Jefferson 11777.

5 I'm here representing 1545 Middle  
6 Country Road, as you are well aware. The  
7 project, if you will, was conceived  
8 approximately two months ago -- three months  
9 ago. It was a creation of the Supervisor,  
10 Mark Lesko, and also the sitting  
11 councilwoman, Kathleen Walsh, and that --

12 it's in her district. They have determined  
13 that this is a project that they want to  
14 fast-track and --

15 This is a program -- it's part of a  
16 program that they have established, which is  
17 a 100-day approval process. They've  
18 selected -- hand-selected a few projects  
19 along the Route 25 corridor, which they're  
20 trying to fast-track, if you will, to get  
21 them through the process as quickly as  
22 possible.

23 This is a blighted site. It's an item  
24 on their agenda on a constant basis when it  
25 comes to enforcement as far as vandalism and

1 Suffolk County Planning Commission 11/4/09 12  
2 things of that nature. They want to move  
3 this project along as quickly as possible.

4 The staff is -- we met with staff with  
5 Commissioner Bertoli, and we're actually  
6 showing a creation which was created by the  
7 Commissioner himself. This is his design  
8 which we're presenting to the town. And we  
9 hope that we can get some support from you  
10 folks to move this project along.

11 It's something that the community needs.  
12 I know it's in a transition zone when it  
13 comes to the town's overall plan, but it's an  
14 important project because it's right on  
15 the -- the doorstep, if you will, of  
16 Centereach. It's right at the gateway. When

17 you come off of Nicolls Road or you go onto  
18 Nicolls Road, it's something that is  
19 extremely visible. And that site is  
20 something they want to develop in a very  
21 clean and concise manner, and I think we've  
22 been able to, you know, accomplish that  
23 point.

24 I'll pass my microphone off to the next  
25 speaker at this point because I think I've

1 Suffolk County Planning Commission 11/4/09 13  
2 made my point.

3 CHAIRMAN CALONE: The next person is  
4 Mark --

5 MR. LYON: Mark is the owner of the  
6 project, and I'm sure he'll give you a little  
7 bit more history as to what this project is  
8 all about.

9 CHAIRMAN CALONE: Thank you, Mr. Lyon.

10 MR. LYON: Thank you.

11 CHAIRMAN CALONE: Sir, if you'll just  
12 give us your last name, spell it for the  
13 record, and you have three minutes.

14 MR. McAVOY: My last name is McAvoy,  
15 M-C, capital A, V-O-Y, 1 Seacrest Drive,  
16 Lloyd Neck, New York 11743.

17 I'm the owner of the property, and the  
18 reason it's taken so long to get developed is  
19 because I had to try to buy the piece from  
20 the State of New York. So over those many

21 years -- eight years it took me to finally  
22 put this together as one parcel. So I'm as  
23 anxious as anybody to get this thing moving,  
24 since I've -- I've held onto it for eight --  
25 almost nine years at this point. So I'm just

1 Suffolk County Planning Commission 11/4/09 14  
2 here for any questions anybody might have  
3 about the project.

4 CHAIRMAN CALONE: Thank you, Mr. McAvoy.  
5 I appreciate your time.

6 Next on the -- we have Charles Southard.

7 MR. SOUTHARD: Southard.

8 CHAIRMAN CALONE: Southard.

9 Please spell your last name for the  
10 record, sir.

11 MR. SOUTHARD: Southard,  
12 S-O-U-T-H-A-R-D.

13 CHAIRMAN CALONE: And you have three  
14 minutes.

15 MR. SOUTHARD: 7 Waters Edge,  
16 Smith Point, New York 11967.

17 This project is a combination of two  
18 pieces of land. Mr. McAvoy owned one piece  
19 of land, it's zoned J-2, and he's in the  
20 process now of getting a purchase from the  
21 State of New York for a J-4 piece of property  
22 that's adjacent. The two parcels total about  
23 2.75 acres, and the plans are to develop the  
24 site with J-2 retail and -- and J-4, which is  
25 business zoning, which would be -- we were

1 Suffolk County Planning Commission 11/4/09 15  
2 trying to get a bank with a drive-thru. But  
3 there is a traffic light at the intersection,  
4 there is an existing traffic light which will  
5 be the entrance to the site.  
6 CHAIRMAN CALONE: Okay. Thank you, sir.  
7 Appreciate that.  
8 MR. SOUTHARD: Thank you.  
9 CHAIRMAN CALONE: Next we have  
10 Mr. Gerhauser.  
11 MR. GERHAUSER: Good afternoon.  
12 CHAIRMAN CALONE: If you could just  
13 spell your last name for the record, and you  
14 have --  
15 MR. GERHAUSER: It's G-E-R- --  
16 CHAIRMAN CALONE: -- three minutes.  
17 MR. GERHAUSER: -- H-A-U-S-E-R. The  
18 address would be Town of Brookhaven,  
19 One Independent Hill, Farmingville.  
20 I'm the chief building inspector for the  
21 Town of Brookhaven. On your agenda this  
22 afternoon is a proposed local law that  
23 affects zoning, Local Law 26. And I just  
24 want to say I'll be here, make myself  
25 available for any questions, clarity if you

1 Suffolk County Planning Commission 11/4/09 16  
2 need it, and if your format provides.

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Thank you.

CHAIRMAN CALONE: Thank you, sir. I appreciate your coming here.

Lastly, we have Mr. Badalamenti.

Sir, if you can just spell your last name for the record, and you have three minutes.

MR. BADALAMENTI: Yeah, hi. Alex Badalamenti. It's B-A-D-A-L-A-M-E-N-T-I of Baldassano Architecture, here on behalf of Water's Edge, John Scolio's property in Port Jefferson. We're also -- I'm here also if there's any questions regarding the project, I'd be happy to answer.

We have a very qualified team of professionals. While it's taken us a year and a half to enter into the process, we think this is the beginning to start the dialogue with the village and hopefully the planning commission as well.

Thank you.

CHAIRMAN CALONE: Thank you, sir. Appreciate your time.

1 Suffolk County Planning Commission 11/4/09 17

2 Just so everyone is aware, the rules of  
3 the Commission generally prohibit us from  
4 entering into a dialogue with applicants and  
5 others to answer questions. However, there  
6 is an exception to that for town or village  
7 officials. And so to the extent we do have

8 questions for the Building Department of  
9 Brookhaven, that would be germane.

10 So without any further indication from  
11 the public of interest in speaking, we'll  
12 close the public portion and move on to the  
13 Chairman's Report.

14 Just a couple things.

15 It's obviously good to be back here at  
16 Riverhead. This is a beautiful space, and  
17 thank you again to -- to Vince and everyone  
18 for putting this together. Also, Vince  
19 Taldone, I think, was helpful in making sure  
20 that we had a place to be here in Riverhead.  
21 So thank you.

22 As you know, we have a full  
23 agenda today. We're honored to have  
24 Supervisor Cardinale with us. And the  
25 Mayor of Lloyd Harbor, who's also the

1 Suffolk County Planning Commission 11/4/09 18  
2 President of Suffolk County Village Officials  
3 Association, Lee Hairy, is here; we thank  
4 him. And Mr. Neely from Southampton I  
5 believe is here as well?

6 MR. NEELY: (Indicating)

7 CHAIRMAN CALONE: Good. Good to see  
8 you. Thank you for being here.

9 A couple quick updates.

10 As you know, our two main goals for this  
11 year were to begin the County Comprehensive

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Plan update.

I met with the county executive a few weeks ago, and he's working in conjunction with the Planning Department, as was discussed at our last meeting, on an outreach plan to the county legislature, the town supervisors, stakeholders, and others over the next few months.

The second major item on our plate was the intermunicipal task forces and keeping those moving forward.

You may have noticed the task force effort was mentioned in Newsday article a few days ago, talking about wind codes.

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Suffolk County Planning Commission 11/4/09 19

We have a number of new electeds as a result of yesterday's elections. So we'll be reaching out to them -- supervisors and town council members, reaching out to them to see if they're interested in participating in the -- in our task force effort.

I mentioned earlier, or last time I think, that Congressman Israel has asked the Commission to co-sponsor an event to inform municipalities about their ability to issue federally backed bonds called PACE bonds. And the purpose of PACE bonds would be to create a pot of money that municipalities can use as a revolving fund to help residents pay for home energy efficiency retrofits.

17           The date of that event has been set by  
18           Congressman Israel's office. It's going to  
19           be on November 9th at 8:30 a.m. at the  
20           IBEW headquarters of our old friend Don Fiore  
21           in Hauppauge. I'll send out a letter on  
22           that, or I'll forward the letter I have on  
23           that, but just an FYI.

24           I'm not going to be able to be there,  
25           but Constantine is going to represent the

1           Suffolk County Planning Commission 11/4/09   20  
2           Commission, and -- and all Commission members  
3           are invited to that event.

4           The other event that builds off of our  
5           task force work is a Solar Code meeting that  
6           LIPA is hosting on November 17th at 1 o'clock  
7           in Uniondale. This is going to be an  
8           opportunity for the municipalities in Nassau  
9           and Suffolk to learn about the Planning  
10          Commission's task force effort on the solar  
11          codes. And so Kevin Law has been, you know,  
12          very supportive of our effort to help  
13          streamline the solar application process, and  
14          he's asked the municipalities to join him in  
15          a -- in a forum where we can -- we can  
16          present what we've done so far and get  
17          feedback from the towns and villages,  
18          including the building inspectors and others  
19          about how -- how we can best work together to  
20          move this thing forward.

21 Also with respect to our task forces, we  
22 need to have, you know, con- -- some  
23 conversation, which we'll have a little bit  
24 later, on how do we promulgate these best  
25 practices and model codes.

1 Suffolk County Planning Commission 11/4/09 21

2 Adrienne and Constantine and I had a  
3 chance to talk about it a little bit, and our  
4 general feeling is that the task forces  
5 should kind of make a recommendation to the  
6 full Commission here. The full Commission  
7 would then have a chance to understand  
8 exactly what's being recommended, and  
9 consider whether to adopt it or not.

10 And then if these model codes or best  
11 practices are adopted by the full Commission,  
12 we then could take a number of different  
13 steps. We can include it in our Guidelines,  
14 post it on our Web site, send it to all  
15 municipalities. We would also be identifying  
16 who the first sponsors would be in different  
17 towns and villages, actually get this into  
18 law. And maybe there'll be events like this  
19 LIPA event, in certain circumstances, where  
20 we might be able to have a third-party kind  
21 of pull together the municipalities to help,  
22 you know, educate them about the kinds of  
23 work that we've been doing. We also possibly  
24 could do a newsletter from this Commission on  
25 a regular basis, maybe once or twice a year.

1 Suffolk County Planning Commission 11/4/09 22  
2 I've talked to the county executive about  
3 maybe there being some kind of a Suffolk's  
4 solutions meeting, maybe once or twice a  
5 year, where the county executive would kind  
6 of host the supervisors and mayors to kind  
7 of, you know, share with them all the ideas  
8 that the task forces have come up with, as  
9 well as other things that the towns and  
10 villages are working on.

11 So those are all possibilities as we  
12 move forward here in terms of sharing ideas  
13 across municipal lines here in Suffolk  
14 County.

15 I wanted to do a brief update with the  
16 heads of each of the task forces real quickly  
17 on just where we are with each of those.

18 So if maybe we could start with -- with  
19 Sarah with Energy and Environment, and the  
20 task force meeting and -- this last month.  
21 So --

22 COMMISSIONER LANSDALE: Thank you.

23 We had a task force meeting last month  
24 where we had great attendance. And we  
25 discussed the solar code, the wind code, and

1 Suffolk County Planning Commission 11/4/09 23  
2 also storm water as well. We've made

3 tremendous progress in all of these areas,  
4 and we look forward to continuing our  
5 efforts.

6 CHAIRMAN CALONE: Thanks, Sarah.  
7 Constantine and the Housing Task Force,  
8 update on that.

9 VICE CHAIRMAN KONTOKOSTA: Yes. Thank  
10 you, Mr. Chair.

11 Yeah. We recently had another meeting  
12 about two weeks ago of the task force, which  
13 was -- which was very productive. We have  
14 put together a draft of certain policy  
15 recommendations and issues -- key issues that  
16 we're -- we're discussing. That's going  
17 to -- some edits from that meeting are going  
18 to go out this week, and we're going to push  
19 for, I guess, a final version of the draft  
20 before the end of the year for certain.

21 CHAIRMAN CALONE: Great. Thank you,  
22 Constantine.

23 On Accessible Design and Smart Growth,  
24 Vince, do you have a --

25 You're very loud, so --

1 Suffolk County Planning Commission 11/4/09 24

2 THE REPORTER: No, he's not.

3 CHAIRMAN CALONE: No, okay.

4 (Laughter)

5 COMMISSIONER TALDONE: I can try.

6 THE REPORTER: No.

7 COMMISSIONER TALDONE: Thank you,

8 Chairman.

9 I would just like to say that our -- our  
10 work has culminated in the preparation of a  
11 draft Universal Design Incentive Code, which  
12 I'll be distributing today. It has been  
13 developed with the assistance of Suffolk  
14 Community Council, as well as other  
15 organizations, the AARP folks that are  
16 generally our -- our advisors. And it is in  
17 rough form. I'm going to pass it out to the  
18 Commission during this meeting, and hopefully  
19 get some feedback from -- from each of you.

20 Thanks.

21 CHAIRMAN CALONE: Thank you, Vince.

22 And consistent with what we were -- I  
23 was just mentioning in terms of a process,  
24 this is an opportunity for us to get some  
25 feedback, and then the whole task force can

1 Suffolk County Planning Commission 11/4/09 25  
2 hopefully kind of incorporate that feedback  
3 or think -- you know, synthesize that and  
4 come back with a formal recommendation of the  
5 Commission, you know, maybe next month or the  
6 next month or so, certainly.

7 The other thing just related to smart  
8 growth is I -- I mentioned last week -- last  
9 month, I should say, that the county  
10 executive liked the idea that this group came  
11 up with in terms of doing a Sewer Summit 2 to

12 focus on optimizing sewer revenues as kind of  
13 a companion effort to the sewer needs  
14 assessment that the county legislature is --  
15 is working on.

16 I discussed this again with the county  
17 executive over the last couple of weeks, and  
18 he wants to gear up to do an event  
19 co-sponsored by his office and with the  
20 Commission probably in the first quarter of  
21 next year. So that's something that we'll  
22 let you know, you know, kind of a plan and  
23 probably start thinking about what that  
24 means, you know, over the next month or two.

25 Lastly, on Public Safety, we're still

1 Suffolk County Planning Commission 11/4/09 26  
2 working on distilling what's been done  
3 elsewhere and compiling that. We had  
4 purposely kind of held off until after the  
5 election just because a number of the people  
6 who were on the task force were running for  
7 election. And one of our -- our members,  
8 Supervisor Kabot, was not reelected  
9 yesterday. But we do have some new people  
10 coming on board, so we'll also be working on  
11 trying to -- you know, as I said, try to  
12 incorporate new elected officials into our  
13 task force effort.

14 In general, our goal for this month for  
15 the task forces is just to keep the momentum  
16 going. And we have -- things are moving and

17 that's great to see, so thank you all for  
18 your efforts in that.

19 Just a couple last notes.

20 The Fall Planning Conference. Thank you  
21 all for -- for being there and for your work  
22 on that. And special hats off to Andy --  
23 there he is (indicating) -- a round of  
24 applause for Andy.

25 (Applause)

1 Suffolk County Planning Commission 11/4/09 27

2 CHAIRMAN CALONE: And Tom and Dan and  
3 Dotty and John and Ted and the whole crew.  
4 You guys did a great job. It was the largest  
5 turnout ever. It's the second year in a row  
6 we've had the largest turnout ever at that  
7 event, and I think it went great. We had the  
8 county executive there, Peter Kohler was  
9 there from Cablevision, Supervisor Bellone,  
10 and -- and others. So it was a -- it was a  
11 great event. Thank you Andy and the team.

12 Thank you also for including our  
13 resolutions in the monthly e-mail, I think  
14 that's very helpful. You should have all  
15 seen that in your e-mails that you -- we now  
16 have the resolutions that are being sent to  
17 the villages and towns, so you now know  
18 what's being communicated.

19 We have to appoint a Nominating and  
20 Rules Committee at this meeting. And Sarah

21 Lansdale and Tom McAdam have volunteered for  
22 that. And their job is going to be to report  
23 in January on interests in officerships for  
24 2010, and then we would elect -- then we  
25 would elect officers at our February

1 Suffolk County Planning Commission 11/4/09 28  
2 organizational meeting.

3 So thank you Sarah and Tom for -- for  
4 organizing or being -- being on that  
5 subcommittee.

6 We probably could use one more person,  
7 if anyone else is interested, to round that  
8 out. Because if Sarah and Tom tie, I don't  
9 know what happens.

10 SECRETARY ESPOSITO: They wrestle.

11 CHAIRMAN CALONE: They wrestle -- I  
12 don't know -- that's right.

13 So, anyway, thank you both to Sarah and  
14 Tom for that.

15 Also, Barbara had headed it last year,  
16 and I would just encourage both Sarah and Tom  
17 to speak with Barbara. Barbara did a great  
18 job last year in terms of making sure the  
19 process was well followed, so that would be  
20 my advice on that.

21 We will also need, probably starting  
22 next month, a Guidelines Revision and Annual  
23 Report Committee. We'll probably need three  
24 or four people. It's going to be a  
25 short-term thing working with staff on the

1 Suffolk County Planning Commission 11/4/09 29  
2 annual report that needs to come out the  
3 beginning of the year. And, also, the idea  
4 was to redo our guidelines each year. Now,  
5 we did a massive amount of work on those  
6 guidelines last year. This is going to be a  
7 minimal amount of work this year. It's more  
8 just going to be just looking back through  
9 them and seeing if there's anything that --  
10 that staff has in mind, if they want to tweak  
11 in our guidelines.

12 A couple of things have come up during  
13 the year that we said, "Oh, maybe we should  
14 include that in our guidelines." I've tried  
15 to keep notes on that. So we'll need three  
16 or four people just to help us work through  
17 that. So let me know if you're interested in  
18 that.

19 Lastly, you know, we like to mention  
20 when good things happen to people around this  
21 table. And a good thing has happened to all  
22 of us because we get to share the table with  
23 the person that Long Island Pulse Magazine  
24 has named the third coolest person on Long  
25 Island, and that's Adrienne.

1 Suffolk County Planning Commission 11/4/09 30  
2 So congratulations --

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COMMISSIONER ROBERTS: Oh, wow.

CHAIRMAN CALONE: -- Adrienne.

COMMISSIONER ROBERTS: I love it.

COMMISSIONER HOLMES: Can we have your autograph?

(Applause)

CHAIRMAN CALONE: And that's all I had, and the coolest person will speak.

SECRETARY ESPOSITO: And this is what cool people talk about, they talk about money for sewage infrastructure.

THE REPORTER: You went off.

SECRETARY ESPOSITO: I was cut out.

CHAIRMAN CALONE: Well, you're not that cool, you're only the third coolest person.

SECRETARY ESPOSITO: I don't think I need this, but I just want to -- just for everyone's edification -- of course, one, I'm going to kill Dave later -- but in addition to that, the federal budget is allocating and was signed for a \$3.6 billion for sewage infrastructure upgrades nationally, but those with the sewer plan will get the sewer money.

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Suffolk County Planning Commission 11/4/09 31

So I think that's another reason for us to continue along the lines of holding a Sewer Summit in the spring.

Along with that, and in conjunction with that, New York State EFC, the Environmental Facilities Corporation, which allocates sewer

8 upgrade funding, has just about -- or just  
9 announced that they will start to embark on  
10 reassessing the criteria for allocations of  
11 those funds. Right now, the funds are  
12 allocated with the sole guiding principal of  
13 water quality, which, of course, we all agree  
14 with, but I think we've had discussions  
15 internally in our Energy and Environment  
16 Committee that it would be good also for them  
17 to incorporate smart growth ideas as well as  
18 affordable housing, building downtowns,  
19 and -- and other reasonable and smart  
20 development principles.

21 So they will be starting that process, I  
22 believe, in January, and that's something for  
23 our Commission to watch and -- and possibly  
24 be involved in.

25 CHAIRMAN CALONE: Thank you, Adrienne.

1 Suffolk County Planning Commission 11/4/09 32

2 Anyone else have anything right now?  
3 (WHEREUPON, there was no response.)

4 CHAIRMAN CALONE: If not, that was the  
5 end of my remarks.

6 Any questions?

7 COMMISSIONER POTTER: (Indicating)

8 CHAIRMAN CALONE: Yes --

9 COMMISSIONER POTTER: I'd like to know  
10 why --

11 CHAIRMAN CALONE: -- Job.

12                   COMMISSIONER POTTER:  -- (inaudible)  
13                   (Laughter)  
14                   CHAIRMAN CALONE:  Next time we'll stuff  
15                   the ballot.  
16                   CHAIRMAN CALONE:  So Tom is not here.  
17                   Dan, do we have anything from the  
18                   Department that you wanted to bring up at  
19                   this time?  
20                   DEPUTY DIRECTOR GULIZIO:  Most  
21                   importantly, Tom will be here in a little  
22                   while to provide the Director's Report.  
23                   (Laughter)  
24                   CHAIRMAN CALONE:  Good work, Dan.  
25                   SECRETARY ESPOSITO:  Thank you, Dan.

1                   Suffolk County Planning Commission 11/4/09   33  
2                   CHAIRMAN CALONE:  All right.  Well,  
3                   then, moving on, the next item on our agenda  
4                   is our guest speakers.  We had Supervisor  
5                   Cardinale, obviously, already.  
6                   I want to also ask Mayor Hairy who's  
7                   here as the President of the Village  
8                   Officials Association -- the Village  
9                   Officials Association has been a partner of  
10                  ours in these task force effort.  I want to  
11                  thank him for his leadership in getting that  
12                  group involved, and just offer him a moment  
13                  or two, if you'd like, just to say hello.  
14                  MAYOR HAI RR:  Dave, I thank you for the  
15                  opportunity.  
16                  As you know, Suffolk County Village

17 Officials Association represents the  
18 32 incorporated villages in Suffolk County.  
19 You do have, as an at-large member of your  
20 Commission, our Executive Director, Josh  
21 Horton. So we are represented in part on  
22 your Commission.

23 But on behalf of the -- the other mayors  
24 of the other villages, I would like to  
25 commend you on your efforts on streamlining

1 Suffolk County Planning Commission 11/4/09 34  
2 the review process. I think that was welcome  
3 among all of our villages. It does make it  
4 much, much better for all of us. And I think  
5 I commend whoever initiated it, whether it  
6 was Dave or someone else on the Commission,  
7 it's greatly welcome.

8 We also have tried to communicate and  
9 are supportive of your task force efforts. I  
10 think that many of our village officials are  
11 sort of anxiously awaiting to see what the  
12 outcome will be in terms of policies, and we  
13 will hopefully be able to communicate that  
14 for you.

15 As Josh may have mentioned to you, we do  
16 have monthly newsletters, electronic  
17 newsletters that go out to each of our  
18 village officials. And we have other special  
19 ones, we have a counsel's corner that goes  
20 out, so that we are trying to communicate

21 much more effectively with the villages and  
22 less with paper as well.

23 So I -- I again thank you for the  
24 opportunity to speak to you and encourage you  
25 to keep up the good work.

1 Suffolk County Planning Commission 11/4/09 35

2 CHAIRMAN CALONE: Thank you, Mayor. And  
3 thank you again for your help in getting the  
4 word out to the municipalities, the villages  
5 in particular, and also for encouraging your  
6 fellow mayors to be involved in our task  
7 force effort. We do have a number of them  
8 who are involved, and that's thanks to your  
9 encouragement. So we appreciate that.

10 We are going to have a short  
11 presentation today from Tom Neely from the  
12 Town of Southampton on the interesting  
13 transportation initiatives that are underway  
14 and proposed for here on the East End.

15 So, Mr. Neely, the floor is yours.

16 MR. NEELY: I thank you.

17 I do appreciate the opportunity to come  
18 and speak and update you briefly on a  
19 recently completed study for the East End.  
20 This was known locally as the Volpe Center  
21 Study, the East End Transportation Option.

22 The Volpe Center is an arm of the  
23 United States Department of Transportation.  
24 They were hired to conduct a study of the --  
25 of the possibility of developing a regional

1 Suffolk County Planning Commission 11/4/09 36  
2 coordinated rail-bus network.

3 I'll briefly walk you through the  
4 presentation, the PowerPoint that was given  
5 at our most recent public forum, and  
6 reference where we go from here.

7 As background for the project, this was  
8 funded through a New York State Department of  
9 State Shared Municipal Services Incentive  
10 Grants. It's a mouthful, I think they've  
11 since shortened it to Local Government  
12 Efficiency Grants. These are grants that are  
13 awarded, as the name implies, for opportunity  
14 where municipalities may be able to join and  
15 provide more efficient services.

16 The five East End towns cooperated in  
17 applying for this grant. It was a  
18 \$400,000 grant. It was awarded in 2006. The  
19 contractor who conducted the study was signed  
20 in 2007, and we got started.

21 The progress as of the time this forum  
22 was held in -- on September 23rd, Volpe had  
23 prepared an existing conditions report, which  
24 basically is a snapshot of the transportation  
25 options on the East End of Long Island, as

1 Suffolk County Planning Commission 11/4/09 37  
2 well as all of Suffolk County through Suffolk

3 County Transit and Long Island Rail Road.

4 There were two concepts.

5 Originally, the first concept for a  
6 coordinated rail-bus network. This called  
7 for regular train service and regular bus  
8 service meeting each and every train. This  
9 was a concept that was originally developed  
10 by a local advocacy group called Five Town  
11 Rural Transit. It came out of the  
12 SEED study, the Sustainable East End  
13 Development study, which I don't know if we  
14 have anybody here, but I did a little  
15 presentation to the Planning Commission on  
16 that a couple of years ago. That was one  
17 that I looked at land use and transportation  
18 through NYMTC, the New York Metropolitan  
19 Transportation Council.

20 To do this further analysis, we took the  
21 Five Town Rural Transit group, the local  
22 advocates, combined them with the East End  
23 Transportation Council, which is an  
24 organization of the towns and village  
25 representatives from each of the towns and

1 Suffolk County Planning Commission 11/4/09 38

2 each of the villages, as well as  
3 representatives from the transportation,  
4 planning, and funding agencies; NYMTC's  
5 involved, Long Island Rail Road is involved,  
6 Suffolk County Transit's involved, Suffolk  
7 County Planning is a member. We combined the

8 advocacy group and we combined the East End  
9 Transportation Council to form a technical  
10 advisory group, which is what the TAG stands  
11 for.

12 The first concept was for this  
13 coordinated rail and bus network. We also  
14 then developed a -- what we call the Flexible  
15 Transit Network for evaluation of a second  
16 concept for comparative purposes.

17 The Flexible Transit Network, as you'll  
18 see a little bit as we go through this,  
19 essentially called for more emphasis on bus,  
20 less emphasis on rail, greater flexibility in  
21 terms of demand responsive type of bus  
22 services or flex route type of services,  
23 again as an alternative to the first concept.

24 We had a presentation of the first half  
25 of the project on April 17th. We had a

1 Suffolk County Planning Commission 11/4/09 39  
2 transportation forum held here on the East  
3 End with many elected officials and -- and  
4 advocates and staff attending that original  
5 forum.

6 We had hoped, and the goal of the study  
7 was for all five East End towns to look at  
8 the two alternative concepts that had been  
9 analyzed, pick one, and there would be a more  
10 complete analysis done.

11 Well, as sometimes happens, the five

12 East End towns didn't all agree. That often  
13 happens, I guess. And I don't just mean the  
14 East End.

15 Riverhead and Southold, our two north  
16 fork communities, were much more comfortable  
17 with the flexible transit network. The Town  
18 of Southampton and the Town of East Hampton  
19 were more comfortable with the coordinated  
20 rail-bus network; the kind of big idea, if  
21 you will.

22 So rather than Volpe going back and  
23 doing a full analysis of one or the other,  
24 they were asked to go back and look at  
25 combining the two, and how would we make the

1 Suffolk County Planning Commission 11/4/09 40  
2 two concepts work together. Which is were  
3 the dual concept idea came up with.

4 A brief summary on this for the south  
5 fork, most of the Long Island Rail Road and  
6 Suffolk County Transit Services would be  
7 replaced by this coordinated rail-bus  
8 network. There would be shuttle trains  
9 between Montauk and Speonk, Speonk being the  
10 west end of our -- of our East End study  
11 would call for the building of four new  
12 railroad stations and other infrastructure  
13 investments such as sidings; we would need, I  
14 believe four new sidings from the south fork  
15 as well. Then, again, as in the original  
16 concept, this train service would still be

17 connected to fixed route bus service meeting  
18 every train.

19 And I'd also like to say, I did not  
20 bring copies -- paper copies of this for  
21 everybody, but I'd be glad to get you the  
22 PowerPoint in or a copy of the full report,  
23 you can also get it on our Web site.

24 And I think, Vince, I -- I did write a  
25 viewpoint, a local editorial summary of this

1 Suffolk County Planning Commission 11/4/09 41  
2 whole project --

3 COMMISSIONER HOLMES: Yeah, we've got  
4 that.

5 MR. NEELY: Yeah. You got it already?  
6 Great. Okay.

7 The Web site is somewhere in that  
8 article.

9 So, anyway, that was the concept for the  
10 south fork. Let me keep going.

11 Okay. As I said, additional demand  
12 responsive and flex bus service was -- was  
13 worked back into this, because although  
14 the -- our elected officials and others chose  
15 to go with the fixed route, the coordinated  
16 rail-bus network, there was also discussion  
17 of picking up some of the flexibility from  
18 the flex network concept.

19 So Volpe did continued analysis where  
20 they looked at 30-minute peak periods, train

21 and bus service, and 60-minute off-peak  
22 service. It's a very important point to note  
23 that one of the issues that we dealt with in  
24 dealing with this is the fact that the  
25 trains -- the regular train service --

1 Suffolk County Planning Commission 11/4/09 42  
2 regular Long Island Rail Road service is  
3 extremely heavy at peak times. And how to  
4 integrate this 30- and 60-minute service with  
5 existing trains coming out that are very busy  
6 and very full, especially in the summer  
7 and -- and spring weekends and fall weekends,  
8 was a major operational issue. So there are  
9 some conflicts there that will have to be  
10 worked out if this idea is to go forward.

11 The model also called to look at 14 to  
12 18 hours worth of service; half of the year  
13 at 14 hours, and half of the year at 18 hours  
14 a day.

15 For the north fork, the concept was to  
16 keep the existing Suffolk County Transit  
17 Route structure, but make significant  
18 enhancements to the service. The -- and I  
19 should point out, if you are not aware -- you  
20 probably are, but if you're not aware,  
21 Suffolk County Transit is in the final stages  
22 of a route reconfiguration study. They've  
23 been looking at all of their bus routes  
24 across the county, have gone through a  
25 process over the last couple of years, put

1 Suffolk County Planning Commission 11/4/09 43  
2 out recommendations on some changes to the  
3 route, and that final report, I believe, is  
4 due out in December.

5 We used this -- our local group and  
6 Volpe Center, the consultants up in  
7 Cambridge, used the draft route  
8 reconfiguration study to base some of their  
9 recommendations on, because there's some good  
10 stuff in it.

11 The S-92 remains the key route. That is  
12 the route that goes from Greenport all the  
13 way around to East Hampton, big horseshoe.  
14 That is the second or third most popular  
15 route in Suffolk County, so it's critical for  
16 an awful lot of riders. It also physically  
17 connects the north and the south fork, it's  
18 really the only direct connection between the  
19 two forks.

20 So that remains a key route. It would  
21 be improved to every 15 minutes of service.  
22 It would be extended -- the hours and the  
23 days of the week would be extended  
24 significantly. Again, probably many of you  
25 are aware, there is no Sunday service -- no

1 Suffolk County Planning Commission 11/4/09 44  
2 Sunday Suffolk County Transit bus service, so

3 seven days a week is kind of a no-brainer  
4 in -- in most people's minds. And as I said,  
5 it's a key link to the south fork.

6 So there would be expanded hours. The  
7 Sunday service and additional frequency on  
8 several of the bus routes that are  
9 originating or connecting through Riverhead  
10 primarily. Some of these run west, some of  
11 these run east, some of them run south, but  
12 basically these connect in and out of  
13 Riverhead.

14 There would be a new route that we  
15 evaluated which would take people from  
16 Green- -- Greenport, basically be an express  
17 bus service from Greenport west to Tanger.  
18 We also looked -- to Tanger, and then onto  
19 Riverhead and Ronkonkoma and Islip Airport  
20 for a direct connection there as an express  
21 service. And, again, the north fork concept,  
22 the flexible transit concept, has much more  
23 emphasis on flexible routes and demand  
24 responsive transit services.

25 There would also be some incremental

1 Suffolk County Planning Commission 11/4/09 45  
2 improvements in Long Island Rail Road  
3 schedules and possible new service. But,  
4 again, the concept did not call for -- did  
5 not make specific suggestions about when  
6 those incremental improvements should be.  
7 We're taking that up locally.

8           This came out in black and white, I  
9           don't know why (indicating), it's lovely  
10          color on mine.

11          We won't spend a whole lot of time on  
12          it, but this does show -- there's a little  
13          color in there somewhere.

14          This really shows the fixed routes. The  
15          little circles that you see are areas where  
16          the demand responsive services would run.  
17          You got the train tracks, of course, running  
18          through both the north and south forks. So  
19          this incorporates the existing routes, the  
20          existing railroad stations, the proposed new  
21          railroad station, which, again, in the dual  
22          concept system, would only be reopened on --  
23          or opened on the south fork. The original  
24          concept did call for significant rail  
25          improvements for the north fork.

1           Suffolk County Planning Commission 11/4/09   46

2           And let me say that was a concept that  
3           Volpe was asked to evaluate. They did not  
4           develop the concept. They did not actually  
5           recommend the reopening of stations. They  
6           evaluated it for us to see what it would  
7           cost. But the combination of the two calls  
8           for much more of a flexible service, and as I  
9           said, on the north fork, less of the ray of  
10          emphasis on the rail.

11          The upfront capital cost for this dual

12 system, the range of estimates, it's from  
13 117 to 148 million. There are variations in  
14 the cost of rail vehicles and other  
15 variations. The annual operating expenses  
16 are estimated at about \$44 million a year.

17 One of the things that was identified  
18 through this as well is that there may be  
19 some possible savings at the town and county  
20 level for what's traditionally been called  
21 human service transportation.

22 And at the federal level, and I think  
23 it's trickling down through NYMTC into the  
24 local level, you know, there is great  
25 emphasis on trying to blend or make work in a

1 Suffolk County Planning Commission 11/4/09 47  
2 much more coherent fashion, the traditional  
3 public transit services, it's a traditionally  
4 fixed route, combined with human service  
5 transportation, which is what's known as  
6 demand responsive, generally.

7 The towns run a significant amount of  
8 human service transportation. I estimated on  
9 the East End, the five East End towns  
10 probably spend about a million dollars a year  
11 through their own human service offices --  
12 human service departments, providing local  
13 human service transportation. So there may  
14 be an opportunity here to try to combine for  
15 greater efficiencies.

16 The upfront capital cost of 117 to  
Page 40

17 148 million are about 25 to \$50 million less  
18 than the original concept which called for  
19 those significant rail improvements on both  
20 the north fork and on the south fork. By  
21 backing that out of the north fork, we've  
22 reduced the cost somewhere in the range of  
23 25 to \$50 million.

24 The study also looked at institutional  
25 options in terms of creating -- you may have

1 Suffolk County Planning Commission 11/4/09 48  
2 heard along the way, there's been a lot of  
3 discussion about creating an East End  
4 Transportation Authority separate from the  
5 MTA, those kinds of discussions. So one of  
6 the tasks that the Volpe Center had was to  
7 outline some possible options for management,  
8 infrastructure changes, if you will.

9 They outlined five possible ones, which  
10 is basically no change at all, just continue  
11 to work with the existing providers. A  
12 dedicated operating unit which essentially  
13 would call for something within each  
14 organization, Suffolk County Transit or Long  
15 Island Rail Road, to kind of develop an East  
16 End subgroup, if you will. There's also, in  
17 that report, outline of an Enhanced Regional  
18 Transportation Council. As I mentioned, we  
19 have an advocacy group, Five Town Rural  
20 Transit, which is some citizen advocates. We

21 also have this East End Transportation  
22 Council, which is the establishment, for want  
23 of a better word. But neither -- and  
24 especially on a -- on a municipal basis,  
25 there is no authority within this East End

1 Suffolk County Planning Commission 11/4/09 49  
2 Transportation Council to take any action.  
3 All we can do is advise the towns and  
4 villages of possible things they may want to  
5 do. And, again, work on a day-to-day basis  
6 with the transit providers. Then there was  
7 discussion of a supplemental service, and  
8 there was discussion of a new Regional  
9 Transportation Authority. And the full  
10 report gives some -- some insight into the  
11 pros and cons of each of those options.

12 Then we got into major federal funding  
13 programs, which we're going to stay away from  
14 for the moment. That gets a little bit --  
15 way ahead of ourselves. Although, at the  
16 presentation to -- to the East End officials,  
17 Volpe did talk a fair amount about the  
18 opportunities within each of these possible  
19 funding programs.

20 CHAIRMAN CALONE: Maybe you can talk,  
21 kind of as you're wrapping up here, about  
22 just how -- how this thing gets paid for  
23 in -- in --

24 MR. NEELY: Okay. Great.

25 CHAIRMAN CALONE: -- you know --

1 Suffolk County Planning Commission 11/4/09 50

2 MR. NEELY: Great.

3 CHAIRMAN CALONE: Because obviously it's  
4 an interesting idea, and it's very capital  
5 intensive in these days. So maybe you can  
6 kind of conclude with that.

7 MR. NEELY: Yeah. Let me get -- we're  
8 going to get through the next steps real  
9 quick.

10 We did a lot on fair policy and  
11 collection. I won't go too far into that.

12 Another one that I thought you folks  
13 would be interested in would be some of the  
14 supporting strategies for an improved transit  
15 system. Because, quite frankly, I think this  
16 gets lost at the municipal level, and I think  
17 you can probably appreciate that from -- from  
18 where you sit.

19 Land use and transit oriented  
20 development, pedestrian and bike  
21 accessibility, car sharing, parking  
22 management; those are all the kinds of things  
23 that are, you know, under the radar but need  
24 to be implemented for any kind of improved  
25 transportation.

1 Suffolk County Planning Commission 11/4/09 51

2 Then transportation and land management.

3 All kinds of interesting ideas there.

4 We identify some environmental issues.  
5 We all have to deal with grade crossing and  
6 train whistle issues, fuel consumption and  
7 emissions, vehicle maintenance and storage  
8 facilities. Again, those are some tough --  
9 especially when you start to talk about  
10 building maintenance and storage facilities,  
11 I think that, you know, those are tough  
12 issues you have to deal with.

13 Okay. Path implementation, we have the  
14 institutional and financial issues that have  
15 to be dealt with, technical, environmental,  
16 and public outreach.

17 Okay. To do the original concept for  
18 the large-scale train improvements, we are  
19 probably looking at ten years between all the  
20 various steps here, which you, I'm sure, can  
21 appreciate; the environmental reviews,  
22 preliminary engineering, things like that.  
23 We're probably ten years away from -- from  
24 implementing any kind of a big idea, if you  
25 will.

1 Suffolk County Planning Commission 11/4/09 52

2 Okay. So we talked about improving in  
3 the interim, and we're going to jump to --

4 That was the end of the Volpe  
5 presentation. As our consultants, of course,  
6 they could only go so far in outlining these  
7 ideas. And they presented us with these

8 ideas. So, then the question is, how do you  
9 make some progress from here.

10 So, at that point, we jumped up -- I  
11 jumped up and kind of gave a local  
12 perspective to it.

13 The next steps are adopting municipal  
14 resolutions of support for a \$1 million  
15 federal grant to continue this project. We  
16 are working with Congressman Bishop to  
17 develop funds to continue this effort, and we  
18 are getting resolutions from the five East  
19 End towns and some of the villages, and we  
20 have to reach consensus on an institutional  
21 option.

22 And, again, this goes up to our elected  
23 officials. They will have to take a  
24 leadership position as to which option they  
25 want to pursue for us to move forward on

1 Suffolk County Planning Commission 11/4/09 53  
2 this. We need some sort of a structural --  
3 or some sort of an agreement either with  
4 Suffolk County and the MTA to, you know,  
5 create one of these options.

6 Now, what we're working on short term  
7 are pursuing discussions with the Long Island  
8 Rail Road about incremental service  
9 improvements, and we're just beginning that  
10 process now. Both the north fork and the  
11 south fork -- well, the north fork, and --

12 and Vince has been a very key member of  
13 the -- the north fork contingent and of this  
14 whole process. The north fork has prepared  
15 some recommendations or ideas on incremental  
16 improvements for some rail service on the  
17 north fork. The south fork, we're doing the  
18 same thing, working with Southampton and  
19 East Hampton Town, and we hope to -- working  
20 with our state assemblyman, hope to have a  
21 meeting with the Long Island Rail Road and  
22 the president of the Rail Road to talk about  
23 some of these incremental improvements in the  
24 near future.

25 Similarly, we are looking forward to the

1 Suffolk County Planning Commission 11/4/09 54  
2 completion of the Suffolk County Transit  
3 Route Reconfiguration Report, and talk to  
4 them about some of the incremental train --  
5 incremental bus improvements. A lot of  
6 which, as I said, are right out of Suffolk  
7 County Transit's own route recommendation  
8 report. Although, I -- they have said, and  
9 I'll tell you -- they outlined additional  
10 improvements that could be made, but they  
11 don't know where the money's coming from  
12 either. So that's the age-old question.

13 We do want to work on increments --  
14 local transportation -- human service  
15 transportation. Again, a tough -- a tough  
16 haul here is to -- at the local level, have

17 town and village boards adopt  
18 transit-oriented, transit-supportive type of  
19 policies. And I'm sure I'm preaching to the  
20 choir to say that's -- that's very difficult  
21 when you start to try to get those kind of  
22 changes in your zoning, your land use to  
23 support these kind of initiatives. So  
24 that's -- that's going to be a tough one.  
25 And that's where we ended up.

1 Suffolk County Planning Commission 11/4/09 55

2 So where we get the 150 million, there's  
3 a whole lot of questions. And we've got to  
4 get the million that Congressman Bishop's  
5 working on to get to the steps of --

6 CHAIRMAN CALONE: Right.

7 MR. NEELY: -- those next steps. And he  
8 has included in his request -- through the  
9 SAFETEA-LU Federal Transportation Funding  
10 Bill, he has included a million dollars in  
11 that request to go into that bill.

12 That transportation bill was supposed to  
13 be signed by September 30th. Congress  
14 delayed -- or enacted a 30-month extension  
15 (sic), which expired October 30th. They just  
16 enacted a six-week extension of the existing  
17 bill. All of which means the new bill hasn't  
18 been introduced yet, and this money is in the  
19 new bill. They are now talking when this  
20 six-week extension ends this December,

21 they're talking about an extension of another  
22 six months. So --  
23 CHAIRMAN CALONE: So some day.  
24 MR. NEELY: Some day, right.  
25 As I -- as I tell a lot of our -- our

1 Suffolk County Planning Commission 11/4/09 56  
2 local folks that have worked with us on this,  
3 this does demonstrate how those federal  
4 bills -- when you read about and see on the  
5 news, how they translate down to, you know,  
6 some of the things we're trying to do here  
7 locally. It all --  
8 CHAIRMAN CALONE: But it also --  
9 because -- because it's such a -- because the  
10 federal process work so slowly, one of the  
11 big issues you have is that, if you get -- if  
12 you don't get in that bill, you have another  
13 five years to go to get in the next one. So  
14 it's a real challenge. And that's why I  
15 think obviously working the municipalities as  
16 much as possible to support this is great.  
17 Obviously, I think whatever we can do to be  
18 helpful -- and particularly, I think on  
19 the -- you know, working with the towns and  
20 villages on, you know, transit-oriented  
21 design and, you know, zoning policies and  
22 codes that could be supportive of  
23 transit-oriented design is something I know,  
24 you know, we're interested generally. We  
25 obviously have an expert on here in -- in

1 Suffolk County Planning Commission 11/4/09 57  
2 Vince, so --  
3 MR. NEELY: Absolutely.  
4 CHAIRMAN CALONE: -- I think to the  
5 extent we could be helpful in that --  
6 COMMISSIONER HOLMES: May I ask --  
7 CHAIRMAN CALONE: -- Let us know.  
8 COMMISSIONER HOLMES: -- Mr. Neely --  
9 CHAIRMAN CALONE: So, yeah, if  
10 you're done -- if you're done, we'll take  
11 briefly a question or two, and then we need  
12 to move on.  
13 But, yes, Linda.  
14 COMMISSIONER HOLMES: I know that --  
15 Shelter Island, there's been a lot of  
16 consternation about the concept of transit  
17 buses going across Shelter Island.  
18 MR. NEELY: Right.  
19 COMMISSIONER HOLMES: And I see in -- in  
20 your article here, you are saying Shelter  
21 Island would be serviced by one community  
22 shuttle vehicle.  
23 What does that mean?  
24 MR. NEELY: Well, that's the current  
25 plan -- idea, and there -- we've had -- I've

1 Suffolk County Planning Commission 11/4/09 58  
2 been up to meet with the Shelter Island Town

3 Board three or four times on this over the  
4 last -- and all the East End Town Boards.  
5 We're not 100 percent sure yet what that  
6 would translate into.

7 What we've done from a financial point  
8 of view is budget for one vehicle. Now,  
9 whether that bus ran up and down Route 114 --  
10 and I know there's some opposition to that  
11 thought, but whether it went up and down  
12 Route 114 in a fixed route, or whether it  
13 kind of ran all over Shelter Island not on a  
14 fixed schedule but just picked people up and  
15 took them where they needed to go, that's  
16 still subject to --

17 COMMISSIONER HOLMES: I see. So it's  
18 local --

19 MR. NEELY: -- to discuss on --

20 COMMISSIONER HOLMES: It's confined to  
21 Shelter Island?

22 MR. NEELY: Yes.

23 COMMISSIONER HOLMES: Yes.

24 MR. NEELY: Right now, it would not --

25 COMMISSIONER HOLMES: I see.

1 Suffolk County Planning Commission 11/4/09 59

2 MR. NEELY: -- I mean, again, the  
3 concept now would be, it would probably take  
4 the folks to the ferry. Now, where we get  
5 into -- and this is where the lines blur  
6 between public transportation traditionally  
7 defined and human service transportation --

8 COMMISSIONER HOLMES: Right. Because --

9 MR. NEELY: -- that's where the lines  
10 get blurry.

11 COMMISSIONER HOLMES: -- people would  
12 need transportation to get to a pickup spot,  
13 which a lot of people don't have,  
14 particularly, people who aren't able to  
15 drive. And, as you know, we have a steadily  
16 aging population on Shelter Island, we're a  
17 naturally occurring retirement community.  
18 But, you know, I know that -- that was part  
19 of an issue, so --

20 MR. NEELY: Yeah, and that's, again, one  
21 we will have to -- we will have to pursue  
22 whether that -- you know, that bus would  
23 leave the Island to take somebody someplace,  
24 or simply get them to the ferry and would  
25 have a connection on the other side, or just

1 Suffolk County Planning Commission 11/4/09 60  
2 take them within Shelter Island.

3 I will, while we're talking about that,  
4 just point out real quickly, one of the human  
5 service areas that we, again, think can be  
6 improved is this kind of service and figure  
7 out a way to link between the towns.

8 Southampton Town and East Hampton Town  
9 have been cooperating for the last couple of  
10 years on a community shuttle bus that's  
11 taking people to Stony Brook Professional

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Medical Center --

COMMISSIONER HOLMES: Oh, yeah.

MR. NEELY: -- twice a week. This is an example where the two towns got together and -- and East Hampton does it one day, we do it another day. There's a lot of advantages. Instead of a bus going up with two people, now a bus goes up with four or six people, and instead of one town not taking the other's residents, they're -- they're sharing that.

So I think this is an example of where we have to sit down and figure out how to coordinate, especially on Shelter Island, you

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Suffolk County Planning Commission 11/4/09 61

know, to --

COMMISSIONER HOLMES: Yeah.

MR. NEELY: -- to the other ports.

COMMISSIONER LANSDALE: (Indicating)

COMMISSIONER HOLMES: Okay. Thank you.

CHAIRMAN CALONE: Sarah.

COMMISSIONER LANSDALE: I had the -- the pleasure of serving on the MTA Blue Ribbon Commission on Sustainability last year. And one of their goals that they created was to have over the next 20 years, absorb a third of all trips made -- absorb that by public transportation. That was kind of our working goal on the -- on this particular Commission.

And I wanted to see how this effort --

17 and I commend your efforts, I think it's  
18 fantastic. What your goal is -- your  
19 overarching goal in terms of offsetting or  
20 absorbing the number of trips made currently,  
21 absorbing those with all of these  
22 improvements by public transportation.

23 MR. NEELY: Volpe had a -- a hard time  
24 estimating numbers. So there is a wide range  
25 with the numbers. The reasons for that are a

1 Suffolk County Planning Commission 11/4/09 62  
2 couple.

3 This was a \$400,000 grant, but that  
4 money didn't even go real far when you look  
5 at -- at covering the geography in the number  
6 of municipalities and the changes in the  
7 service that are proposed. We think --

8 Either concept improves public transit  
9 options four to five times over what we  
10 currently have. So Volpe's estimates are  
11 generally that we would probably -- some  
12 would --

13 Currently, the East End, there's about  
14 1.1 million transit trips taken on the  
15 railroad and/or Suffolk County Transit.  
16 Their current -- Volpe's initial estimates  
17 are that this would probably increase transit  
18 usage between 2 million and 4 million. I  
19 think 3.1 million, I think, was their --  
20 their number. But, again, a lot of work has

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to be done on that.  
Those are the best numbers that we have at the moment. But we haven't factored in, for example, how many we might get out of existing town human service transportation

Suffolk County Planning Commission 11/4/09 63  
trips.

The Town of Southampton, there is about 50,000 people a year through its human service program. How many of those can we get into this combined new service.

COMMISSIONER LANSDALE: Thank you.

CHAIRMAN CALONE: Thank you, Mr. Neely.  
And thank you, Sarah.

Any other questions at this time?  
(WHEREUPON, there was no response.)

CHAIRMAN CALONE: If not, I've no doubt that this is going to be an ongoing process, sir, and we look forward to working with you on that. And like I said, I think there's a specific way so we can be helpful.

In addition to -- I'm sure that through the East End's Supervisors and Mayors Association, and other organizations like that, you have pretty good, you know, communication East End-wise, but to the extent we can help with any of that, please let us know.

MR. NEELY: Sure.

And one minor point that I -- I -- I

1 Suffolk County Planning Commission 11/4/09 64  
2 will point out that was pointed out very  
3 early in this, we talked about the five  
4 East End towns. Ronkonkoma isn't in the five  
5 East End towns. And Ronkonkoma is the  
6 western point for -- for this service. So,  
7 obviously, we're going to have to expand our  
8 outreach.

9 And on the south fork, we may, as we  
10 move forward, see if possibly expanding the  
11 concept to East Patchogue, for example, as  
12 opposed to ending at Speonk. We think that  
13 would greatly -- could greatly change the --  
14 the numbers if we connected all the way up to  
15 Patchogue.

16 CHAIRMAN CALONE: Right. Interesting.

17 MR. NEELY: We're going to be bringing  
18 you back in and --

19 CHAIRMAN CALONE: Good.

20 MR. NEELY: -- a couple other towns as  
21 well.

22 CHAIRMAN CALONE: Thank you, Mr. Neely.  
23 Thank you for your time.

24 The next item -- we're going to start  
25 moving into our administrative agenda, but we

1 Suffolk County Planning Commission 11/4/09 65  
2 have -- the first item on that is the

3 Lloyd Harbor Comprehensive Master Plan. I  
4 believe the village has a PowerPoint or an  
5 overview or something.

6 As you all recall, we typically, you  
7 know, give the municipality a chance to give  
8 a brief overview of the -- of the plan.

9 COMMISSIONER HORTON: (Indicating)

10 CHAIRMAN CALONE: Before we get going,  
11 Mr. Horton.

12 COMMISSIONER HORTON: Yeah. If you  
13 don't mind, sir, as a -- as a matter of  
14 personal policy, before I get a substantive  
15 question answered by the Suffolk County  
16 Ethics Board, I'd like to recuse myself from  
17 discussions relating to matters from Lloyd  
18 Harbor. My firm represents the Suffolk  
19 County Village Officials Association, of  
20 which Mr. Hairr, the mayor of Lloyd Harbor,  
21 is a Board member of that organization that  
22 pays my firm. I don't think this relates to  
23 villages that are not directly on that Board,  
24 however, my firm has a relationship with that  
25 Board of Directors, and therefore I'd like to

1 Suffolk County Planning Commission 11/4/09 66

2 recuse myself.

3 CHAIRMAN CALONE: Okay. So for today  
4 that -- that makes sense.

5 Thank you -- thank you, Mr. Horton.

6 Mayor Hairr.

7 MAYOR HAI RR: Yes. I -- we're going to

8 make this very brief. I hope to give you an  
9 overview of a comprehensive plan.

10 This has been a -- a work in progress  
11 for over two years. Many of you, I hope,  
12 have visited our village. We think it's  
13 unique.

14 We're intent to preserve the heritage  
15 that it was established 80 years ago when we  
16 were incorporated as one of those unique  
17 villages that has parkland at all five levels  
18 of government, from the U.S. Federal Target  
19 Rock Nature Preserve to the Caumsett State  
20 Historic Park to the Coindre Hall Suffolk  
21 County Park on the water -- on the water, and  
22 then the West -- Town of Huntington West Neck  
23 Beach, as well as the village parklands. So  
24 we are an area where there are many visitors.  
25 Many people have come to appreciate it, and

1 Suffolk County Planning Commission 11/4/09 67  
2 while the emphasis of my trustees and I have  
3 been that our comprehensive plan dated back  
4 to 1977, many things have changed, and we  
5 wanted to bring it up to date. And there's  
6 been great recognition of the ecological  
7 significance throughout Lloyd Neck and parts  
8 of the West Neck peninsula of Lloyd Harbor,  
9 and in particular, the water body of Lloyd  
10 Harbor, and these were all incorporated into  
11 our plan.

12 Working with us has been Frederick P.  
13 Clark Associates. They've been the village  
14 planner for probably 25 or 30 years, long  
15 before I was there. We have today David  
16 Stahlman who is the president of Frederick P.  
17 Clark, they're of Rye, New York, and he will  
18 very briefly give you an overview PowerPoint  
19 on the comprehensive plan.

20 David.

21 MR. STAHLMAN: Thank you, Lee.

22 I'm going to try to stand over here  
23 unless the feedback from the microphone is  
24 too great.

25 I think the word "briefly" has been used

1 Suffolk County Planning Commission 11/4/09 68  
2 at least two or three times in the last  
3 couple of minutes. We have the longer  
4 PowerPoint presentation that was given to the  
5 public in the village, but I'm going to be --  
6 I'm going to skip through parts of this to  
7 try to keep this fairly brief. I brought the  
8 whole presentation just in case you wanted to  
9 go back to any particular part of it and look  
10 at anything more closely. But as Lee said,  
11 we've been working on this for a considerable  
12 length of time, the document -- the draft  
13 comprehensive plan is a rather substantial  
14 document.

15 The contents of the plan -- I won't go  
16 through the contents of the plan. I'm sure

17 you're aware of what plans must consist of in  
18 accordance with the -- with the New York  
19 State Village Law. This plan certainly  
20 complies with the requirements of the  
21 New York State Village Law for a  
22 comprehensive plan, and we've listed the --  
23 the various components right here  
24 (indicating).

25 We first did quite a bit of

1 Suffolk County Planning Commission 11/4/09 69  
2 environmental analysis, inventory analysis of  
3 a whole variety of things. We found that a  
4 considerable portion of Lloyd Harbor is  
5 highly environmentally sensitive, including  
6 the undeveloped and underdeveloped portions  
7 of Lloyd Harbor.

8 We did analysis regarding wetlands  
9 (indicating).

10 We did analysis regarding important  
11 ecological areas in the village (indicating).

12 We did analysis regarding soils  
13 (indicating).

14 There's a map showing existing zoning of  
15 the village, which is largely zoned for  
16 single-family homes that -- with a minimum  
17 lot size of two acres (indicating).

18 We then looked at the larger lots in the  
19 village, and then performed a development  
20 potential analysis of those larger lots,

21 undeveloped and underdeveloped lots in the  
22 village (indicating).

23 The objectives of the plan: To preserve  
24 the village's residential character; to  
25 preserve and enhance property values; to

1 Suffolk County Planning Commission 11/4/09 70  
2 preserve the village's rural appearance and  
3 natural fauna and flora; to preserve ecology,  
4 water resources, vegetation, and wetlands; to  
5 protect the community character and natural  
6 environment through proper zoning and other  
7 development regulations; and to cooperate  
8 with other jurisdiction, and we're going to  
9 get into that a bit later with respect to  
10 affordable housing.

11 And then there are a variety of  
12 recommendations -- and this comprises the  
13 heart of the plan, the recommendations -- and  
14 there are recommendations regarding  
15 environmental resources -- a whole variety of  
16 recommendations.

17 I'm not going to go through these  
18 individually, but I'd be happy to go back and  
19 go over these more specifically if you have  
20 the time to do that, or the interest.

21 There are recommendations regarding the  
22 village's tree line. As Lee said before,  
23 there are recommendations regarding the  
24 preservation of Lloyd Harbor, the harbor  
25 itself. Recommendations regarding lighting;

1 Suffolk County Planning Commission 11/4/09 71  
2 rising sea level; reducing greenhouse gas  
3 emissions in a variety of ways; preserving  
4 or enhancing local carbon sinks, there's a  
5 variety of recommendations. And then we get  
6 into the language and zoning recommendations,  
7 which are perhaps the most important from a  
8 zoning point of view, obviously (indicating).  
9       Skipping through this --  
10       Going back to the development potential  
11 analysis, the -- one of the significant  
12 recommendations in this plan is to take most  
13 of the properties that you saw highlighted in  
14 red on that last map and rezone them from two  
15 acres to four acres, basically for  
16 environmental reasons because of the highly  
17 environmental sensitivity of the property.  
18 And this four-acre lot size was -- was chosen  
19 as an appropriate minimum lot size because  
20 it's deemed to result in the minimum decrease  
21 in residential density needed to achieve the  
22 benefits and preempt the significant adverse  
23 environmental impacts which would be  
24 associated with higher levels of development  
25 (indicating).

1 Suffolk County Planning Commission 11/4/09 72  
2       There are recommendations regarding the

3 village's park overlay district (indicating).  
4 It's currently an overlay district. There's  
5 a recommendation to take that overlay  
6 district and create or change it into an  
7 underlying zoning district, a basic  
8 conventional underlying zoning district.  
9 That underlying zoning district would be  
10 applied to Caumsett State Historic Park, the  
11 Target Rock National Wildlife Refuge, the New  
12 York State Department of Transportation, the  
13 (inaudible) property, another parkland within  
14 the village.

15 There is also discussion in the plan of  
16 creating a critical natural resource  
17 protection area surrounding the harbor to  
18 protect the harbor, as well as the use of  
19 conservation easements to do the same thing.

20 And then there's a proposed land use  
21 plan in the comprehensive plan which shows  
22 all of these things, all of these  
23 recommendations, but more -- most  
24 specifically, the zoning recommendations  
25 (indicating).

1 Suffolk County Planning Commission 11/4/09 73

2 There are recommendations regarding  
3 looking at the buffer regulations in the  
4 village (indicating).

5 And then something of particular  
6 interest to the -- to the Commission, the  
7 village recognizes the need for affordable

8 housing in the greater Huntington area, and  
9 is supportive of the development of  
10 affordable/workforce housing within and in  
11 close proximity to commercial centers  
12 consistent with Horizons 2020, which is the  
13 Town of Huntington's comprehensive plan  
14 update (indicating).

15 Further, regarding affordable housing,  
16 to the extent village residents can provide  
17 housing for their resident workforce, the  
18 village's zoning law permits and the village  
19 supports providing such living accommodations  
20 within the single-family dwellings comprising  
21 the village's housing stock. And further,  
22 the village is supportive of joining with  
23 other incorporated villages in the Town of  
24 Huntington to explore additional and  
25 alternative ways in which to provide

1 Suffolk County Planning Commission 11/4/09 74  
2 affordable housing in the town. The village  
3 is also supportive of intermunicipal  
4 agreements to advance the provision of  
5 affordable and workforce housing  
6 (indicating).

7 And then there are recommendations  
8 regarding roads and traffic (indicating). A  
9 whole variety of recommendations.

10 CHAIRMAN CALONE: What did it say about  
11 LIPA?

12 SECRETARY ESPOSITO: He's not asking as  
13 a Board member.

14 CHAIRMAN CALONE: No, I just wondered.

15 MR. STAHLMAN: Well --

16 CHAIRMAN CALONE: Don't worry about it,  
17 tell me later.

18 MR. STAHLMAN: The village had attempted  
19 to have LIPA remove the power lines at its  
20 own expense.

21 CHAIRMAN CALONE: At LIPA's expense?

22 MR. STAHLMAN: At LIPA's expense.

23 Recommendations regarding historic  
24 preservation (indicating).

25 And I know I went through that at light

1 Suffolk County Planning Commission 11/4/09 75  
2 speed --

3 COMMISSIONER BOLTON: Could you go back  
4 to that last one?

5 COMMISSIONER HOLMES: The historical --  
6 yes.

7 MR. STAHLMAN: Sure.

8 In order to provide a direct  
9 municipal --

10 COMMISSIONER BOLTON: Okay.

11 MR. STAHLMAN: -- regulatory  
12 protection --

13 COMMISSIONER BOLTON: Gotcha.

14 MR. STAHLMAN: -- from --

15 COMMISSIONER BOLTON: Thank you.

16 MR. STAHLMAN: -- in compatible

17 alterations --  
18 COMMISSIONER BOLTON: I understand.  
19 MR. STAHLMAN: -- of the village's  
20 significant sites and properties, a local  
21 historic preservation law should be  
22 considered.  
23 COMMISSIONER BOLTON: Okay. Thank you.  
24 CHAIRMAN CALONE: Great.  
25 MR. STAHLMAN: Sure.

1 Suffolk County Planning Commission 11/4/09 76  
2 We're here to answer questions --  
3 CHAIRMAN CALONE: Appreciate that.  
4 Are there any questions at this time on  
5 what we've seen?  
6 (WHEREUPON, there was no response.)  
7 CHAIRMAN CALONE: If not, we do also  
8 have a presentation, of course, from staff  
9 who's taken a --  
10 COMMISSIONER POTTER: (Indicating)  
11 CHAIRMAN CALONE: -- you know, a close  
12 look at this.  
13 But, yeah, Job, do you have any --  
14 COMMISSIONER POTTER: I just -- because  
15 I know it's going to come up.  
16 THE REPORTER: Microphone.  
17 COMMISSIONER POTTER: I could ask this  
18 of the staff, but since we're there.  
19 Specifically, what does it mean to  
20 provide affordable workforce housing within

21 existing single-family dwelling? Does that  
22 involve an actual separate apartment with a  
23 kitchen, or what -- what's the real --  
24 real-world manifestation of that statement  
25 in-house?

1 Suffolk County Planning Commission 11/4/09 77

2 MR. STAHLMAN: The real-world  
3 manifestation is that on three acres, one can  
4 have household help living in the same  
5 dwelling.

6 COMMISSIONER POTTER: So, in other  
7 words, we would be talking about, for  
8 example, a housekeeper who has a room in a  
9 house?

10 MR. STAHLMAN: Yes.

11 COMMISSIONER POTTER: Okay. I'm not  
12 sure that's what -- well, we'll -- okay.  
13 That answers my question.

14 COMMISSIONER BOLTON: (Indicating)

15 CHAIRMAN CALONE: Charla.

16 COMMISSIONER BOLTON: I wanted to ask --

17 CHAIRMAN CALONE: Speak into the mic,  
18 Charla.

19 COMMISSIONER CALONE: In doing the  
20 inventory of resources for this plan, did you  
21 include an inventory of historic resources in  
22 the village?

23 MR. STAHLMAN: Yes, as a matter of fact,  
24 we did. And if you look in the back of -- if  
25 you look in the back of the plan, this rather

1 Suffolk County Planning Commission 11/4/09 78  
2 substantial document is the direct plan  
3 (indicating), there's a listing of all the  
4 historic resources that are on the state and  
5 national register -- register of historic  
6 places. We didn't do a brand-new survey, but  
7 we incorporated new information into the  
8 plan.

9 COMMISSIONER BOLTON: Thank you.

10 MR. STAHLMAN: Un-huh.

11 CHAIRMAN CALONE: Okay. Any other  
12 questions at this time?

13 (WHEREUPON, there was no response.)

14 CHAIRMAN CALONE: If not, I believe

15 Dan --

16 Thank you --

17 COMMISSIONER ROBERTS: David.

18 CHAIRMAN CALONE: -- sir.

19 Yes, Barbara.

20 COMMISSIONER ROBERTS: How much public  
21 participation was there in the process of  
22 putting this plan together?

23 MR. STAHLMAN: There was a considerable  
24 amount. It started when the Village Board of  
25 Trustees asked the Planning Board to create

1 Suffolk County Planning Commission 11/4/09 79  
2 the first draft of the plan. And the

3 Planning Board had quite a few meetings --  
4 public meetings. They also had at least a  
5 couple of public hearing that I can recall.  
6 At least a couple. And the Village Board has  
7 had public hearings as well. So -- and --  
8 and the document's been discussed at a  
9 variety of public meetings other than public  
10 hearings. So there's been a considerable  
11 amount.

12 CHAIRMAN CALONE: Okay. Thank you, sir.  
13 Appreciate -- appreciate your time. And  
14 we're going to move on formally to the  
15 consideration of the administrative items,  
16 and the first item on the agenda is the  
17 Comprehensive Master Plan from the Village of  
18 Lloyd Harbor.

19 Deputy Director.

20 DEPUTY DIRECTOR GULIZIO: It's  
21 interesting being in this forum --

22 Is it all right if I stand here? So I'm  
23 not --

24 On one hand I'm thinking of Thomas  
25 Edison because of the history of the

1 Suffolk County Planning Commission 11/4/09 80  
2 building; on the other hand, when I'm holding  
3 a microphone like this, it's hard not to  
4 think of Wayne Newton and being --

5 (Laughter)

6 DEPUTY DIRECTOR GULIZIO: -- in a lounge  
7 act.

8 CHAIRMAN CALONE: You can sing -- come  
9 up here and sing later.

10 DEPUTY DIRECTOR GULIZIO: My choice  
11 would be Danke schön, one of my favorites.

12 The Village of Lloyd Harbor, it is one  
13 of four villages located in the Town of  
14 Huntington. It's located in the northwest  
15 corner of the village, in addition to the  
16 Village of Asharoken, Northport, and  
17 Huntington Bay. It is 9.2 square miles in  
18 area; it has 19 miles of waterfront; and  
19 significantly, 1,500 acres in the center of  
20 the village was comprised of the historic  
21 Caumsett State Park.

22 (WHEREUPON, Director Thomas Isles joined  
23 the proceeding in progress.)

24 (Time noted: 1:22 p.m.)

25 DEPUTY DIRECTOR GULIZIO: If anyone

1 Suffolk County Planning Commission 11/4/09 81  
2 hasn't been to Caumsett State Park, I would  
3 advocate you strongly to go to Caumsett State  
4 Park. There's a tremendous resource --  
5 regional resource located in the Village of  
6 Lloyd Harbor.

7 The village is comprised of  
8 approximately 3,675 residents, according to  
9 the 2000 census. I had -- according to the  
10 notes on the comprehensive plan, the original  
11 master plan was done in 1965. There was an

12 update to the master plan done in 1977. In  
13 1995, the village adopted a local waterfront  
14 revitalization plan program, or LWRP. And  
15 the most recent regional or comprehensive  
16 planning initiative is the one presented here  
17 today.

18 The village is largely, if not, almost  
19 exclusively residential in character. There  
20 is no commercial center within the village to  
21 speak of. The pedestrian-oriented downtown  
22 of Huntington, I believe, serves more than  
23 adequately as a commercial center for the  
24 village.

25 And, interestingly, the village is

1 Suffolk County Planning Commission 11/4/09 82  
2 actually divided. If you look by Lloyd  
3 Harbor, which almost bisects the village into  
4 a north and south end along West Neck Road,  
5 right here (indicating).

6 The village is surrounded by waterfront  
7 with the Long Island Sound to the north,  
8 Huntington Harbor and Lloyd Harbor to the  
9 south and to the east, and Cold Spring Harbor  
10 to the west. So it is uniquely situated as a  
11 peninsula surrounded by water.

12 The predominant zoning category for the  
13 residential development in the town is  
14 two-acre zoning. And I don't believe there's  
15 a higher density zoning category in the  
16 village, I believe it's all two-acre zoning.

17           The mixture of lots is, again,  
18           predominantly two-acre with some larger -- I  
19           believe one of the earlier slides presented  
20           by the village showed the four-acre parcels  
21           and larger that exist in the village.

22           The village has done, I think, an  
23           outstanding job in terms of inventorying the  
24           natural resources within the village and  
25           looking at the environmental constraints of

1           Suffolk County Planning Commission 11/4/09   83  
2           development within the village. The  
3           comprehensive plan does contain a substantive  
4           component of a comprehensive plan enumerated  
5           under village law, and similar to what exists  
6           under town law. So I think all the essential  
7           elements of a comprehensive plan do exist.

8           Again, the local economy or analysis of  
9           potential economic concerns associated with  
10          the village are somewhat mitigated by the  
11          fact that there is no commercial zone in the  
12          village. And, again, they rely upon the  
13          Town of Huntington -- the unincorporated  
14          portion of the Town of Huntington to the  
15          south.

16          One of the issues that we look at in  
17          conjunction with any comprehensive plan is  
18          also the issue of housing. It's one of the  
19          essential components of a comprehensive plan.  
20          And, in particular, village law and town law

21 speaks to the need to look at the need not  
22 only on a -- village-wide housing, but also  
23 the issue of affordable housing throughout  
24 the village.

25 As has been indicated previously by

1 Suffolk County Planning Commission 11/4/09 84  
2 Mr. Stahlman, there are three basic  
3 components to their approach to affordable  
4 housing.

5 One is to, as village law permits, allow  
6 for accessory units within properties --  
7 within single-family homes on properties that  
8 are free for a larger inside;

9 The second is a willingness to cooperate  
10 with other villages in the Town of  
11 Huntington; specifically, Northport, again,  
12 Asharoken, and Huntington Bay in the  
13 development of affordable and workforce  
14 housing;

15 And the third is to support the idea of  
16 intermunicipal agreements, or IMAs, on the  
17 development of affordable and workforce  
18 housing, in cooperation, I would assume, not  
19 only with the other villages, but with the  
20 Town of Huntington as a whole, consisting  
21 with their recent comprehensive planning  
22 effort known as Horizons, I believe, 2020.

23 One of the recommendations we would  
24 make, respectfully, to the village is to  
25 continue that effort. And I should point out

1 Suffolk County Planning Commission 11/4/09 85  
2 at the outset that we have appreciated  
3 greatly the village's willingness to discuss  
4 with staff the comprehensive plan, the  
5 housing components to the comprehensive plan.  
6 They've been very cooperative in dealing with  
7 the village attorney, as well as the planning  
8 consultants. You know, and we're very  
9 appreciative of that -- that level of  
10 cooperation.

11 However, we would still like to see some  
12 degree of additional specificity in the  
13 affordable housing area. Ideally, the plan  
14 should incorporate the concepts of  
15 quantifying the actual need for affordable  
16 housing within the village, within the town,  
17 within the region, and then to establish  
18 goals and policies designed to attempt to  
19 meet that fair share -- or the village's fair  
20 share of that need for affordable housing.

21 Again, in summary, the comprehensive  
22 plan does contain, I believe -- or we  
23 believe, the essential components of a  
24 comprehensive plan. I think they've done an  
25 outstanding job in the natural resources

1 Suffolk County Planning Commission 11/4/09 86  
2 section inventorying existing conditions, and

3 identifying the many wonderful assets to life  
4 within the village.

5 I think the one recommendation we would  
6 have in summary is, again, to continue to  
7 work on the idea of establishing an  
8 affordable housing strategy in order to meet,  
9 again, not the regional need for affordable  
10 housing, but their fair share of that need.

11 CHAIRMAN CALONE: Thank you, Dan.

12 COMMISSIONER BOLTON: Dave, I have a  
13 question.

14 CHAIRMAN CALONE: Yes, sure.

15 COMMISSIONER BOLTON: Dan, you mentioned  
16 providing housing within single-family  
17 dwellings, and you termed it "accessory  
18 apartments." But I'm under the impression  
19 that typically an accessory apartment is  
20 something which is available for rent in a  
21 community, such as the Town of Huntington's  
22 program. In this case, it's really accessory  
23 in the most minor degree, which is to provide  
24 housing for the person employed in the  
25 family.

1 Suffolk County Planning Commission 11/4/09 87

2 That's my understanding from  
3 Mr. Stahlman.

4 MR. STAHLMAN: That's correct.

5 DEPUTY DIRECTOR GULIZIO: Again, there  
6 are all types of accessory apartment units  
7 out there regulated by a variety of

8 municipalities. One example would be exactly  
9 what you referred to, the idea of a rental  
10 unit within the existing single-family unit.  
11 Some accessory apartments that are out there  
12 are limited to family members within certain  
13 degrees of consanguinity, others are limited  
14 to any individual not related to the family.

15 Again, the broader the approach, the  
16 more I think -- the better they'll be able to  
17 meet the -- the really dramatic need that  
18 out- -- that exists for affordable and  
19 workforce housing in our region. Certainly,  
20 a significant issue to the region.

21 COMMISSIONER BOLTON: Thank you.

22 CHAIRMAN CALONE: Dan, let me ask you a  
23 question.

24 Well, first let me agree with you,  
25 because I've been part of some of the

1 Suffolk County Planning Commission 11/4/09 88  
2 conversations that -- A, it's great that the  
3 village is doing a master plan, it's the kind  
4 of thing we want to encourage, you know, all  
5 of the villages to be doing; and two, I think  
6 Lloyd Harbor has done a particularly good job  
7 of working with our staff at -- the county in  
8 terms of addressing a variety of concerns,  
9 and I think the plan is much -- you know, is  
10 very strong for it.

11 The affordable housing issue is one that

12 has been out there. It is obviously one of  
13 concern to our entire county, it's one of  
14 entire -- concern to our -- to our  
15 commission. But the question I had was with  
16 regard to something you said, which was with  
17 regard to them kind of determining their fair  
18 share. And I wonder how -- how can a village  
19 best go about doing that, you know, take  
20 the -- take Huntington Town. I mean, I  
21 wouldn't feel like the Village of Lloyd  
22 Harbor would even be in a position to kind of  
23 determine what are -- the needs are for the  
24 Town of Huntington in order to then determine  
25 their fair share.

1 Suffolk County Planning Commission 11/4/09 89

2 Obviously, there's some need, but I just  
3 wondered if the -- the Huntington plan, and I  
4 don't remember when we -- they did their  
5 presentation a couple of months ago, what  
6 their plan said about, you know, fair share  
7 and how to spread that burden.

8 DEPUTY DIRECTOR GULIZIO: As the Board  
9 may recall, the Huntington plan was another,  
10 I think, again, great example of a community  
11 trying to do the right thing by developing a  
12 comprehensive plan and meeting the changing  
13 needs of a changing community.

14 One of the concerns we had with the plan  
15 was that it spoke to the idea of developing  
16 additional plans, and the response went

17 further into the comprehensive plan. One of  
18 those additional plans that was mentioned in  
19 Horizons 2020 was the idea of a housing plan  
20 specifically to address the need of housing  
21 throughout the town. So it lacked some  
22 specificity also in terms of identifying that  
23 need.

24 In terms of a town or a village going  
25 forward to meet that need, number one, I

1 Suffolk County Planning Commission 11/4/09 90  
2 think there are a significant number of  
3 studies that are out there that have tried to  
4 quantify the need for affordable and  
5 workforce housing. One of the ones that  
6 always comes to mind, which we've actually  
7 discussed with the village is -- is a study  
8 that was prompted by the Long Island Housing  
9 Partnership, and looked at the idea of how  
10 many existing households spend more than  
11 35 percent of their adjusted gross income on  
12 housing costs as an indicator of a lack of  
13 affordability.

14 I believe at that time, which the study  
15 was done some time in 2002-2003, there was an  
16 identification of approximately, in the  
17 by-county region, 165,000 housing units. It  
18 exceeded where -- residents were exceeding  
19 35 percent threshold in terms of income  
20 devoted to housing.

21 So certainly if you put that in context,  
22 in the ten-year period between 19- -- the  
23 early 1990s and the early 2000s, there were  
24 about 65,000, 62,000 housing starts in Nassau  
25 and Suffolk County. So if the need is at

1 Suffolk County Planning Commission 11/4/09 91  
2 165,000 or there's 165,000 arguably  
3 unaffordable housing units out there in the  
4 marketplace, and we only built or constructed  
5 about 60,000 over the ten-year period  
6 preceding that study, certainly the need is  
7 significant and not easily able to be  
8 achieved. But, again, I think the most  
9 important thing from our standpoint, from the  
10 staff's standpoint, is simply making an  
11 effort to quantify that need and to make a  
12 rational basis approach to addressing that  
13 need on an equal, fair-share basis.

14 COMMISSIONER POTTER: (Indicating)

15 CHAIRMAN CALONE: Job.

16 COMMISSIONER POTTER: I don't know if  
17 you can answer this, but if the Town of  
18 Huntington builds affordable housing or  
19 increases its indebtedness by borrowing money  
20 for the affordable housing, do those expenses  
21 become part of the tax bill the residents of  
22 the village -- is that a way in which the  
23 village residents would participate?

24 DEPUTY DIRECTOR GULIZIO: I'm not sure  
25 how that debt service would be handled at the

1 Suffolk County Planning Commission 11/4/09 92  
2 village level, and, again, I wouldn't want to  
3 speculate. My initial guess is, no, I don't  
4 think the village is responsible for debt  
5 services in the town.

6 Again, one of the options that we would  
7 encourage in a village that specifically  
8 focuses a part of its plan, is the idea of  
9 entering some type of intermunicipal  
10 agreement to allow for the development of  
11 additional affordable and workforce housing.  
12 Again, we'd like to see a little bit more  
13 specificity with that, but I think that's one  
14 approach to addressing that need. To form an  
15 intermunicipal board, sit down together and  
16 figure out an approach to addressing that  
17 kind of town-wide need or at least the town's  
18 fair share or the regional need for  
19 affordable housing.

20 COMMISSIONER POTTER: Can I just --

21 CHAIRMAN CALONE: Yeah, sure. And I  
22 think maybe the mayor may be able to answer  
23 that question, and I think it's appropriate  
24 for us to allow him to answer that, or permit  
25 him to.

1 Suffolk County Planning Commission 11/4/09 93

2 MAYOR HARR: As an example, Lloyd

3 Harbor and the other three villages in the  
4 Town of Huntington are all assessed as part  
5 of the open space bond. And that -- Frank  
6 Patrone and I have discussed this at great  
7 length. We are, certainly, I think, amenable  
8 if a similar kind of funding, a bond funding,  
9 was to be established by the town for  
10 affordable housing, that we would expect that  
11 we would all proportionally share in that,  
12 too. We currently do for open space, and  
13 that's assessed on everyone's taxes each  
14 year.

15 CHAIRMAN CALONE: Thank you, Mayor.

16 COMMISSIONER POTTER: (Indicating)

17 CHAIRMAN CALONE: Job, go ahead.

18 COMMISSIONER POTTER: Just one quick  
19 comment on that.

20 That sounds like a great model. And I  
21 come from East Hampton where we've done a lot  
22 of upzoning over the years, and one thing  
23 that we were always told in our comp plan is  
24 never mention to supporting the value of the  
25 real estate. And so I just throw that out to

1 Suffolk County Planning Commission 11/4/09 94  
2 you since that's -- if you do find yourself  
3 in a legal situation or a challenge, that's  
4 apparently not something you want to have in  
5 your plan.

6 VICE CHAIRMAN KONTOKOSTA: (Indicating)

7 CHAIRMAN CALONE: Mr. Vice Chairman.

8 VICE CHAIRMAN KONTOKOSTA: Thank you.

9 CHAIRMAN CALONE: Thank you, Job.

10 VICE CHAIRMAN KONTOKOSTA: While I  
11 appreciate what appears to be a collaborative  
12 effort both at the local level and I  
13 certainly agree with the county, I have  
14 serious reservations about what I've heard  
15 and seen regarding this plan regarding some  
16 of the language and what appears to be  
17 missing in some of the planning -- for some  
18 pressing planning issues, including housing.

19 We here on the county -- on the  
20 Commission, of course, have a responsibility  
21 to look at regional efforts, we look at broad  
22 planning issues from a broad perspective. We  
23 just spent an extensive period revising our  
24 guidelines to look at things like  
25 transportation, environment, preserving

1 Suffolk County Planning Commission 11/4/09 95  
2 community character, housing, of course. And  
3 we looked at this under a rubric of  
4 sustainable development policies. So from  
5 this perspective, looking at things where we  
6 have economic growth and new development that  
7 are balanced with environmental protection  
8 and preservation, and a concern for social  
9 equity.

10 At the local level, there was really a  
11 requirement that not only the best localities

12 meet the needs of their current residents,  
13 but also consider future residents, and also  
14 accept their position in a larger regional  
15 community. I don't see that happening.

16 One thing that occurs -- what we cannot  
17 allow and not encourage is certain  
18 communities, no matter how unique, to become  
19 gated communities, to become walls that  
20 perhaps ignores some of their great  
21 responsibilities.

22 What I'm seeing here, especially in  
23 terms of the affordable housing, and what  
24 perhaps is my personal concern, is that the  
25 working families here in the county and in

1 Suffolk County Planning Commission 11/4/09 96  
2 the area are being handled as a burden that  
3 should be put somewhere else, rather than a  
4 real effort made to provide for these  
5 families in this village. So there are some  
6 responsibilities that have to be met.

7 So, again, I would be happy and welcome  
8 the village's participation on our housing  
9 task force, for example, to discuss some of  
10 these ideas and how these objectives can be  
11 met, but I do, as it stands, have some  
12 serious concerns about the language,  
13 including the overt reference to preserving  
14 property values in an area where the average  
15 house sold for \$2 million is -- is quite  
16 dramatic and quite striking.

17 So thank you.  
18 CHAIRMAN CALONE: Thank you,  
19 Constantine.  
20 Any other thoughts or --  
21 SECRETARY ESPOSITO: Me.  
22 CHAIRMAN CALONE: -- questions?  
23 Yes, Adrienne.  
24 SECRETARY ESPOSITO: Mayor, do any  
25 members of the village still drink from

1 Suffolk County Planning Commission 11/4/09 97  
2 private water wells, or are they hooked up to  
3 the Suffolk County Water Authority?  
4 MAYOR HAI RR: Everyone has the  
5 availability of Suffolk County Water  
6 Authority. There are still some few  
7 residents who did not hook. The lines are in  
8 place down the streets, they still have the  
9 option of not connecting. So we do have a  
10 few people in Lloyd -- Lloyd Neck who still  
11 have wells by their own choosing.  
12 SECRETARY ESPOSITO: Okay. That's what  
13 I thought. That was -- you know, obviously,  
14 when you have members of the public drinking  
15 from private wells, for what needs to be put  
16 into the preservation of the quality and  
17 quantity of the water and the aqua system --  
18 but you certainly have enough open spaces to  
19 do that. But I was wondering, was there  
20 anything in those plans that talked about

21 fertilizer use and pesticide use, not only  
22 from a drinking water perspective and  
23 protection, but also for the many marine  
24 environments that you have?

25 MAYOR HAI RR: The answer's definitely

1 Suffolk County Planning Commission 11/4/09 98  
2 yes, listed in the recommendations.

3 As part of the overall concern about  
4 runoff, in particular, the -- the body of  
5 water, Lloyd Harbor itself and the  
6 surrounding lands, they are all sloped down  
7 to the water, and our concern is with further  
8 or higher density development or -- or more  
9 intense development, then the increase will  
10 run off not only from -- from the yard of  
11 pesticides and all, but from other septic  
12 tanks and everything else that degrade that  
13 particular body of water, which has been  
14 designated as a very -- as a significant fish  
15 and wildlife habitat by the state.

16 SECRETARY ESPOSITO: It just makes me  
17 think that your village would be a perfect  
18 example of the type of municipality that may  
19 want to emulate the Suffolk County Law which  
20 is -- has banned pesticide use during the  
21 winter months from November to April, for  
22 instance -- I'm sorry, fertilizer use. Just  
23 as one small example to help you on your  
24 endeavor of storm water runoff and drinking  
25 water protection.

1 Suffolk County Pl anni ng Commi ssi on 11/4/09 99

2 CHAI RMAN CALONE: Thank you.

3 COMMI SSI ONER HOLMES: (I ndi cati ng)

4 CHAI RMAN CALONE: Yes, Li nda.

5 COMMI SSI ONER HOLMES: I j ust want to  
6 expand upon what Job touched on earlier,  
7 which was the concept of a uni t wi thi n the  
8 single-family house that would be for  
9 somebody who worked for your family. And I  
10 wonder, does that -- in your concept, does  
11 that make it a maid's room, a room, or would  
12 a uni t be the traditional type of uni t that  
13 would be, you know, an accessory apartment,  
14 which -- which would include a ki tchen and a  
15 bath?

16 That's -- I wonder if you can enlarge  
17 upon that.

18 MAYOR HAI RR: In the context of which it  
19 is in the zoning now, it would not be a  
20 separate accessory apartment. It is space  
21 where domestic help or others can live. You  
22 are allowed, with the larger parcels, to have  
23 a guesthouse, but that is also not for  
24 outside -- not to be rented.

25 CHAI RMAN CALONE: All ri ght. Any

1 Suffolk County Pl anni ng Commi ssi on 11/4/09 100

2 other --

3 COMMISSIONER POTTER: (Indicating)

4 CHAIRMAN CALONE: Yes, Job.

5 COMMISSIONER POTTER: This is more of a  
6 Commission question.

7 I would feel -- understanding that  
8 nothing that's put in the comp plan  
9 represents a commitment by a town or village  
10 to do anything, I'd feel a lot more  
11 comfortable with this if this comprehensive  
12 plan at least laid out some of the options  
13 that -- that you've mentioned actually, so  
14 that at least those existed in the comp plan  
15 when and if the time came that the village  
16 did choose to implement some of these  
17 possibilities. Because it's -- I haven't  
18 read the plan, which you need to understand,  
19 but it doesn't seem that there -- any of that  
20 is actually formally addressed in the plan;  
21 is that correct? And maybe that -- maybe we  
22 could make some kind of a conditional  
23 approval.

24 CHAIRMAN CALONE: Yeah, we certainly  
25 can. And there is a condition in here that

1 Suffolk County Planning Commission 11/4/09 101  
2 talks about -- the staff recommendation is  
3 approval with the condition that the village  
4 better identify regional and local housing  
5 needs and particularize strategies and goals  
6 needed to meet its fair share of the regional  
7 need for workforce and affordable housing.

8           It would seem to me that you're saying  
9           that maybe there needs to be some more  
10          specificity to that condition.

11          COMMISSIONER POTTER: Well, would that  
12          come back to us then?

13          CHAIRMAN CALONE: No.

14          SECRETARY ESPOSITO: No.

15          COMMISSIONER POTTER: I think that's  
16          more of what I'm saying.

17          CHAIRMAN CALONE: I don't know that  
18          there's -- I don't think these things come  
19          back to us; right?

20          SECRETARY ESPOSITO: (Inaudible)

21          CHAIRMAN CALONE: Yeah. I mean, this is  
22          not -- un- -- unlike with something where we  
23          have a zone and then a site plan, this is --

24          DEPUTY DIRECTOR GULIZIO: Like with any  
25          application, if there were a substantial

1          Suffolk County Planning Commission 11/4/09 102  
2          change to the document --

3          CHAIRMAN CALONE: Right.

4          DEPUTY DIRECTOR GULIZIO: -- and, again,  
5          substantive as interpreted by the village,  
6          then we would see an amendment to the  
7          comprehensive plan potentially. But, again,  
8          typically, if there's just some additional  
9          editorial work or tweaking of the existing  
10          plan, then no, it's not a document you would  
11          see again at a subsequent time.

12 CHAIRMAN CALONE: I don't know if that  
13 answers your -- your question, or if you had  
14 something specific you think we -- it should  
15 be included, you know, in a condition.

16 COMMISSIONER POTTER: It answers the  
17 question, I just -- I mean, I -- I would hate  
18 to vote disapproval because I can see so much  
19 work has been put into --

20 THE REPORTER: Job, I really -- I can't  
21 hear you.

22 COMMISSIONER POTTER: I'm sorry.

23 THE REPORTER: I'm sorry.

24 COMMISSIONER POTTER: I was just saying  
25 I would hate to disapprove the plan which has

1 Suffolk County Planning Commission 11/4/09 103  
2 got so much good -- good in it, and so much  
3 work has been put into it, but I just, as a  
4 Commission member, know I'll never see this  
5 again, and we'll really never know what --  
6 what took place. Maybe that's just a factor  
7 in our system here for --

8 COMMISSIONER BOLTON: Dave --

9 CHAIRMAN CALONE: Yes, Charlie.

10 COMMISSIONER BOLTON: -- this is just a  
11 point of protocol.

12 Dan said that if there was an amendment  
13 to the comprehensive plan, then it would be  
14 something that we would review again.

15 Could our condition be a request for an  
16 amendment addressing housing?

17 COMMISSIONER HOLMES: It would have to  
18 be declared substantive by the village;  
19 right?

20 CHAIRMAN CALONE: Yeah.

21 COMMISSIONER BOLTON: I mean --

22 DEPUTY DIRECTOR GULIZIO: A couple of  
23 points.

24 In terms of whether or not the  
25 Commission could place a reasonable condition

1 Suffolk County Planning Commission 11/4/09 104  
2 requiring an amendment of the plan with  
3 respect to the housing component, I -- I  
4 think you could do that. Whether or not that  
5 amendment came back as a re-referral or as a  
6 new referral, to be honest, you know, I don't  
7 want to put counsel on the spot, but I'm not  
8 certain it would still come back if that was  
9 the need for the condition. It's hard to  
10 speculate when I -- I don't know what the  
11 condition is actually, but --

12 CHAIRMAN CALONE: Well, the other thing  
13 is this whole thing is an amendment.

14 DEPUTY DIRECTOR GULIZIO: Right.

15 CHAIRMAN CALONE: So they're actually  
16 amending the whole plan -- now we're adopting  
17 the new one, however you want to -- it's a  
18 wholesale amendment, essentially, to replace  
19 the existing comprehensive plan.

20 So I would think that what we would do

21 is put a condition in there saying that, you  
22 know, we want -- we would ask the village to,  
23 you know, do as staff says, which is better  
24 identify regional and local housing needs.  
25 And that could be made stronger, perhaps,

1 Suffolk County Planning Commission 11/4/09 105  
2 with something more specific along the lines  
3 that Job mentioned, or -- or maybe  
4 Constantine has some ideas.

5 But, you know, my personal feeling is  
6 that I agree with Job, a lot of work has gone  
7 into this, and -- and putting that aside,  
8 there's actually a lot of good stuff in here,  
9 perhaps, other than -- you know, we have  
10 our -- our view on regional -- on affordable  
11 housing, that's from a regional perspective,  
12 and, you know, that -- I hear concerns around  
13 this table, and that's -- that's -- that's  
14 fine.

15 So the question, really, may be just how  
16 do you strengthen the condition that's in  
17 there --

18 DEPUTY DIRECTOR GULIZIO: Well --

19 CHAIRMAN CALONE: -- a bit?

20 DEPUTY DIRECTOR GULIZIO: One other  
21 option -- and, again, not to put words into  
22 the Commission members' mouths or to put the  
23 village on the spot, but there's nothing that  
24 would preclude any municipality from  
25 requesting additional time to perfect their

1 Suffolk County Planning Commission 11/4/09 106  
2 referral and to come back at a subsequent  
3 commission meeting, even if it's within a  
4 month at the next commission meeting, in  
5 order to provide additional support to  
6 address existing concerns of the Commission.

7 That being said, keep in mind that if  
8 the village were not amenable to that  
9 approach, then the Commission is obligated to  
10 render a decision within the 45-day period,  
11 or to have the referral result in a de facto  
12 approval.

13 CHAIRMAN CALONE: Yeah, and I think -- I  
14 mean, I don't think the village could  
15 decide -- you know, I don't think the mayor  
16 is authorized to speak on behalf of the  
17 village.

18 Well, I shouldn't put words in your  
19 mouth, but --

20 MAYOR HAI RR: I understand the desire  
21 for more specificity, but we -- we, at the  
22 same time, have undertaken a detailed study.

23 If you go to the Huntington's Horizons  
24 2020 that was issued in December of 2008 and  
25 you read through the housing section, they

1 Suffolk County Planning Commission 11/4/09 107  
2 make reference for the need for housing in

3 the whole town-wide Huntington. They say the  
4 Suffolk County Planning Department has  
5 estimated demand for approximately 3,500 new  
6 housing units -- that's total, nontraditional  
7 and traditional -- in Huntington between 2005  
8 and 2030. That is the only specific number  
9 that we have seen.

10 You referred to the Long Island Housing  
11 Authority for a bi-county one, but within the  
12 3,500 units of traditional and  
13 nontraditional, nontraditional being  
14 affordable housing, there was no more  
15 specificity as to what part of the 3,500  
16 should be affordable housing, and there was  
17 no other breakdown of that.

18 So referring to the town's plan, which  
19 has been approved, we can make reference to  
20 that number, but to try then -- assess the  
21 fair share for the village is very difficult  
22 as well. I think the plan or the condition  
23 that we are suggesting that if we have an  
24 intermunicipal -- municipal agreement with the  
25 other villages, as we would hope with the

1 Suffolk County Planning Commission 11/4/09 108  
2 Town of Huntington, that if they want to do  
3 bonding or something for a way of financing  
4 affordable housing -- and they've identified  
5 areas along the -- the corridors where they  
6 would see for high density areas and  
7 redevelopment of depressed or economically --

8 marginally -- marginal areas to develop for  
9 affordable housing which has pedestrian  
10 transportation and other, you know, services  
11 nearby, then we would share with the other  
12 villages and the financing of that through  
13 the bond in a similar matter that we do for  
14 open space -- the open space preservation.

15 CHAIRMAN CALONE: I think one of the  
16 tricky things about affordable housing in  
17 Lloyd Harbor, putting everything else aside,  
18 is that it's not near anything in terms of  
19 commercial development or jobs or anything  
20 like that, and it -- there's no -- you know,  
21 as far as I know, no public transit anywhere  
22 close to it. So --

23 SECRETARY ESPOSITO: Right. There's no  
24 stores, there's no downtown.

25 CHAIRMAN CALONE: Right.

1 Suffolk County Planning Commission 11/4/09 109

2 We can talk fair share, but obviously  
3 there are places in the county that are  
4 better suited to having affordable housing  
5 units than others. That doesn't mean to say  
6 that Lloyd Harbor shouldn't certainly  
7 contribute in a meaningful way to that --  
8 that issue. So --

9 MAYOR HAI RR: I think we share the same  
10 situation as Huntington Bay and the Village  
11 of Asharoken being a -- essentially a bedroom

12 community which doesn't have public  
13 transportation within it, but -- and we don't  
14 have sewer systems or, you know, there's --  
15 there's not the provision for high density  
16 development, but that we were -- we're  
17 willing to work with the Town of Huntington  
18 to support them in -- in appropriate ways to  
19 try to improve and add to the nontraditional  
20 housing. I don't know how much more specific  
21 we can get. We struggled with this.

22 DEPUTY DIRECTOR GULIZIO: (Indicating)

23 CHAIRMAN CALONE: Dan.

24 Thank you, Mayor.

25 DEPUTY DIRECTOR GULIZIO: The only point

1 Suffolk County Planning Commission 11/4/09 110

2 I would make is that the courts and their  
3 housing statutes talk about the need of each  
4 municipality to have a diversity of housing  
5 types meet the needs and tastes of all  
6 residents at all income levels.

7 So one of the concerns is that it  
8 shouldn't -- I don't think in the view of the  
9 court in Westchester, as the most recent  
10 example of it in terms of this increasing  
11 scrutiny on affordable housing, that's it's  
12 not just a matter of also making a financial  
13 contribution to the regional need of the  
14 affordable housing, but that also we at least  
15 have a responsibility to provide a diversity  
16 of housing types at various cost levels.

17           And so that's something that's -- again,  
18           it's not an easy issue to wrestle with,  
19           particularly for some municipalities as  
20           opposed to others that are more diversified  
21           based upon the history of their development  
22           patterns, but I don't think it abdicates the  
23           responsibility to think very specifically  
24           about how to meet those -- those needs and  
25           those guidelines being increasingly

1           Suffolk County Planning Commission 11/4/09 111  
2           identified by the courts.

3           CHAIRMAN CALONE: Dan, obviously you  
4           have a sensitivity -- you know, you're focus  
5           on this affordable housing issue more than --  
6           is knowledgeable as anyone up here, except  
7           for maybe Constantine. You came up with this  
8           condition, and I'd be interested to know why  
9           you kind of thought that was the right  
10          balance, you know, for that condition.

11          DEPUTY DIRECTOR GULIZIO: Well, what we  
12          tried to do with the condition is, again, not  
13          to dictate what the terms of the affordable  
14          solution ought to be, or what the specific  
15          terms should be to be included within the  
16          villages plan, but to simply, again, in a  
17          generic way, identify that there needs to be  
18          some type of rational approach, the  
19          identification of the need, and some type of  
20          rational response to that need in the form of

21 a series of policies that would help to meet  
22 that need.

23 So that's what we tried to do is to,  
24 again, not to dictate what the terms ought to  
25 be, but to try to spell out what the approach

1 Suffolk County Planning Commission 11/4/09 112  
2 should be. And, again, approach should be  
3 looking at the regional need, trying to  
4 quantify what fair share of that regional  
5 need ought to be included within the village,  
6 and then the development of strategies to  
7 actually meet those goals established to the  
8 inventory.

9 I think that's something that we would  
10 look to and expect of any municipality.  
11 Again, it's not easy. We have historic  
12 development patterns that make it very  
13 challenging, because, again, we're dealing  
14 with 42 different municipalities throughout  
15 Suffolk County alone. But I still think that  
16 what town law and village law requires, and  
17 what the courts are increasingly asking for  
18 is, again, additional effort to specifically  
19 identify the need and to specifically  
20 identify the strategies to meet that need.

21 That was the basis behind the condition.

22 CHAIRMAN CALONE: All right. Any other  
23 comments or questions?

24 (WHEREUPON, there was no response.)

25 CHAIRMAN CALONE: If not, I just want to

1 Suffolk County Planning Commission 11/4/09 113  
2 entertain a motion that --  
3 COMMISSIONER McADAM: (Indicating)  
4 CHAIRMAN CALONE: Tom.  
5 COMMISSIONER McADAM: I make a motion.  
6 SECRETARY ESPOSITO: (Indicating)  
7 CHAIRMAN CALONE: Seconded by Adrienne.  
8 All those in favor of approval of the  
9 comprehensive plan with the condition as  
10 indicated that the village should better  
11 identify regional and local housing needs and  
12 particularize the strategies and goals needed  
13 to meet its fair share of the regional need  
14 for workforce and affordable housing, please  
15 raise your hand.  
16 (WHEREUPON, the members voted.)  
17 CHAIRMAN CALONE: And all opposed?  
18 (WHEREUPON, the members voted.)  
19 CHAIRMAN CALONE: Two, and we have one  
20 recusal. So it's 10 to 2 and 1 recusal.  
21 Okay. Next item on our agenda --  
22 Thank you, Dan.  
23 The next item on our agenda is Water's  
24 Edge from the Village of Port Jefferson.  
25 Is that Andy or is that -- who's it?

1 Suffolk County Planning Commission 11/4/09 114  
2 MR. FRELENG: Ted.

3 CHAIRMAN CALONE: All right, Ted, let's  
4 roll.

5 MR. KLEIN: Okay. Like you said, the  
6 application is Water's Edge. It's referred  
7 to the Commission by the Village of Port  
8 Jefferson. The property is located on the  
9 southeast corner of West Broadway and Brook  
10 Road in the Incorporated Village of Port  
11 Jefferson.

12 The Commission's jurisdiction for review  
13 is West Broadway, that's State Route 25A, and  
14 that it's also adjacent to wetlands from Mill  
15 Creek.

16 The regional significance of the  
17 property is that it's a 42 unit apartment  
18 building opposed -- adjacent to a body of  
19 water. And, therefore, the 42 units exceeds  
20 33 percent threshold of a project or action  
21 that involves the construction of 100  
22 residential units to be connect to an  
23 existing sewage treatment plant.

24 The subject site is -- can be  
25 described -- it's presently used as a power

1 Suffolk County Planning Commission 11/4/09 115  
2 boat sales and service business, and a  
3 residence.

4 The existing structures consist of one  
5 and two story commercial buildings and one  
6 residence.

7 The character is it's a corner parcel ,  
Page 98

8 irregular in shape, mostly level and cleared,  
9 and contains some wetlands associated with  
10 Mill Creek.

11 The cover is -- well, it's mostly  
12 cleared. Some landscaping, some asphalt  
13 paving, and crushed -- crushed stone parking.

14 Like I said, it is adjacent to a body of  
15 water, Mill Creek. The total area of the  
16 site is 1.84 acres. It is zoned C-1  
17 Commercial -- Central Commercial, and R-B2  
18 Residence.

19 There is the boat yard in operation  
20 (indicating).

21 And there is the zoning map  
22 (indicating).

23 The applicant is proposing to raise the  
24 existing buildings associated with the boat  
25 business and residence and build two

1 Suffolk County Planning Commission 11/4/09 116  
2 adjoining three-story apartment buildings,  
3 one mixed-use, which would contain  
4 1,900 square feet of office use, a ventilated  
5 parking garage on the first floor, and  
6 apartments on the second and third floor  
7 consisting of 52 units consist- -- which  
8 would contain two studios, 34 one bedroom,  
9 and 16 two bedroom apartments. The mixed-use  
10 apartment building is -- is permitted in the  
11 C-1 zoning, which is -- which the building is

11 04 09\_Planning.txt  
12 situated in. There's a --  
13 Go one back, please.  
14 MR. CORRAL: (Compl ying)  
15 MR. KLEIN: There is an outline of the  
16 building (i ndi cati ng).  
17 According to village ordinance, 54 --  
18 excuse me, 84 parking stalls, that's one and  
19 a half stalls per apartment and one stall per  
20 300 square feet of office space, is required  
21 to be provided on site. And the applicant is  
22 proposing 94 parking stalls on site.  
23 The requested variance is for relief for  
24 the building height limit of 35 feet, as the  
25 applicant is proposing a three-story building

1 Suffolk County Planning Commission 11/4/09 117  
2 with the average roof line height of 50 feet  
3 6 inches; that's 44 percent above what would  
4 be permitted in accordance with zoning. And  
5 the actual roof ridge, or the height of the  
6 building --

7 Can we go to the slide showing the  
8 profile, please.

9 MR. CORRAL: (Compl ying)

10 MR. KLEIN: The ridge of the building --  
11 the actual height from the front curb would  
12 be 62 feet. The building height is measured  
13 from the vertical distance measured from the  
14 average finished grade at the -- at the front  
15 of the building to the mean average height  
16 between the eave and the ridge of the

17 building. So this is -- the height is  
18 measured between the average of these points.

19 Access to this -- to this site,  
20 pedestrian vehicle access is from both  
21 West Broadway and Brook Road, and an  
22 additional point of pedestrian access is over  
23 a footbridge which connects Caroline Avenue  
24 Park to the site, which also connects the  
25 rest of the downtown area.

1 Suffolk County Planning Commission 11/4/09 118

2 Environmental conditions of the site,  
3 there are several.

4 One, the high groundwater table at some  
5 point within one foot of the surface;

6 DEC regulated wetlands is on and  
7 adjacent to the site;

8 And the site also contains soil --  
9 contaminated soils resulting from the plume  
10 emanating from the Lawrence Aviation  
11 Industrial site to the southwest.

12 As far as the comprehensive plan of the  
13 site the village has, the village currently  
14 doesn't have a comprehensive plan.

15 Staff recognizes the -- the benefits  
16 associated with this proposal of a mixed-use  
17 apartment and retail in the downtown area,  
18 which is conveniently accessible to the  
19 amenities of downtown shopping, restaurants,  
20 retail, and professional services. However,

21 there appears to be nothing in the referral  
22 material indicating that any of the units  
23 will be designated as affordable, and  
24 therefore there's no clear -- clear  
25 benefit -- clear public benefit associated

1 Suffolk County Planning Commission 11/4/09 119  
2 with the variance request.

3 Furthermore, given the nature of the  
4 proposal and the character of the surrounding  
5 area, the proposed one -- the first floor  
6 parking facility and excessive height for the  
7 proposed building appears out of character  
8 with the surrounding area, and over-intense  
9 for the property.

10 Can you give me another slide.

11 MR. CORRAL: (Compl ying)

12 MR. KLEIN: This is the view from  
13 Brook -- from Brook Road (indicating). It is  
14 evident in the referral material that, for  
15 one, the scenic views of the adjacent  
16 residences along Brook Road would be blocked  
17 as a result of this proposal, and that the  
18 benefit that the applicant does seek could be  
19 achieved by other means other than a height  
20 variance it requests.

21 Therefore, the staff recommends  
22 disapproval for the following reasons.

23 The applicant would satisfy the on-site  
24 parking requirement --

25 CHAIRMAN CALONE: Ted, I think we can --  
Page 102

1 Suffolk County Planning Commission 11/4/09 120

2 I think -- I think we'll just -- I think we  
3 can all read those two requirements, just to  
4 speed things up.

5 MR. KLEIN: Yeah, but you don't think it  
6 should be read into the record? It won't be  
7 long.

8 CHAIRMAN CALONE: No, that's fine. I  
9 think we can attach it to our -- the  
10 approval.

11 MR. KLEIN: That's fine.

12 CHAIRMAN CALONE: Thanks.

13 Right. So just everyone's clear --

14 MR. KLEIN: Go ahead.

15 CHAIRMAN CALONE: -- I'm just going to  
16 summarize for you, Ted.

17 Just that the -- it's for the reasons of  
18 the on-site parking, as well as not  
19 demonstrating compliance with the applicable  
20 variance criteria.

21 Sorry, I just wanted to -- go ahead.

22 MR. KLEIN: Okay. I don't think I took  
23 that long.

24 I'm done.

25 CHAIRMAN CALONE: Good. Great.

1 Suffolk County Planning Commission 11/4/09 121

2 Okay. This is in Port Jefferson at the

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village.

Adrienne, the village's perspective.

SECRETARY ESPOSITO: Let's see, where should we begin?

First off, I think we need to accent that it does not -- it fails to demonstrate that there'll be no adverse physical and environmental impacts; that it also is one foot from water table and that they want to fill in the wetlands, which pretty much guarantees flooding.

So we have a classic case here of potential flooding of the development. We have a classic case here of wanting to ignore New York State Wetlands Laws, which will also facilitate flooding. We have range of slopes from 0 to 35 percent.

It doesn't say if the construction will be on the highest slopes or -- or not, I'm not sure, maybe you could answer that question.

MR. KLEIN: Those slopes are associated with the soil on the property.

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SECRETARY ESPOSITO: Yes.

MR. KLEIN: I think the steepest slope would be near the creek. It's a relatively flat site.

SECRETARY ESPOSITO: Okay. But it says 0 to 35 percent.

8 MR. KLEIN: That's according to the  
9 soils on property. The soils in the soils  
10 map --

11 SECRETARY ESPOSITO: Uh-huh.

12 MR. KLEIN: -- so I threw that in. I  
13 didn't mean to confuse --

14 SECRETARY ESPOSITO: Okay.

15 MR. KLEIN: -- the Commission.

16 They aren't that steep. It appears  
17 maybe at the bank of the wetlands it might  
18 drop down.

19 SECRETARY ESPOSITO: Okay. And then the  
20 other thing that I just need a little  
21 clarity on also, please, is when you say the  
22 plume from Lawrence Aviation has contaminated  
23 the soils there, I assume that's with the  
24 VOCs, Volatile Organic Chemicals.

25 Obviously, one of the concerns now is

1 Suffolk County Planning Commission 11/4/09 123  
2 that with VOCs is the infiltration when they  
3 are in the soils into the building structure  
4 which allows for buildup in the home. So,  
5 normally, when you are going to do  
6 construction of residential over known areas  
7 of contamination, there would be assessments  
8 and tests done to understand better if that  
9 potential exists.

10 Do we know if that was done for this?

11 MR. KLEIN: Well, the referral materials

11 04 09\_Planning.txt  
12 regarding this application did not contain  
13 that, but we did --  
14 SECRETARY ESPOSITO: Okay.  
15 MR. KLEIN: -- have something on file  
16 that did address the evaporation of the  
17 moisture in the ground up into the building,  
18 while they did mention that the parking --  
19 parking facility on the first floor would be  
20 ventilated.  
21 SECRETARY ESPOSITO: Okay. That's the  
22 new way to get around --  
23 MR. KLEIN: Un-huh.  
24 SECRETARY ESPOSITO: -- VOC build up.  
25 Okay. Those are my questions for now.

1 Suffolk County Planning Commission 11/4/09 124  
2 MR. KLEIN: Okay.  
3 CHAIRMAN CALONE: I'll just say I'm  
4 pretty familiar with the area, having grown  
5 up there, but I think that it's actually -- I  
6 understand Adrienne's concerns, but I think  
7 on that particular site, it certainly  
8 would -- would be nice to see some  
9 development there. It's part of the village  
10 that kind of doesn't have anything there.  
11 I'm not -- I think the design is -- it seems  
12 to be pretty well done.  
13 I -- I -- I certainly agree that it --  
14 it would seem to be a rather intense use of  
15 that site, and that's something I think that,  
16 you know, we can speak to and obviously the

17 village can ultimately decide. But in terms  
18 of actually -- as some kind of an anchor --  
19 as Danford's is an anchor on the other side  
20 of the village, have some kind of an anchor  
21 and some -- some residential space on that  
22 side of the village, I think would be a great  
23 thing.

24 I am similarly also concerned with the  
25 lack of -- you know, the mention of the

1 Suffolk County Planning Commission 11/4/09 125  
2 affordable housing. I think that is  
3 certainly a concern.

4 Michael, anything from the Brookhaven  
5 perspective generally about -- about this?

6 COMMISSIONER KELLY: No, but, you know,  
7 in terms of -- in terms of the -- some of the  
8 issues that -- that Adrienne raises, it's a  
9 very good point with the VOCs, but there are  
10 many -- many ways to solve that and to  
11 resolve it.

12 SECRETARY ESPOSITO: Yeah, clean up the  
13 soil would be one.

14 COMMISSIONER KELLY: Vis-à-vis the soil  
15 basins, the soil barriers, and even the  
16 venting if -- if it goes that route. So --

17 CHAIRMAN CALONE: Well, I mean, just to  
18 be clear, that -- it certainly isn't these  
19 folks fault that the aviation plume is --  
20 goes down underneath their property, though.

21 The guy's in jail who did it, and -- and  
22 there's a superfund site -- you know, an EPA  
23 site now.

24 But that being said, it is what it is.  
25 There is contaminants under their soil, and

1 Suffolk County Planning Commission 11/4/09 126  
2 it's -- it's obviously a concern if we  
3 have -- if residents are thinking to live on  
4 top of that land. So -- and there are  
5 mediation -- you know, there are ways to  
6 mediate that, to some degree; right?

7 Is that what you're --  
8 SECRETARY ESPOSITO: Well, you have  
9 to -- you -- the way that -- the real way to  
10 mediate it is to remediate the source area.  
11 You're not going to change the hydrological  
12 flow of plume. The reason it comes up in  
13 that area is because of the creek, it's the  
14 area of less pressure. The plume comes up in  
15 that area, which means the VOCs are coming up  
16 with the plume. The higher they are to the  
17 surface, the more likely they are to be able  
18 to migrate from the surface, through the  
19 soil, into a building structure.

20 Yes, they vent buildings. But the new  
21 philosophy is, if you know it's already  
22 there, don't put the building on top of it.  
23 Where venting is useful, it's -- it's -- when  
24 the building was already constructed and they  
25 didn't know VOCs would be entering and

1 Suffolk County Planning Commission 11/4/09 127  
2 building up into high quantities, they knew  
3 then to buy an area to prevent further  
4 contamination to public.  
5 CHAIRMAN CALONE: Others?  
6 COMMISSIONER POTTER: (Indicating)  
7 CHAIRMAN CALONE: Job.  
8 COMMISSIONER POTTER: I have a question  
9 for you, Dave, since you know the site. But  
10 before I ask --  
11 THE REPORTER: I can't hear you.  
12 COMMISSIONER POTTER: Sorry.  
13 I wanted to ask you, Mr. Chairman,  
14 because you're familiar with the site about  
15 how you feel about the height of the  
16 building.  
17 But, also, an interesting thing here is  
18 that apparently -- or maybe this needs to be  
19 explained. They're going for the Zoning  
20 Board of Appeals variance before going to the  
21 Planning Board, and the staff make a comment  
22 about that. So I think that deserves a  
23 little discussion.  
24 CHAIRMAN CALONE: Any other color on  
25 that, Ted, or any thoughts on that?

1 Suffolk County Planning Commission 11/4/09 128  
2 MR. KLEIN: Well, just a comment.

3 We thought it would be helpful to the  
4 village that -- that they review this site  
5 plan and approve it subject to a variance.  
6 So, therefore, they would not restrict the --  
7 by approving a variance, it restricts the  
8 planning board from making appropriate  
9 modifications to it. You know, regarding  
10 the height, it is pretty out of character  
11 with the area. It is significant. It's  
12 44 percent above what would be permitted, and  
13 there are other options that the applicant  
14 does have to develop this site.

15 CHAIRMAN CALONE: Yeah, I would say,  
16 with regard to your question, Job, and  
17 consistent with what Ted's saying, it  
18 certainly would be, you know, the highest  
19 thing on that side of the village. Directly  
20 across the street, on the north side of the  
21 street, there's a small shopping center. It  
22 had a restaurant --

23 MR. KLEIN: We have a picture of that.  
24 I can show you a picture of that.

25 CHAIRMAN CALONE: -- which has some

1 Suffolk County Planning Commission 11/4/09 129  
2 height, but it -- you know, this seems to be  
3 considerably, you know, higher than that.

4 MR. KLEIN: What's the height of a  
5 telephone pole; 35, 40 feet?

6 You know, it would be -- could be  
7 20 feet above a telephone pole.

8           Could we show the photo from the  
9           frontage?  
10           It's going to be pretty high.  
11           MR. CORRAL: (Compl ying)  
12           MR. KLEIN: Go one -- one -- one more.  
13           MR. CORRAL: (Compl ying)  
14           MR. KLEIN: Here's what it looked like  
15           from downtown -- coming -- heading east on  
16           25A, it would be about the height of the tree  
17           line.  
18           COMMISSIONER POTTER: Can we --  
19           CHAIRMAN CALONE: Yeah, Job.  
20           COMMISSIONER POTTER: Can we go back to  
21           the elevation drawing.  
22           CHAIRMAN CALONE: Yeah, can you go back  
23           to the elevation there, Ted.  
24           MR. CORRAL: (Compl ying)  
25           CHAIRMAN CALONE: That one. That one.

1           Suffolk County Planning Commission 11/4/09 130  
2           Okay. I'm talking about the -- the  
3           restaurant I'm talking about, El Maradoro's  
4           on the right side, and it is -- which is  
5           pretty high, actually, you know, for that  
6           area, and so that would be considerably  
7           higher.  
8           MR. KLEIN: We have a picture of it;  
9           right?  
10           MR. CORRAL: (Compl ying)  
11           CHAIRMAN CALONE: Again, I think the

12 design is great if you're going to have  
13 something like that. I just think it's just  
14 rather intense.

15 MR. KLEIN: One more, John.

16 MR. CORRAL: (Compl ying)

17 MR. KLEIN: Okay. Here is that  
18 building -- maybe -- is this what you're  
19 referring to?

20 CHAIRMAN CALONE: Yeah, that was the  
21 restaurant I was referring to.

22 MR. KLEIN: Well, actually, this is just  
23 an office building, and the restaurant would  
24 be the next slide over.

25 CHAIRMAN CALONE: Yeah, they're kind of

1 Suffolk County Planning Commission 11/4/09 131  
2 connected.

3 MR. CORRAL: (Compl ying)

4 MR. KLEIN: There you go.

5 That's probably 30- -- 35 feet tall.

6 We're talking 20 feet higher than that.

7 SECRETARY ESPOSITO: Would it be higher  
8 than the tree line in that photo?

9 MR. KLEIN: It would be 20 feet higher  
10 than that building.

11 SECRETARY ESPOSITO: Okay.

12 MR. KLEIN: And also, the parking -- the  
13 on-site parking, the only way they can  
14 feasi bly achieve 52 units on site and provide  
15 for parking would be for the parking garage.  
16 So that might indicate an over-intensive use

17 of the premises. They would not -- not  
18 otherwise achieve that number of units.

19 CHAIRMAN CALONE: Other thoughts,  
20 comments, questions, other observations?

21 COMMISSIONER BOLTON: (Indicating)

22 CHAIRMAN CALONE: Ms. Bolton.

23 COMMISSIONER BOLTON: I know this site  
24 actually pretty well, and I have to say my  
25 great concern with it is really the plume and

1 Suffolk County Planning Commission 11/4/09 132

2 the environmental issues, because there  
3 really has to be a more clearly defined  
4 responsible way of developing this site. And  
5 that's my concern. I'm not concerned with  
6 52 units, I'm not concerned with the design,  
7 the height.

8 I am also concerned with -- along with  
9 that height and density, including a  
10 provision for affordable housing, which I  
11 believe is much needed in that area, and  
12 is -- would be, in fact, fairly conveniently  
13 located in terms of services and  
14 transportation.

15 So I think from those two, you know,  
16 I -- I think that's a very important  
17 consideration, and I think the -- the plume  
18 and how one deals with that -- and it's not  
19 my field, but I trust that the information  
20 that I've heard is accurate and appropriate,

21 and I would tend to go along with that.

22 CHAIRMAN CALONE: Yeah, I -- I don't  
23 know that -- I guess the question would be --  
24 is there anything we can say about the plume  
25 when it isn't their plume, and the EPA is

1 Suffolk County Planning Commission 11/4/09 133  
2 doing what they're doing? But certainly the  
3 affordable housing is a good point for sure.

4 Maybe others have thoughts on -- if you  
5 want to add a rationale as being -- to  
6 include the plume, but --

7 COMMISSIONER LANSDALE: Excuse me.

8 CHAIRMAN CALONE: Sarah.

9 COMMISSIONER LANSDALE: I just have a  
10 question.

11 Whether or not there was any information  
12 in the referral material about whether or not  
13 this site is going through the New York State  
14 Brownfields Program. Because there are very  
15 clear cleanup standards for soils, especially  
16 in regard to use space standards of having  
17 highest cleanup standards, protective of  
18 human health, with residential properties and  
19 the redevelopment of these sites.

20 MR. KLEIN: Not with this application --  
21 specific application regarding the variance,  
22 but we did have something that was submitted  
23 to us some months ago on file regarding the  
24 mitigation of the -- of the -- the -- you  
25 know, the gas -- potential gas evaporation of

1 Suffolk County Planning Commission 11/4/09 134  
2 the contaminants. Whether it went to a  
3 Brownfields Program, I have no idea.  
4 COMMISSIONER LANSDALE: Okay.  
5 CHAIRMAN CALONE: All right.  
6 MR. FRELENG: Mr. Chairman.  
7 CHAIRMAN CALONE: Yes, Andy.  
8 MR. FRELENG: Just one point of  
9 information. I learned today that the Zoning  
10 Board of Appeals is going to Post Dec this  
11 project, put it in environmental impact  
12 statement process. That more than likely  
13 will be referred to the Commission staff, and  
14 we will definitely include the comments that  
15 the Commission made back to the village so  
16 they would investigate those issues that you  
17 raised.  
18 CHAIRMAN CALONE: Excellent. Thank you,  
19 Andy.  
20 COMMISSIONER McADAM: (Indicating)  
21 CHAIRMAN CALONE: Tom.  
22 COMMISSIONER McADAM: I have a question  
23 maybe Adrienne -- if you don't mind.  
24 You were talking about the plume and --  
25 and how -- how you could vent -- vent it

1 Suffolk County Planning Commission 11/4/09 135  
2 where the buildings are located, but do you

3 know how this affects a body of water, the  
4 creek that's next to it?

5 SECRETARY ESPOSITO: Well, it -- yes and  
6 no. Yes, it depends on the chemicals  
7 constituency of the plume. I'm not sure  
8 exactly what chemicals are in this plume.  
9 But with VOCs in particular, which are  
10 Volatile Organic Chemicals, once they're  
11 released from that pressurized situation,  
12 they volatilize or become airborne. So  
13 they're not known for their ability to settle  
14 in soil or in sediment in a river or marine  
15 environment.

16 COMMISSIONER McADAM: Okay.

17 SECRETARY ESPOSITO: But there could be  
18 other constituents in that plume. I just  
19 don't know -- heavy metals or -- or whatever,  
20 I'm not sure. Those move much slower than  
21 VOCs, but I don't know what that plume is  
22 discharging once it gets to the creek.

23 COMMISSIONER McADAM: Now, would that  
24 come up in a SEQRA --

25 SECRETARY ESPOSITO: Yes.

1 Suffolk County Planning Commission 11/4/09 136

2 COMMISSIONER McADAM: -- in a SEQRA  
3 process --

4 SECRETARY ESPOSITO: I would think  
5 that --

6 COMMISSIONER McADAM: -- (inaudible)?

7 SECRETARY ESPOSITO: Absolutely.

8 CHAIRMAN CALONE: Well, let me ask a  
9 question of Director Isles or the other  
10 staff.

11 Given the information that Andy's just  
12 shared, is there any reason why we  
13 shouldn't -- we should, you know, forebear  
14 moving forward with this now if there's going  
15 to be, you know, significant additional  
16 information coming down the pike?

17 In other words, you know, is this  
18 premature?

19 MR. FRELENG: No, Mr. Chairman. I think  
20 that the Commission has sufficient  
21 information to act on the variance request.  
22 It is an area variance, and I think that's --  
23 staff has presented the details related to an  
24 area variance. This will come back to the  
25 Commission as a site plan, so we will have

1 Suffolk County Planning Commission 11/4/09 137  
2 another chance to take a look at this  
3 application, as well as it will go through  
4 the SEQRA process. So I do not believe it's  
5 premature to act on this referral.

6 CHAIRMAN CALONE: Okay. Thank you,  
7 Andy. Appreciate that.

8 Why don't we move along. We had -- one  
9 other item was added by Charla, without  
10 objection, on affordable housing. I think  
11 that's, you know, a pretty tried and true

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thing to include in this.  
So, seeing no objection. And then --  
Any other comments or questions?  
(WHEREUPON, there was no response.)  
CHAIRMAN CALONE: If not, we'll  
entertain a motion.  
COMMISSIONER POTTER: I'll make a  
motion.  
CHAIRMAN CALONE: Moved by  
Commissioner Potter.  
COMMISSIONER HOLMES: (Indicating)  
CHAIRMAN CALONE: Seconded by  
Commissioner Holmes.  
The motion is for disapproval for the

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Suffolk County Planning Commission 11/4/09 138  
three reasons.  
First being that -- the height variance  
as a result of the parking;  
The second being that the application  
does not demonstrate compliance with the  
applicable variance criteria and would tend  
to establish a precedent that would only tend  
to substantially undermine the effectiveness  
of the zoning ordinance;  
And three, that there is no provision  
for affordable housing.  
All in favor, please raise your hand.  
(WHEREUPON, the members voted.)  
CHAIRMAN CALONE: That's 13.  
And all opposed?

17 (WHEREUPON, there was no response.)  
18 CHAIRMAN CALONE: And abstentions?  
19 (WHEREUPON, there was no response.)  
20 CHAIRMAN CALONE: Okay. That's 13-0.  
21 Let's move on to the next thing, which  
22 is the Town of Brookhaven town-wide law.  
23 Who's got that?  
24 DEPUTY DIRECTOR GULIZIO: I do.  
25 CHAIRMAN CALONE: Okay. Dan.

1 Suffolk County Planning Commission 11/4/09 139

2 DEPUTY DIRECTOR GULIZIO: Good  
3 afternoon.

4 Nonconforming uses are simply uses which  
5 were valid when established or rendered  
6 nonconforming by subsequent either adoption  
7 or amendment of a Town Zoning Code or Village  
8 Zoning Code. So a nonconforming use could be  
9 something as simple as a commercial use that  
10 was subsequently rezoned by the town to a  
11 residential district, thereby rendering it a  
12 nonconforming status, meaning, the use is not  
13 permitted by the zoning requirements or the  
14 zoning district.

15 Towns have also distinguished between  
16 nonconforming uses and nonconforming  
17 structures, traditionally. The nonconforming  
18 use could be a use that didn't comply to the  
19 requirements in the zoning code, but towns  
20 also distinguished to nonconforming buildings

21 or structures, meaning, the structure doesn't  
22 comply with the requirements of the code.  
23 Meaning, they could possibly not need setback  
24 requirements, front yard or a side yard  
25 setback requirements.

1 Suffolk County Planning Commission 11/4/09 140

2 So it's important to keep that in mind  
3 as we talk about nonconforming uses that --  
4 it could be the use or it could be the  
5 structure. And there are -- are used by --  
6 in both capacities by towns and villages.

7 The purpose behind a nonconforming use  
8 is that it was designed to provide some type  
9 of a re- -- restyle for those uses which  
10 existed prior to the adoption of a zoning  
11 code or prior to the amendment of a zoning  
12 code, so that there would be some return on  
13 reasonable investor-backed expectations  
14 associated with the use.

15 The presumption behind nonconforming  
16 uses, though, is that certainly over time,  
17 they would be extinguished or terminated. In  
18 that, once someone recouped their reasonable  
19 investor-backed expectations, that the  
20 nonconforming use would be terminated  
21 typically within the lifetime of the  
22 structure.

23 To that regard, most local codes that  
24 have nonconforming use provisions have a  
25 series of regulations that restrict the

1 Suffolk County Planning Commission 11/4/09 141  
2 expansion, enlargement, restoration, or  
3 reconstruction of nonconforming uses. They  
4 also talk about terms such as abandonment,  
5 subdivision, amortization of nonconforming  
6 uses. And the Town of Brookhaven's code  
7 currently does have many of those provisions  
8 that you would see in a traditional  
9 nonconforming use provision.

10 Most codes, when they talk about  
11 reconstruction or limit reconstruction to a  
12 certain percentage of a total either value of  
13 the structure or the total square footage of  
14 the structure, and there's usually two  
15 distinctions made on that.

16 This one simply wants to reconstruct a  
17 portion of it, then there's -- the town or  
18 the village is typically more restrictive on  
19 the percent of the structure they will permit  
20 to be reconstructed. Most codes that I'm  
21 familiar with look at about 25 percent.  
22 However, most codes also make a greater  
23 allowance or greater flexibility when there's  
24 an act of God or a natural disaster that has  
25 damaged a portion of the structure. Some

1 Suffolk County Planning Commission 11/4/09 142  
2 codes say that if you're simply constructing

3 a portion of the structure, you can only  
4 reconstruct up to 25 percent, but if it's  
5 damaged by fire or other natural disaster,  
6 you can reconstruct a greater percentage, up  
7 to 50 percent. And I think if you look at  
8 most of the codes, the percentage varies  
9 between 25 and 50 percent.

10 Most of the codes also look at the idea  
11 of enlarging a nonconforming use or -- or  
12 minimizing the expansion of a nonconforming  
13 use. In the codes that I'm familiar with,  
14 I've seen everything from, you can't expand  
15 the nonconforming use beyond what currently  
16 exists, so you can only expand up to a  
17 certain percentage of a nonconforming use.  
18 And, again, what I've typically seen is  
19 someplace around 25 percent for expansions,  
20 sometimes maybe 50 percent at the liberal end  
21 of the spectrum.

22 Codes also talk about alteration of a  
23 nonconforming use. And when we talk about  
24 alteration, we're really talking about  
25 changing the nonconforming use from one

1 Suffolk County Planning Commission 11/4/09 143  
2 nonconforming use to another. And that's  
3 typically prohibited by a zoning code or a  
4 nonconforming use provision. Meaning, if  
5 your nonconforming use is a retail store in a  
6 residential district, that doesn't mean you  
7 can change it to any other nonconforming

8 commercial use, such as a warehouse facility  
9 or an outside storage facility associated  
10 with, say, industrial development.

11 So, typically, what you have is what you  
12 have, and you can have it for the lifetime of  
13 the use, but changing it to another use,  
14 extending the lifetime of it for restoration  
15 are typically things that are prohibited by  
16 most nonconforming use provisions.

17 Just two other -- quickly, two other  
18 provisions that are looked at.

19 One is abandonment. Traditionally,  
20 courts looked at abandonment very strictly.  
21 And what they said was, in order for there to  
22 be abandonment of a nonconforming use -- in  
23 other words, the property owner simply  
24 abandoned the use and forfeited the rights of  
25 that use, courts have said that it had to be

1 Suffolk County Planning Commission 11/4/09 144  
2 completely abandoned for the period of the --  
3 of -- that's specified in the code, which is  
4 usually one year. So if you had, say,  
5 outside storage as a nonconforming use on  
6 your property, and you kept one car on that  
7 property as outside storage on a week during  
8 the year, courts typically looked and said,  
9 Nope, it wasn't abandoned.

10 Codes have since been amended to say  
11 that the substantial abandonment or

12           discontinuance of the use is enough to  
13           terminate that nonconforming use. So if half  
14           of the year that use is abandoned, that might  
15           be enough in some courts for you to say the  
16           use was abandoned or discontinued consistent  
17           with a code provision.

18           The subdivision of a property on which a  
19           nonconforming use sits also typically  
20           terminates that nonconforming use, because in  
21           the court's view, if you subdivide the use  
22           and say you had outside storage on a  
23           10-acre -- 10-acre parcel, and then you  
24           subdivided five of the acres off and sold it  
25           to development, even if that condensed the

1           Suffolk County Planning Commission 11/4/09 145  
2           nature of that nonconforming use by reducing  
3           the density of it down to five acres from  
4           what was a 10-acre parcel.

5           Finally, most codes look at the idea of  
6           amortizing out nonconforming uses. Courts  
7           have looked at that typically as a balancing  
8           test. Meaning, has -- what is the impact to  
9           the neighborhood by the nature of the  
10           nonconforming use? Does it border on  
11           nuisance provisions where courts would  
12           typically perform an injunction on it anyway,  
13           and what is the reasonable investor-backed  
14           expectation associated with that use? Is  
15           there a significant amount of investment in  
16           the use that would justify the amortization

17 of that use or not justify the amortization  
18 of that use. So they kind of look at the  
19 idea of the potential impact or if it's a  
20 value to the property owner in trying to  
21 regulate nonconforming uses.

22 The code provision that we have today  
23 presented -- or referred by the Town of  
24 Brookhaven makes two fairly substantive  
25 changes to their nonconforming use provision.

1 Suffolk County Planning Commission 11/4/09 146

2 The first change -- and I'm paraphrasing  
3 so bear with me, but the first change allows  
4 for the reconstruction, restoration, or  
5 rebuilding of a nonconforming use, in whole  
6 or in part.

7 So what that would mean is that if you  
8 had a nonconforming structure, you could  
9 knock down, as we interpret it, the entire  
10 structure and simply rebuild it in place in  
11 kind without terminating the nonconforming  
12 nature of the use and nonconforming status of  
13 the property. That would seem to us to be  
14 somewhat inconsistent with the whole picture  
15 behind nonconforming uses.

16 And as it's indicated in the staff  
17 report, the courts have termed nonconforming  
18 uses as -- they have a "grudging tolerance"  
19 for those uses. Another term that the courts  
20 have used is that the law "affords"

21 nonconforming use. And I think that goes to  
22 the basic premise that nonconforming uses  
23 should have some rights to exist in light of  
24 their uses, but, ultimately, the towns and  
25 villages should be seeking a compliance with

1 Suffolk County Planning Commission 11/4/09 147  
2 local zoning requirements in termination of  
3 these nonconforming uses.

4 The other provision that's in the code  
5 in addition to restoring and reconstructing  
6 the nonconforming use up to 100 percent of  
7 that use is also permitting, as we interpret  
8 it, unlimited expansions to the nonconforming  
9 use subject to the other underlying setback  
10 requirements contained within the ordinance.

11 The concern that we would have with that  
12 is that, again, a nonconforming use is  
13 something that typically should be grudgingly  
14 tolerated by the town and by the courts, and  
15 if we're taking that nonconforming use and  
16 substantially expanding it, we're  
17 substantially intensifying the nature of that  
18 use and then again increasing the risk of  
19 basic incompatibilities with surrounding  
20 conformed uses which are adjacent and  
21 surrounding a property.

22 You know, one way of thinking of it is  
23 thinking of it in terms of examples, I think.

24 If we had a nonconforming use of, let's  
25 say, 1,000-square-foot country store that

1 Suffolk County Planning Commission 11/4/09 148  
2 happened to exist on a particular piece of  
3 property over a period of time, it wasn't  
4 very intensive, it was kind of a mom and pop  
5 store that people went to. And then that was  
6 expanded from 1,000 square feet to, say, a  
7 15,000-square-foot convenience store, I think  
8 most rational people or reasonable people  
9 would look at that and say that that's a  
10 potentially significant adverse impact to  
11 surrounding properties, and certainly a  
12 significant change in the nature and  
13 character of development in the area.

14 The other thing we would point out is  
15 that, we're not saying that any individual  
16 nonconforming use couldn't be brought in to  
17 conform with the codes or amendments of the  
18 zoning ordinance, but per some other  
19 mechanism. But it seems like simply allowing  
20 for unlimited expansions for nonconforming  
21 uses or unlimited restoration, repair, or  
22 reconstruction of a nonconforming use would  
23 be inconsistent with the spirit and intent of  
24 the zoning authority that's implicit in -- in  
25 local town zoning codes associated with

1 Suffolk County Planning Commission 11/4/09 149  
2 nonconforming uses. And we think it

3 establishes a dangerous precedent to  
4 perpetuate these -- these uses forever into  
5 the future, and also allows for those uses to  
6 be greatly increased in terms of the  
7 intensity and potential impacts to  
8 surrounding properties.

9 We think a better mechanism, if you want  
10 to preserve an individual use, is to simply  
11 allow the applicant to come in and seek a  
12 rezoning of the application consistent with  
13 the local comprehensive plan and the local  
14 zoning codes. But, again, to kind of, on a  
15 town-wide basis, allow for these unlimited  
16 expansions or reconstructions is -- it seems  
17 to us to be a significant concern.

18 CHAIRMAN CALONE: Thank you, Dan.

19 COMMISSIONER BOLTON: I have a --

20 CHAIRMAN CALONE: Charla.

21 COMMISSIONER BOLTON: -- just a quick  
22 question.

23 Do you have any background on why they  
24 would have done this, since it effectively  
25 would abrogate the purpose of nonconforming

1 Suffolk County Planning Commission 11/4/09 150  
2 use statute?

3 DEPUTY DIRECTOR GULIZIO: We only have  
4 the material that's referred to us as part of  
5 the referral application, and it didn't go  
6 into the background behind it.

7 The only other thing I would point out,  
Page 128

8 and I apologize for not mentioning it  
9 earlier, is that some of these provisions for  
10 reconstruction and expansion would almost  
11 seem to be in conflict with other provisions  
12 regarding discontinuance or --

13 COMMISSIONER BOLTON: Exactly.

14 DEPUTY DIRECTOR GULIZIO: -- other  
15 provisions that are already incorporated in  
16 the code, but I don't know the intent behind  
17 it quite honestly.

18 COMMISSIONER BOLTON: Thank you.

19 CHAIRMAN CALONE: I do believe we  
20 have --

21 Is the building inspector still here?

22 SECRETARY ESPOSITO: Yeah, he's here.

23 CHAIRMAN CALONE: Yeah. I mean, we  
24 certainly have the ability to ask municipal  
25 officials for help with our reasoning.

1 Suffolk County Planning Commission 11/4/09 151

2 So if you wanted to, sir, respond to  
3 that question as to the genesis of that  
4 briefly.

5 MR. GERHAUSER: This actually -- the  
6 intent, and I think it was written correctly,  
7 is that it doesn't affect nonconforming uses  
8 but nonconforming buildings. The heading in  
9 our Town Code 85-372 is "Nonconforming Uses,"  
10 but then it goes on to cover "Uses,  
11 Buildings, and Lots." And so the intent was

12 not to affect nonconforming uses, to still  
13 restrict that, but the nonconforming  
14 buildings. And really for the one-family  
15 dwelling. That dwelling that has the  
16 nonconforming side yard, and we send them to  
17 the Board of Appeals all the time. And the  
18 Board of Appeals just routinely grants that  
19 nonconforming whatever, 10-foot side yard.

20 So, right now, the code, once they were  
21 exceeding -- the scope of work that's  
22 exceeding 50 percent of the reconstruction of  
23 that structure, we say you can't do it, and  
24 then they go to the Board of Appeals.

25 CHAIRMAN CALONE: Gotcha.

1 Suffolk County Planning Commission 11/4/09 152

2 MR. GERHAUSER: Did I answer it?

3 CHAIRMAN CALONE: Yes. Thank you.

4 COMMISSIONER POTTER: (Indicating)

5 CHAIRMAN CALONE: Job.

6 COMMISSIONER POTTER: It makes me  
7 wonder, though, if this isn't too broad an  
8 amendment which is seeking to address one  
9 particular problem that may bring in all  
10 kinds of other headaches in addition.

11 COMMISSIONER BOLTON: I agree.

12 CHAIRMAN CALONE: I think that's --  
13 maybe that's where staff's going on this --  
14 with this, too. It's just like they're --  
15 and -- and I think it's consistent with what  
16 the gentleman from Brookhaven is saying, that

17 there may be situations where that -- that's  
18 more an administrative hassle that you're  
19 trying to avoid than anything else. And so  
20 maybe the issue is just -- making it more  
21 narrow itself.

22 MR. GERHAUSER: May I comment on that?

23 CHAIRMAN CALONE: Of course.

24 MR. GERHAUSER: Yes.

25 Okay. I -- I wrote this, but it was at

1 Suffolk County Planning Commission 11/4/09 153  
2 the direction of Commissioner Martin Haley,  
3 and although the intent was certainly to help  
4 the one-family dwelling, the way it's written  
5 does affect all buildings as long as the use  
6 is conforming. So conforming uses and  
7 nonconforming buildings, no matter what the  
8 use.

9 CHAIRMAN CALONE: Okay. Thank you, sir.  
10 Appreciate it.

11 DEPUTY DIRECTOR GULIZIO: (Indicating)

12 CHAIRMAN CALONE: Okay, Dan.

13 DEPUTY DIRECTOR GULIZIO: Just one of  
14 the things to point out in connection with --  
15 even if we're talking about just buildings  
16 and not uses, one of the concerns that we  
17 have from the staff's standpoint is that, say  
18 if you had a nonconforming set back of 5- or  
19 10-foot for, say, a sunroom -- a 10-foot-wide  
20 sunroom, the way we interpret -- again, if

21 we're misinterpreting, we're happy to stand  
22 corrected, but that would mean that you could  
23 continue that set back for another 40-foot  
24 provided it didn't encroach any closer to the  
25 nonconforming setback that currently exists.

1 Suffolk County Planning Commission 11/4/09 154  
2 And, again, in our view, that would be  
3 further intensifying a nonconforming setback,  
4 and there would be, I think, a host of other  
5 issues associated with a larger structure  
6 closer to the property line than a smaller  
7 structure.

8 I certainly also, as a former town  
9 employee, recognize the significant problem  
10 they have with nonconforming structures.  
11 Because, again, as I think I've mentioned in  
12 other meetings, there are over 101,000  
13 one-acre zoned properties in the Town of  
14 Brookhaven, 93 percent of which don't meet  
15 the minimum one-acre zoning requirements. So  
16 you have 93,000 structures that potentially  
17 don't meet the basic minimum setback  
18 requirements, and every time you want to do  
19 an addition to that nonconforming structure,  
20 it raises the potential of having to go to  
21 the Board of Appeals, as well as having to do  
22 title reports to determine when those setback  
23 requirements were actually imposed on that  
24 property.

25 It's an incredible bureaucratic  
Page 132

1 Suffolk County Planning Commission 11/4/09 155  
2 nightmare, which I think the town should be  
3 applauded for trying to address. I'm just  
4 not sure if, again, it's too broad and causes  
5 other problems in addition to trying to  
6 address those immanent problems.

7 CHAIRMAN CALONE: Thank you, Dan.

8 COMMISSIONER KELLY: (Indicating)

9 CHAIRMAN CALONE: And Michael.

10 COMMISSIONER KELLY: Just trying to go  
11 back and -- back over time. I believe a lot  
12 of the rezones or upzones happened back in  
13 early 2000, 2002-2003. So, you know, I just  
14 don't know what the percentage of those types  
15 of uses or those buildings at that point in  
16 time were conforming at that time, and now  
17 are not. And, you know, I don't -- I don't  
18 see how fair it is to those landowners or  
19 those property owners or those business  
20 owners that -- now that they are  
21 nonconforming because of any rezone back  
22 then, you know, where do they stand now  
23 having to go for -- having to go for a rezone  
24 is a -- is a substantial undertaking. And if  
25 you're a small -- you know, if you're a small

1 Suffolk County Planning Commission 11/4/09 156  
2 business owner, I think it's -- it's overly

3 burdensome to have to put them through that  
4 task, especially if the town is trying to  
5 ease the burden on that.

6 DEPUTY DIRECTOR GULIZIO: It's a  
7 delicate balance, and it's a difficult  
8 balance. I would say that I think the  
9 overall majority of the residential  
10 structures that the chief building inspector  
11 was referring to previously occurred as a  
12 result of a town-wide rezoning back in 1996.  
13 It was done as a part of their comprehensive  
14 plan update. That's when, in effect, the  
15 entire eastern portion of the town was  
16 upzoned from, say, quarter- and half-acre  
17 zoning to one-acre and two-acre zoning.  
18 That's where I think the bulk of those  
19 nonconforming structures stem from. It's  
20 actually not the commercial properties. I  
21 think as a significant problem as it is,  
22 those single-family residents in the A-1  
23 district, the one-acre zoning district.

24 CHAIRMAN CALONE: All right. Any other  
25 thoughts or comments?

1 Suffolk County Planning Commission 11/4/09 157

2 (WHEREUPON, there was no response.)

3 CHAIRMAN CALONE: I mean, to cut to the  
4 chase here, I mean, it seems like there's --  
5 there's probably good public policy in here,  
6 but it may just be too broad and -- and,  
7 perhaps, we should simply just say that.

8 That we're concerned that while there might  
9 be a -- that there -- we're simply just  
10 concerned that it's too broad, may -- may  
11 be -- may be the answer. And, you know --  
12 and I think you've heard it from us, kind of  
13 some of the concerns around the table, and  
14 maybe that's something you can -- can help,  
15 you know, the town and your thinking.

16 Any other thoughts or questions?

17 (WHEREUPON, there was no response.)

18 CHAIRMAN CALONE: I'm just looking at  
19 these reasons. I want to make sure that none  
20 of the reasons are no longer valid.

21 (Perusing a document)

22 CHAIRMAN CALONE: I think that those  
23 reasons probably still hold. We may want to  
24 add the -- an additional reason, which is  
25 simply that, you know, the law as written may

1 Suffolk County Planning Commission 11/4/09 158  
2 be, you know, applicable more broadly than is  
3 necessary, or something like that.

4 Any objection to adding that as a  
5 reason?

6 COMMISSIONER ROBERTS: I thought --

7 CHAIRMAN CALONE: Yeah, Barbara, go  
8 ahead.

9 COMMISSIONER ROBERTS: I thought you'd  
10 go further, perhaps, David, commending --

11 THE REPORTER: I can't hear you,

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Barbara.

COMMISSIONER ROBERTS: I might suggest going a little further, commending on intent. But -- that it's -- it's gone too broad.

CHAIRMAN CALONE: So while the intent of the law may be good --

SECRETARY ESPOSITO: Value.

CHAIRMAN CALONE: -- may be of value, the scope as written may be -- may be too broad and lead to unintended consequences.

SECRETARY ESPOSITO: Yes.

COMMISSIONER HORTON: What state of --

CHAIRMAN CALONE: Go ahead, Josh.

COMMISSIONER HORTON: What -- what stage

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Suffolk County Planning Commission 11/4/09 159  
in the legislative process is this? It's gone to public hearing and awaiting our comments and feedback, prior to closing the public hearing to vote on this?

MR. GERHAUSER: This had a public hearing on Tuesday, October 27th. And at that time, the Town Board held it over. And one of the things they were looking for was comments from this Commission.

COMMISSIONER HORTON: The --

CHAIRMAN CALONE: Go ahead, Josh.

COMMISSIONER HORTON: The reason I ask that is that -- and I may be incomplete -- I may be alone on this, but it -- I feel like this is a code that would be a matter for

17 local determination by that municipality. I  
18 think when you're talking about, perhaps,  
19 subdivision codes, that has a potential to  
20 subdivide mass acreage in a community. I  
21 mean, here we're talking about -- you know,  
22 that seems to be something where the planning  
23 commission would exercise some input. But  
24 this -- this is, you know, dealing with, you  
25 know, basically nonconforming matters that

1 Suffolk County Planning Commission 11/4/09 160  
2 are -- you know, can -- are and can be  
3 complicated beyond anybody's wildest  
4 imagination, and I think that municipality --  
5 you know, trying to address them, I think  
6 should be left to do so.

7 CHAIRMAN CALONE: With the comments.  
8 You're -- you're --

9 COMMISSIONER HORTON: No, I'm saying --  
10 I feel like it's a matter for local  
11 determination.

12 CHAIRMAN CALONE: Without these  
13 comments. I mean, you would --

14 COMMISSIONER HORTON: Yeah.

15 CHAIRMAN CALONE: -- say -- okay.

16 COMMISSIONER HORTON: I do.

17 CHAIRMAN CALONE: Okay. That's fine.

18 COMMISSIONER BOLTON: (Indicating)

19 CHAIRMAN CALONE: Go ahead, Charla.

20 COMMISSIONER HORTON: I'm a former

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supervisor --

COMMISSIONER BOLTON: I feel --

COMMISSIONER HORTON: -- who's very protective of that, so --

CHAIRMAN CALONE: No, that's fine. I

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Suffolk County Planning Commission 11/4/09 161

wasn't sure if you were saying that --

COMMISSIONER HORTON: (Inaudible)

CHAIRMAN CALONE: -- you leave it for local determination, but you -- these comments -- that there's a concern about being overbroad, or just say local determination without comments; that was my question.

COMMISSIONER HORTON: Well, I haven't made -- taken a position either way on that. I --

CHAIRMAN CALONE: Okay.

COMMISSIONER HORTON: I do feel it's a matter for local determination. Comments, I think, are always constructive and helpful.

CHAIRMAN CALONE: Okay. And the comments -- if it's local determination, the comments are merely just comments. If it's disapproval, then the comments have a little -- have -- have -- have teeth to it, to some degree. And your point is just local determination would be how you would see it going -- okay. That's fine.

COMMISSIONER HORTON: Yeah, and I didn't

1 Suffolk County Planning Commission 11/4/09 162  
2 make myself very clear in my argument for  
3 that, but --  
4 CHAIRMAN CALONE: No, no. And -- I  
5 think --  
6 COMMISSIONER BOLTON: (Indicating)  
7 CHAIRMAN CALONE: Yeah, Charla.  
8 COMMISSIONER BOLTON: It is -- vis-à-vis  
9 Josh's comment, I don't believe it's a matter  
10 for local determination, and I do believe we  
11 have a role here for the simple reason that  
12 it's a very poor example that should not  
13 be -- it's a situation where two wrongs don't  
14 make a right.  
15 I mean, the initial rezoning that was  
16 done that rendered some incredible number of  
17 nonconforming parcels, I believe, should be  
18 addressed in and of itself, and then another  
19 wrong, which is really inappropriate and too  
20 broad, should not be slapped on top of it to  
21 solve a problem which was created in the  
22 first place by an ill-conceived zoning  
23 scheme.  
24 And for that reason, I think we do have  
25 a role in -- in making sure that the law, as

1 Suffolk County Planning Commission 11/4/09 163  
2 it's written, is not passed, because it would

3 serve as a precedent and of some utility,  
4 possibly, in fixing other ill-conceived  
5 zoning schemes.

6 CHAIRMAN CALONE: Okay.

7 COMMISSIONER HORTON: If I may.

8 CHAIRMAN CALONE: Yes, Josh.

9 COMMISSIONER HORTON: Well, I don't  
10 think it's the position that -- at least from  
11 the staff that -- I didn't understand that  
12 staff was declaring that the -- the rezoning  
13 was an ill-conceived zoning scheme. This  
14 is -- what -- what the building department  
15 and the town board seem to be trying to  
16 address is the issue that arises any time  
17 properties are rezoned and properties are  
18 rendered preexisting nonconforming. And  
19 even -- even if -- even in the best of  
20 planning, preexisting nonconforming happens  
21 when properties are rezoned.

22 CHAIRMAN CALONE: Right.

23 COMMISSIONER HORTON: Is it -- is this a  
24 quick-fix or too broad a fix to -- in  
25 response to what the planning staff feels is

1 Suffolk County Planning Commission 11/4/09 164  
2 poor -- poor zoning or bad zoning or  
3 ill-conceived zoning?

4 DEPUTY DIRECTOR GULIZIO: I wouldn't  
5 characterize Brookhaven's approach -- I'm  
6 reluctant to criticize any approach as  
7 ill-conceived. I -- I would say that what

8 the town has is they -- they are struggling  
9 to balance a series of competing interests.

10 The basis behind those rezonings -- I  
11 think a laudable purpose behind those  
12 rezonings in 1996 and in the late 1980s was  
13 simply to minimize the amount of  
14 environmental impact associated with density  
15 and development that was being proposed and  
16 planned and permitted by zoning at that time,  
17 and, in fact, what they sought to do is to  
18 match Suffolk County's Department of Health  
19 Services regulations related to groundwater  
20 density.

21 CHAIRMAN CALONE: If I could interrupt  
22 for a second. I don't think -- it is what it  
23 is, I mean -- and I think the question for us  
24 probably is simply, is this -- is this a  
25 concern on a county-wide basis because of a

1 Suffolk County Planning Commission 11/4/09 165  
2 precedent that it would set that might be  
3 looked to -- by other towns and villages? I  
4 think that's a legitimate concern. And for  
5 that reason, we might consider doing it as --  
6 you know, as a disapproval.

7 It seems to me that there probably isn't  
8 any disagreement about whether actually we  
9 convey the comments about the concerns. It's  
10 just a question of whether it's a local  
11 determination or whether it's disapproval,

12 the slight differences in the impact of those  
13 two things.

14 And I think, Josh, what you're saying  
15 is -- is, what?

16 I think what Charla may be -- if I can  
17 capture it, is saying it's more -- it would  
18 be a bad precedent, that other -- you don't  
19 want other towns looking to something so  
20 broad, as an example, and therefore we should  
21 weigh in on it. At least that would be my  
22 perspective on it.

23 COMMISSIONER POTTER: Dave.

24 CHAIRMAN CALONE: Yes, Job.

25 COMMISSIONER POTTER: Is the building

1 Suffolk County Planning Commission 11/4/09 166  
2 inspector still there?

3 DEPUTY DIRECTOR GULIZIO: Yes.

4 COMMISSIONER HOLMES: In the shadows.

5 SECRETARY ESPOSITO: In the shadows.

6 COMMISSIONER POTTER: Okay. My personal  
7 feeling is that this is something that we  
8 should act on --

9 SECRETARY ESPOSITO: Yes.

10 COMMISSIONER POTTER: -- because of its  
11 precedent. But I just want to say that in  
12 East Hampton we had this issue, and we ended  
13 up developing a sliding scale for setbacks on  
14 residential lots that related the -- the  
15 setbacks to the size of the lot, and that got  
16 us out of this ZBA situation.

17 MR. GERHAUSER: Well, certainly,  
18 whenever I'm writing a code, I always look to  
19 other townships rather than reinvent the  
20 wheel.

21 CHAIRMAN CALONE: Okay. We have -- I  
22 think there's two --

23 Well, why don't we just take a quick  
24 poll.

25 Does anyone feel strongly, in addition

1 Suffolk County Planning Commission 11/4/09 167  
2 to Josh, that this should be a local  
3 determination?

4 COMMISSIONER KELLY: (Indicating)

5 CHAIRMAN CALONE: Michael. Okay.

6 Anyone else?

7 COMMISSIONER McADAM: In addition to  
8 Josh?

9 CHAIRMAN CALONE: Well, yes, in addition  
10 to Josh.

11 COMMISSIONER McADAM: Yeah, me.

12 CHAIRMAN CALONE: Okay.

13 And what about those who feel like we --  
14 this should be a disapproval as opposed to  
15 the local determination?

16 (WHEREUPON, the members voted.)

17 CHAIRMAN CALONE: Okay. So that's the  
18 majority.

19 Okay. Without objection, I'd like to  
20 add in the rationale or comment that while

21 the intent of the law may be of value, the  
22 scope that's written may be too broad and  
23 lead to unintended consequences.

24 Is there any objection to that either  
25 way we go?

1 Suffolk County Planning Commission 11/4/09 168

2 (WHEREUPON, there was no response.)

3 CHAIRMAN CALONE: Okay. It seems like  
4 we have a -- well, certainly a majority  
5 probably for disapproval. So I'll entertain  
6 that motion.

7 COMMISSIONER BOLTON: So moved.

8 CHAIRMAN CALONE: Moved by  
9 Commissioner Bolton.

10 COMMISSIONER TALDONE: (Indicating)

11 CHAIRMAN CALONE: Seconded by  
12 Commissioner Taldone.

13 All in favor of adopting the staff  
14 report for disapproval for the four reasons  
15 indicated, please raise your hand.

16 (WHEREUPON, the members voted.)

17 CHAIRMAN CALONE: That's nine.  
18 Opposed?

19 (WHEREUPON, the members voted.)

20 CHAIRMAN CALONE: That's three. And we  
21 have no abstentions.

22 Thank you very much.

23 Let's move on to the next thing, that's  
24 the Westhampton Senior Living.

25 (Discussion held off the record)

1 Suffolk County Planning Commission 11/4/09 169

2 MR. FRELENG: Okay. The next regulatory  
3 item before the Suffolk County Planning  
4 Commission is the application of the  
5 Westhampton Senior Living. This is being  
6 referred to us from the Town of Southampton.

7 Jurisdiction for the Commission is that  
8 the subject application is adjacent to  
9 Old Country Road, which is County Road 71,  
10 and adjacent to Suffolk County land, and also  
11 within the Central Pine Barrens. That's a  
12 typo there, it's not within 500 feet of  
13 wetlands.

14 The applicants are seeking Town Planning  
15 Board special exception/site plan approval to  
16 permit the construction of a two-story,  
17 100-bed proprietary rest home, otherwise  
18 known as an "assisted living facility," and  
19 this would be approximately 61,360 square  
20 feet. The proposed facility is to share  
21 access, off-street parking, and wastewater  
22 treatment with an adjacent 180-bed nursing  
23 home. That's the Westhampton Care  
24 Incorporated. All the parking that is  
25 required by Southampton zoning law is in

1 Suffolk County Planning Commission 11/4/09 170

2 conformance.

3 As you can see, the subject property is  
4 located on the north side of Old Country  
5 Road, approximately 600 feet west of Summit  
6 Boulevard which is a town road, and this is  
7 in the hamlet of Westhampton.

8 The land use and zoning pattern in the  
9 vicinity --

10 If you take a look at the zoning map a  
11 second, you can see that the zoning in the  
12 vicinity is predominantly residential  
13 (indicating). You have several forms of  
14 residential zoning; CR-200, WRPDD, which is a  
15 Residential Planned Development District, and  
16 south of County Road 71, you can see again  
17 that that's all predominantly R-40 with a  
18 little finger of R-20 slipping in.

19 The land use in the area south of  
20 Route 71 is pretty much in conformance with  
21 the zoning.

22 North of 71 -- I don't have my pointer  
23 with me -- but north of 71, just to the east  
24 of the subject site, is a -- is a long narrow  
25 strip of land belonging to Suffolk County,

1 Suffolk County Planning Commission 11/4/09 171  
2 and adjacent to that site is the Southampton  
3 Town resource recovery facility and waste  
4 transfer station. We can see that the town  
5 is encroached a little bit onto county land,  
6 but that's not relevant to our review  
7 (indicating).

8 West of the subject site is the existing  
9 nursing home facility, and west of that is a  
10 little bit of residential zoning. And the --  
11 the compound looking thing right there is the  
12 Suffolk County facility that the BOMARC --  
13 the old BOMARC missile installation  
14 (indicating).

15 If you take a look at the site plan  
16 (indicating), the applicant is proposing  
17 access -- shared access with the existing  
18 nursing home. There is a cross access  
19 agreement, presumably, that would exist  
20 between the two homes. What isn't quite  
21 clear is that there may be pedestrian cross  
22 access proposed for the -- for the site plan.

23 With regard to environmental constraints  
24 on the subject property, it should be noted  
25 that the property is located in

1 Suffolk County Planning Commission 11/4/09 172  
2 Hydro-geologic Ground Water Management  
3 Zone III. It is located in the Central  
4 Suffolk New York State Special Groundwater  
5 Protection Area. This site is located in the  
6 Town of Southampton Aquifer Protection  
7 Overlay District, and the site is located in  
8 the Central Suffolk Pine Barrens zone also  
9 designated as Compatible Growth Area pursuant  
10 to the Central Pine Barrens Joint Planning  
11 and Policy Commission's Comprehensive Land

12 Use Plan. Pursuant to the Comprehensive Land  
13 Use Plan, the site is designated as a  
14 Residential Receiving Area District for  
15 as-of-right development and as-of-right  
16 retirement of Pine Barren Credits.

17 The Town of Southampton Comprehensive  
18 Plan and Implementation Strategies designate  
19 this site for residential use and as a TDR  
20 receiving site.

21 It's the belief of the staff that the  
22 requested special exception/site plan is  
23 reasonably appropriate notwithstanding the  
24 following issues. And I won't enumerate all  
25 the issue verbatim, but I will tell you that

1 Suffolk County Planning Commission 11/4/09 173  
2 the most significant aspect of this project  
3 site is not necessarily the design, it's --  
4 Go to the aerial a second.

5 MR. CORRAL: (Compl ying)

6 MR. FRELENG: -- it's the fact that this  
7 site has been designated as a RRAD, an  
8 as-of-right residential receiving area  
9 district. The applicant, while recognizing  
10 that, makes no further elaboration on the  
11 need to retire credits on the site, why he  
12 hasn't proposed to retire credits on the  
13 site, or why the town, for that matter,  
14 hasn't imposed retiring credits on that site.

15 What is significant about that is that  
16 there is a balance equation between areas

17 that are sending development rights and areas  
18 that are intended to receive development  
19 rights. There's supposed to be a  
20 market-demand ratio of sending to receiving  
21 sites. You should have more receiving sites  
22 than you do credits to absorb so there's a  
23 demand for credits. Southampton has a  
24 limited number of as-of-right receiving  
25 sites. If you don't have an as-of-right

1 Suffolk County Planning Commission 11/4/09 174  
2 receiving site, you have to go in for a  
3 change of zone for additional density, and  
4 that is a time-consuming process.

5 As-of-right receiving site, a RRAD,  
6 means that you can go to the Town Board and  
7 say, I'm going to bring in X amount of  
8 credits for increased density. And that is  
9 not a discretionary tool, that's as-of-right.

10 The problem with this application is  
11 that they're not retiring any credits. So  
12 that's a fundamental policy issue that we  
13 need to remind the Town of Southampton  
14 that they are obligated to implement the  
15 Pine Barrens Plan, they have a limited number  
16 of receiving sites, and they should retire  
17 credits on this site.

18 Having said that, the analysis in the  
19 plan -- the environmental analysis of the  
20 Comprehensive Land Use Plan assumed that

21 every site would assume 20 percent additional  
22 density than their as-of-right. If you read  
23 from the staff report, this is a five-acre  
24 zone. As-of-right development for this  
25 ten-plus-acre site is two lots. 20 percent

1 Suffolk County Planning Commission 11/4/09 175  
2 of two is less than one, but if you round  
3 off, you would require the retirement of one  
4 Pine Barren Credit.

5 So it is not a significant amount of  
6 credits that the town should retire, but it  
7 is a logical argument that they need to  
8 analyze every time they change the zone or  
9 allow increased density in a receiving site,  
10 particularly an as-of-right receiving site,  
11 they need to address that equation. How much  
12 receiving area do we have as opposed to how  
13 much credits we have to absorb. And the town  
14 does not do that.

15 So we believe that that's the most  
16 significant problem with this application.

17 There are a few other issues with regard  
18 to the application. The clearing analysis on  
19 the site --

20 Go to the site plan a second, John.

21 MR. CORRAL: (Compl ying)

22 MR. FRELENG: The obl ique.

23 MR. CORRAL: (Compl ying)

24 MR. FRELENG: The clearing analysis on  
25 the site is somewhat in conformance with the

1 Suffolk County Planning Commission 11/4/09 176  
2 site plan. They have this piece over here  
3 that they're including as part of their  
4 clearing calculations (indicating). So when  
5 you include this and the overall site  
6 together, they're just over 25 percent  
7 clearing. The Commission's require- --  
8 standard for clearing within Pine Barrens is  
9 25 percent for projects such as this, zoned  
10 CR-200. So we believe that the town should  
11 just take a closer look at the clearing  
12 proposed to this site and make sure that it  
13 is in conformance with the Pine Barrens  
14 clearing standards.

15 In addition, if they are above the  
16 clearing requirement, that would trigger the  
17 Central Pine Barrens Commission to have to  
18 take a look at this site in the compatible  
19 growth area. If they are in conformance,  
20 though, with clearing, they would not need to  
21 go to the Commission.

22 We also feel that while this site is a  
23 proprietary rest home which is working in  
24 conjunction with the adjacent nursing home,  
25 I'm sure you're familiar that a proprietary

1 Suffolk County Planning Commission 11/4/09 177  
2 rest home allows people to live in

3 apartment-style units and have nurses or  
4 doctors on call. The whole facility in total  
5 is considered a living -- an assisted living  
6 facility were you rent a unit on a  
7 month-by-month basis, you have a certain  
8 amount of medical available to you, and if  
9 you need to in the future, you can move into  
10 the nursing home. So it's a one-stop  
11 shopping, if you will, for aging in place.

12 So while the application is set up this  
13 way, the applicants make no provisions for  
14 affordable units. Staff wrestled with this a  
15 little bit. This is a commercial enterprise,  
16 they will be collecting rent on a monthly  
17 basis. Presumably, seniors are on a fixed  
18 income, so we believe that there should be  
19 some provision for affordability in this --  
20 in this application. For as-of-right  
21 applications, the Commission's standard is  
22 10 percent affordability of the units, and we  
23 are recommending that the Commission put  
24 forward that condition.

25 VICE CHAIRMAN KONTOKOSTA: All right.

1 Suffolk County Planning Commission 11/4/09 178

2 Well, there's --

3 MR. FRELENG: Just two more things.

4 VICE CHAIRMAN KONTOKOSTA: Okay. Sure.

5 MR. FRELENG: I'm sorry.

6 Real quickly, there was no indication  
7 that there was any pedestrian accessibility

8 between the parking that they're going to  
9 share between the two sites. And the two  
10 sites, presumably, if you drive up into the  
11 assisted living facility and can't find  
12 parking, you'll have to park here  
13 (indicating), and then you'll need to walk  
14 back over there. And there are no sidewalks  
15 on site.

16 And then the last point from staff is  
17 the application materials referred to the  
18 Commission did not indicate whether there was  
19 any energy efficiency in the design of the  
20 project, or public safety taken into account.  
21 And, as you're aware, the Commission does  
22 have standards for public safety and energy  
23 efficiency.

24 So the staff is recommending approval  
25 subject to the following conditions, and they

1 Suffolk County Planning Commission 11/4/09 179  
2 are enumerated in the staff report. I won't  
3 need to go through them, but the most  
4 significant one is the retirement of the  
5 Pine Barren Credits.

6 VICE CHAIRMAN KONTOKOSTA: All right.  
7 Thank you very much, Andy. I'll just fill in  
8 for the chairman for a moment.

9 I guess we'll start with our  
10 representative from -- from Southampton, so  
11 Commissioner Roberts, any thoughts on this?

12                   COMMISSIONER ROBERTS: This project, as  
13 you can imagine, is being closely watched. I  
14 would just point out that the project already  
15 was cut back in size.

16                   The biggest concerns in the community  
17 were some concerns with demands on emergency  
18 vehicles, and the developers have worked out  
19 well -- are cooperating with those issues.

20                   So it has a good feel in the community.  
21 I think most people feel that this definitely  
22 is a necessary and/or -- any serious issues  
23 that have evolved.

24                   VICE CHAIRMAN KONTOKOSTA: Okay. Great.  
25 Thank you.

1                   Suffolk County Planning Commission 11/4/09 180

2                   COMMISSIONER McADAM: (Indicating)

3                   VICE CHAIRMAN KONTOKOSTA:

4                   Commissioner McAdam.

5                   COMMISSIONER McADAM: Andy, I just  
6 wanted to go over the geography a little bit.

7                   To the left on the top, is that the  
8 impound yard for the county?

9                   MR. FRELENG: Yes, the -- this site here  
10 is the BOMARC missile facility, which is no  
11 longer a missile facility (indicating). And,  
12 yes, there are several county facilities here  
13 (indicating). The impound yard is here  
14 (indicating). There's --

15                   COMMISSIONER McADAM: The firing range?

16                   MR. FRELENG: -- the firing range is

17 here (indicating). There is -- county  
18 records are here -- county storage of records  
19 are here. There's several -- several  
20 facilities that are ongoing. Suffolk County  
21 Water Authority has a well site here  
22 (indicating). So there are various things  
23 going on at that facility.

24 COMMISSIONER McADAM: Now, what about  
25 the property immediately to the east of it, I

1 Suffolk County Planning Commission 11/4/09 181  
2 guess?

3 MR. FRELENG: Immediately to the east --

4 COMMISSIONER McADAM: It looks like a  
5 loop road. Maybe to the west then, the other  
6 way.

7 MR. FRELENG: This here (indicating).

8 COMMISSIONER McADAM: No. All the  
9 way --

10 SECRETARY ESPOSITO: On the other side  
11 of the project.

12 COMMISSIONER McADAM: On the other side  
13 of the project.

14 MR. FRELENG: On the other side of this  
15 project --

16 COMMISSIONER McADAM: Yes. The other  
17 way.

18 MR. FRELENG: That way (indicating).

19 COMMISSIONER McADAM: That way.

20 SECRETARY ESPOSITO: Yes.

21 MR. FRELENG: That is the Town of  
22 Southampton's solid waste transfer station  
23 and resource recovery facility.  
24 There is a buffer strip -- although this  
25 dirt road encroaches into the buffer strip,

1 Suffolk County Planning Commission 11/4/09 182  
2 this strip here is Suffolk County land  
3 (indicating).

4 COMMISSIONER McADAM: Can we see a  
5 bigger picture of that?

6 MR. FRELENG: Do you have the oblique?

7 MR. CORRAL: (Complying)

8 MR. FRELENG: That's the best we can do  
9 for you.

10 COMMISSIONER McADAM: So that, to the  
11 right then, is just a transfer station?

12 MR. FRELENG: Solid waste transfer  
13 station --

14 COMMISSIONER McADAM: Okay.

15 MR. FRELENG: -- and resource recovery.

16 COMMISSIONER McADAM: Resource recovery.  
17 Thank you.

18 COMMISSIONER BOLTON: (Indicating)

19 VICE CHAIRMAN KONTOKOSTA: Charla.

20 COMMISSIONER BOLTON: Actually, this is  
21 both a question and a statement.

22 Assisted living facilities typically --  
23 and I -- I could be corrected on this if  
24 someone knows more.

25 Typically, if you go into a nursing  
Page 156

1 Suffolk County Planning Commission 11/4/09 183  
2 home, you abandon -- you basically give up  
3 your unit. And were you to -- say you just  
4 have an injury or some other disability for a  
5 short time requiring nursing home care, there  
6 is no assumption that you can return to your  
7 unit because they are basically on a  
8 month-to-month. So I -- I don't know if  
9 there's any change in that, you know, sort of  
10 program on whether --

11 I just wanted the Board to -- the  
12 Commission to understand that this -- just  
13 because they're side by side does not mean  
14 you're guaranteed a return to your unit.

15 And if anyone knows differently, by all  
16 means, correct me.

17 VICE CHAIRMAN KONTOKOSTA: Does anyone  
18 have any more clarification on that?

19 Andy, do you --

20 MR. FRELENG: No. I -- I can only say  
21 that the applicants specifically wrote that  
22 this was a month-to-month rental-type  
23 arrangement, and that they are regulated by  
24 law which govern assisted living facilities,  
25 but I can't answer whether or not there's any

1 Suffolk County Planning Commission 11/4/09 184  
2 kind of, you know, return to your unit

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after --  
COMMISSIONER BOLTON: So -- so what I would just say is that it's probably more important to have those affordable units available.

MR. FRELENG: Yes.

VICE CHAIRMAN KONTOKOSTA: Okay. Great. I'm just curious, does the application make any mention of a reference to the -- the State Workforce Housing Act?

MR. FRELENG: The application did not, no.

VICE CHAIRMAN KONTOKOSTA: Okay. Any other comments or questions?

COMMISSIONER TALDONE: (Indicating)

VICE CHAIRMAN KONTOKOSTA: Okay. Commissioner Tal done.

COMMISSIONER TALDONE: Thank you.

Andy, just one quick question about the Pine Barrens Credits.

The density, as it is proposed now, does not require additional development rights so there is no mention of -- of additional

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Suffolk County Planning Commission 11/4/09 185 credits to be applied, because it wouldn't be necessary unless the building were larger and had more units there.

Am I correct in making that statement?

MR. FRELENG: Well, I believe you are. The applicant comes in under a special

8 exception use which allows the assisted  
9 living facility at this density. So it is  
10 not the applicant that is shuffling the  
11 Pine Barrens Plan, it's actually the town's  
12 designation of the site as a RRAD and the --  
13 and the need for the town to continuously  
14 monitor how many credits they have and how  
15 many credits they can absorb. So the  
16 applicant is coming in as-of-right.

17 I should point out, though, as you see  
18 in the staff report, that the wastewater flow  
19 -- by comparison to a two-lot subdivision  
20 compared to the 100-bed nursing facility,  
21 there's a significant jump in the wastewater  
22 flow.

23 COMMISSIONER TALDONE: Right. Which is  
24 being handled by --

25 MR. FRELENG: Which is being handled by

1 Suffolk County Planning Commission 11/4/09 186  
2 a sewage treatment plant, but the wastewater  
3 flow is an indication of density.

4 COMMISSIONER TALDONE: Well, I -- I  
5 mean, I understand your point in -- in terms  
6 of the town not, perhaps, doing its best to  
7 create that market for development credits,  
8 but looking at it from the owner's  
9 perspective -- I own the property, this  
10 is what I want to build, it doesn't require  
11 Pine Barrens Credits, and -- so we're

12 suggesting that I go out and buy Pine Barrens  
13 Credits solely for the purpose of retiring  
14 them as a market maker in a -- in a way.

15 MR. FRELENG: I could change the  
16 language in your condition to be, The town  
17 shall retire or cause to retire. The town  
18 does have a bank for --

19 COMMISSIONER TALDONE: Right.

20 MR. FRELENG: -- Pine Barrens Credits,  
21 and they could -- if I may, they could very  
22 easily just take one out and retire it to  
23 satisfy that equation. The problem is that  
24 set a precedent, and the next developer that  
25 comes in is going to say, Well, we need you

1 Suffolk County Planning Commission 11/4/09 187  
2 to retire four, and the next guy needs eight.

3 So it is an issue that the town needs to  
4 address. And if they're going to continue to  
5 change the zone in their receiving area, they  
6 need to create receiving areas if necessary.  
7 The problem is they're not providing and  
8 haven't provided that analysis.

9 COMMISSIONER TALDONE: Right. I -- I  
10 understand, I just -- I wouldn't want to be  
11 taking part in an extra burden to a  
12 developer, who's absolutely innocent in this  
13 situation, where the town is promoting the  
14 preservation of certain properties but then  
15 not creating receiving site or -- by keeping  
16 the -- the density of this low so that it

17 doesn't require additional credits, when, in  
18 fact, it was a site recognized as a perfect  
19 place to apply those credits. It's really  
20 the town that's done the deed and not the  
21 developer, and I'm just concerned that the  
22 person who's trying -- or entity that's  
23 trying to create this not be burdened with  
24 the purchase of Pine Barrens Credits when the  
25 density isn't there.

1 Suffolk County Planning Commission 11/4/09 188

2 MR. FRELENG: Well, if I might,  
3 Mr. Commissioner, I think that your condition  
4 on this application will force the findings  
5 that the town needs to make in order to  
6 override the Commission. So, in a way, when  
7 the town hears that argument from the  
8 applicant, they will need to address that  
9 argument and put in their findings why  
10 they're not -- why they don't find this site  
11 as a suitable receiving site and where  
12 suitable receiving sites are.

13 So the condition, while may be  
14 interpreted to be heavy-handed on the  
15 applicant, forces the grist for the mill or  
16 forces the finding that the town must make in  
17 their decision.

18 COMMISSIONER TALDONE: Just my last  
19 comment, because I know we want to close this  
20 out.

21 In that case, we're -- if the town then  
22 just decides to force the developer to retire  
23 credits for the purpose of retiring credits,  
24 pushing up the costs and making the place  
25 evermore expensive, and most of these

1 Suffolk County Planning Commission 11/4/09 189  
2 assisted living places are -- are off-limits  
3 to anyway -- anyone of moderate income in the  
4 first place, and it has to become more and  
5 more expensive by doing that.

6 So I'm just a little concerned about  
7 that -- that burden that the town could pass  
8 on to the developer, when, as you said and I  
9 know very well, the town has a huge bank of  
10 credits with no place to go.

11 VICE CHAIRMAN KONTOKOSTA: Okay. Thank  
12 you.

13 COMMISSIONER POTTER: (Indicating)

14 VICE CHAIRMAN KONTOKOSTA: Yes, sir.

15 COMMISSIONER POTTER: I just -- I agree  
16 with Vince, and I -- this is such a regional  
17 need for assisted living that I would not  
18 want to see any burden put on this owner in  
19 terms of having to buy credits. It's  
20 as-of-right, they already have the density.  
21 So if the town wants to kick in a lot of  
22 credits and get them off the table, that  
23 would be one thing, but I don't think that we  
24 should be participating in anything that puts  
25 pressure on the owner, if that's what's

1 Suffolk County Planning Commission 11/4/09 190  
2 happening.

3 VICE CHAIRMAN KONTOKOSTA: Thank you,  
4 Job.

5 MR. FRELENG: If I could just add.  
6 Currently, a Pine Barrens Credit is sold  
7 for \$80,000 in this market. So it may be  
8 construed as a burden, but, in my opinion,  
9 it's not a significant burden.

10 DIRECTOR ISLES: I just want to add --

11 VICE CHAIRMAN KONTOKOSTA:  
12 Director Isles.

13 DIRECTOR ISLES: -- a point, too,  
14 that -- if I could.

15 This is currently, five-acre zoning. So  
16 currently they could build two houses on this  
17 property. They are requesting a change of  
18 zone to substantially increase the density.  
19 The calculation that Andy has done on this  
20 indicates that they need to buy one credit  
21 for that.

22 Andy presented this as a policy issue  
23 because when the Pine Barrens Act was put  
24 forward, there was a method of dealing with  
25 property rights within those -- within the

1 Suffolk County Planning Commission 11/4/09 191  
2 Pine Barrens which was, the -- the government

3 agencies will buy land, will be one  
4 technique, but there'll also be the ability  
5 of private property on -- to sell credits  
6 outside of the Pine Barrens. In order for  
7 that to work, there have to be receiving  
8 sites. The three towns in the Pine Barrens  
9 agreed to that.

10 So I think the PowerPoint and the  
11 staff's standpoint is, if we're going to  
12 uphold the Pine Barrens Plan in terms of  
13 the -- one of those three legs of the Pine  
14 Barrens Plan -- the third leg, by the way,  
15 was hardship variances in the Pine Barrens;  
16 Acquisition, TDR, Hardship. The TDR has to  
17 have receiving sites.

18 So, here again, in this case, this is  
19 not something where they already can build  
20 this assisted living facility as-of-right,  
21 it's a case where it's a rezoning to come up  
22 with the calculation of one credit. We think  
23 it's an important policy question, we think  
24 it's reasonable. Obviously, we'll defer to  
25 your judgment and the town's judgement, but I

1 Suffolk County Planning Commission 11/4/09 192  
2 think in the context of the Pine Barrens  
3 Plan, it is important.

4 Thank you.

5 VICE CHAIRMAN KONTOKOSTA: Thank you  
6 very much, Director Isles.

7 COMMISSIONER KELLY: (Indicating)

8 VICE CHAIRMAN KONTOKOSTA: Yes,  
9 Commissioner Kelly.  
10 COMMISSIONER KELLY: Thank you.  
11 Andy, is the proposed facility tapping  
12 into a treatment plant at the existing  
13 facility?  
14 MR. FRELENG: That is correct. There's  
15 an existing sewage treatment plant at this  
16 facility, and they plan on tapping into it.  
17 It's back here (indicating).  
18 COMMISSIONER KELLY: Okay. And just  
19 on -- on the calculations. I believe the  
20 health department is under- -- reviewing  
21 their requirement of 300 gallons per day for  
22 seniors, and they may be staggering that down  
23 based on a square footage, the proposed unit.  
24 So that may be reduced which could be a  
25 significant savings to the developer.

1 Suffolk County Planning Commission 11/4/09 193  
2 MR. FRELENG: Commissioner Kelly, I  
3 pulled Article 6 and looked at the latest  
4 multipliers for various land uses, and the  
5 Suffolk County Department of Health Services  
6 has a multiplier for assisted living  
7 facilities. They don't specify by size of  
8 room or by number of beds. So every unit in  
9 the -- I'm sorry. Every bed in an assisted  
10 living facility is, no, 110 gallons. It's in  
11 the staff report. It's 110 gallons, I

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believe, per bed.

VICE CHAIRMAN KONTOKOSTA: Okay. Thank you very much.

We have the staff's recommendation for approval subject to the seven conditions.

Commissioner Potter and Taldone, are you okay with the first condition as it's written --

COMMISSIONER TALDONE: I am.

VICE CHAIRMAN KONTOKOSTA: -- as per the clarifications?

COMMISSIONER POTTER: Yeah.

VICE CHAIRMAN KONTOKOSTA: Okay. So we just need a motion for approval subject to

Suffolk County Planning Commission 11/4/09 194 conditions.

COMMISSIONER ROBERTS: (Indicating)

VICE CHAIRMAN KONTOKOSTA:  
Commissioner Roberts.

COMMISSIONER BOLTON: (Indicating)

VICE CHAIRMAN KONTOKOSTA: Seconded by  
Commissioner Bolton.

All in favor?

(WHEREUPON, the members voted.)

VICE CHAIRMAN KONTOKOSTA: Opposed?

(WHEREUPON, there was no response.)

VICE CHAIRMAN KONTOKOSTA: Abstentions?

(WHEREUPON, there was no response.)

VICE CHAIRMAN KONTOKOSTA: Passes 12 to 0 to 0.

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MR. FRELENG: Thank you.

COMMISSIONER ROBERTS: David, I just wanted to make one comment, that I think we're going to be seeing a lot more of these kind of facilities as we're going forward. And in some of the work that I sort of looked at, New York State passed a new law on this issue in March. So I think within either our staff or on the Commission, we should

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Suffolk County Planning Commission 11/4/09 195  
maybe -- even maybe on Constantine's task force, be working to have best practices or including assisted living in some of our work.

CHAIRMAN CALONE: What was the law pertaining to?

COMMISSIONER ROBERTS: It just enacted. New York State -- I -- in the reading I did in the last few days with -- New York State just enacted their law controlling assisted living facilities in March, and it took almost three years to work out all of the details.

CHAIRMAN CALONE: Right. Interesting. That's a good point.

Keep in mind, not only because we need more of these places, but, you know, obviously, the need is there as our population ages, as we've discussed. So --

21 Okay. Next we have the Route 25 project  
22 in Centereach; whose got it?

23 DEPUTY DIRECTOR GULIZIO: Good  
24 afternoon.

25 The subject parcel is located on the

1 Suffolk County Planning Commission 11/4/09 196  
2 northeast corner of Nicolls Road, County  
3 Road 97, and Middle Country Road, a State  
4 Route 25, in the hamlet of Centereach in the  
5 Town of Brookhaven.

6 As we heard earlier, the property  
7 maintains a lot area of about 2.75 acres. We  
8 actually had 2.35 acres, but it wasn't  
9 denominated on the site plan so we'll say  
10 about 2 and a half acres. The property is  
11 split zoned. The eastern portion of the  
12 property --

13 John, if we could just get a close up of  
14 the zone.

15 MR. CORRAL: (Compl ying)

16 DEPUTY DIRECTOR GULIZIO: Thank you.

17 The eastern portion of the property,  
18 this third of the property, is zoned  
19 J-2 Business, which is the town's standard  
20 commercial retail zoning district. The  
21 western two-thirds of the property is zoned  
22 J-4 district which is an office zoning  
23 district within the Town of Brookhaven.

24 (WHEREUPON, Commissioner Roberts left  
25 the proceeding.)

1 Suffolk County Planning Commission 11/4/09 197

2 (Time noted: 3:07 p.m.)

3 DEPUTY DIRECTOR GULIZIO: What the  
4 applicant is proposing is retail building of  
5 about 14,408 square feet on the eastern  
6 one-third of the property, along with a  
7 4,000-square-foot bank with drive-thru  
8 facility on the western two-thirds of the  
9 property. All of the parking for both uses  
10 is actually situated on the office portion of  
11 the property or the J-4 Business district of  
12 the property.

13 This application is also located in  
14 what's referred to as the "Middle Country  
15 Sustainable Community Plan," which was  
16 previously reviewed by this Commission. It  
17 was a corridor study and comprehensive plan  
18 document which was prepared by consultants  
19 for the town, adopted by the town in August  
20 of 2008. The plan had six basic chapters to  
21 it, including the introduction section, a  
22 community profile section, a visioning  
23 section, goals, recommendations, and  
24 implementation matrix. There are 11 basic  
25 categories of goals included in the plan,

1 Suffolk County Planning Commission 11/4/09 198

2 including beautification, local economy,

3 pedestrian opportunities, public safety,  
4 infrastructure, policy, housing, among other  
5 chapters, including transportation.

6 The basic thrust of the plan involved  
7 the promotion and creation, and I should say,  
8 development of two planned development  
9 districts or town centers identified within  
10 the plan. One town center was located in the  
11 hamlet of Centereach just west of Nicolls  
12 Road, the other town center was located in  
13 the hamlet of Selden just east of Nicolls  
14 Road by Boyle and Coleman Road.

15 The basic component of the plan was that  
16 these town centers would provide for a  
17 pedestrian environment and enhanced public  
18 safety and transportation safety within the  
19 corridor by concentrating development within  
20 these town centers for a planned development  
21 districts. The areas outside of those town  
22 centers would become transitional zoning  
23 districts.

24 The subject property, which is located  
25 here (indicating), just east of Nicolls Road,

1 Suffolk County Planning Commission 11/4/09 199  
2 is clearly within the transition area of the  
3 planned development -- of the corridor study,  
4 again, known as the Middle Country  
5 Sustainable Community Plan.

6 When staff looks at an application for  
7 rezoning, we look at it on typically three

8 different levels.

9 Number one, we look at it in terms of  
10 how does this proposed rezoning comport or  
11 comply with the town's overall zoning  
12 policies as embodied by its comprehensive  
13 plan. In this case, we're very fortunate in  
14 that we have a comprehensive plan. It was  
15 just done. It specifically addresses not  
16 only this property but this general region  
17 and location within the communities of  
18 Centereach and Selden.

19 On a secondary level, we look at the  
20 application for rezoning in terms of its  
21 compliance and consistency or compatibility  
22 with the nature and character of developments  
23 surrounding the property. Does it have any  
24 adverse impacts on the surrounding  
25 development, is it consistent and compatible

1 Suffolk County Planning Commission 11/4/09 200  
2 with the character of development surrounding  
3 the property?

4 And, finally, on a third level, we look  
5 at it on a site-specific level.

6 John, could you just go back to the site  
7 plan, please.

8 MR. CORRAL: (Compl ying)

9 DEPUTY DIRECTOR GULIZIO: In terms of  
10 the site-specific criteria, does it meet the  
11 landscaping requirements of the town code?

12 Does it have adequate parking? Are the  
13 buildings properly oriented? Are the  
14 setbacks in compliance with the -- with the  
15 code?

16 And when we looked at this plan on a  
17 site-specific level, I think we would tend to  
18 agree that, generally speaking, this meets  
19 the town code requirements in terms of  
20 setbacks and parking, in terms of landscaping  
21 elements. And so from a site-specific  
22 standpoint, we don't have a concern with the  
23 application.

24 Our main concern with the application  
25 goes directly to the adoption of a plan that

1 Suffolk County Planning Commission 11/4/09 201  
2 was previously considered by this Commission,  
3 and previously adopted by the town board in  
4 August of 2008. Specifically, that plan --

5 I'm sorry, John. Could you just jump  
6 back to the overall?

7 MR. CORRAL: (Compl ying)

8 DEPUTY DIRECTOR GULIZIO: Thank you.

9 That plan specifically encouraged  
10 developed of town centers here in Selden and  
11 here in Centereach, outside of these  
12 transition areas (indicating). What the plan  
13 also identified was that there was an  
14 abundance of strip commercial shopping malls  
15 within the corridor, particularly within the  
16 transition areas, and that the town should

17 consider rezoning or amending the town code  
18 to discourage shopping center development and  
19 standard suburban development, encourage  
20 mixed-use buildings and a downtown feel.

21 Our concern with this plan is that this  
22 seems to continue the pattern of strip  
23 commercial zoning that has plagued  
24 Middle Country Road and created that kind of,  
25 I think, poster child of strip commercial

1 Suffolk County Planning Commission 11/4/09 202  
2 sprawl that we now identify in terms of the  
3 associated traffic impacts, lack of community  
4 character, congestion, and public safety  
5 issues along a road like Middle Country Road,  
6 which, by the way, has one of the highest  
7 accident rates of any regional arterial in  
8 our -- in our county.

9 So on a site-specific level, it's a nice  
10 plan, it's a nice site plan. On a  
11 comprehensive planning standpoint, this seems  
12 to be inconsistent with the goals of the  
13 comprehensive plan that was recently adopted  
14 by the town, which is to promote retail  
15 development in these town centers and to  
16 discourage additional strip commercial  
17 shopping center development outside of those  
18 town centers.

19 We feel it would adversely impact the  
20 existing traffic concerns along the corridor,

21 increase the number of trip movements,  
22 increase the amount of congestion on the  
23 roadway, because retail uses tend to generate  
24 the highest number of trips that are -- are  
25 the uses along the corridor. And, again, it

1 Suffolk County Planning Commission 11/4/09 203  
2 continues to undermine the ability of the  
3 town in the long term to develop these town  
4 centers. If it's just as easy to build  
5 outside the town center, than what's going to  
6 be impetus or the encouragement to actually  
7 develop these town centers. That's our  
8 concern with the plan.

9 Again, respectfully, we applaud the town  
10 for developing the comprehensive plan. We  
11 think it was a great initiative. We think it  
12 was much needed along this corridor, again,  
13 as it is one of the most problematic  
14 corridors within the county, within the  
15 region, certainly, within the town. However,  
16 our approach to this is simply look at the  
17 town's own documents, look at the  
18 recommendations within that comprehensive  
19 plan, and this application, while well  
20 designed, seems to be inconsistent with the  
21 overall policy of the plan, which is to  
22 promote the development of the town centers  
23 and discourage the development of additional  
24 commercial shopping centers and typical  
25 suburban development outside of those town

1 Suffolk County Pl anni ng Commi ssi on 11/4/09 204  
2 centers.

3 Based upon those concerns, we  
4 respectfully recommend di sapproval of the  
5 applicati on. Again, based upon speci fi cally  
6 the goals and recommendati ons contained  
7 withi n the town' s own study.

8 CHAIRMAN CALONE: Thank you, Dan.

9 Let me -- I want to turn to Michael , but  
10 I had a quick questi on before that.

11 Di dn' t -- we had a nursing home or  
12 assisted living faci lity on the same  
13 stretch, somewhere along there --

14 DEPUTY DIRECTOR GULI ZI O: John --

15 MR. CORRAL: (Compl yi ng)

16 DEPUTY DIRECTOR GULI ZI O: Here  
17 (i ndi cati ng).

18 CHAIRMAN CALONE: Okay.

19 DEPUTY DIRECTOR GULI ZI O: Ri ght here  
20 (i ndi cati ng).

21 CHAIRMAN CALONE: And I' m just --

22 DEPUTY DIRECTOR GULI ZI O: And I shoul d  
23 poi nt out there' s another shopping center  
24 locati on pending ri ght here (i ndi cati ng),  
25 also outside of the town center, and there' s

1 Suffolk County Pl anni ng Commi ssi on 11/4/09 205  
2 an existi ng shopping center here

11 04 09\_Planning.txt  
(indicating).

CHAIRMAN CALONE: Right. Okay.

And what did we do on the nursing home,  
do you remember?

DEPUTY DIRECTOR GULIZIO: It's a little  
painful memory, but yes, I do --

CHAIRMAN CALONE: Sorry.

DEPUTY DIRECTOR GULIZIO: -- recall.

Again, we were concerned because the  
assisted living facility was recommended --  
well, it was proposed in connection with that  
rezoning, was actually one of the uses that  
was not permitted by the recommended code  
changes adopted within the corridor study.

CHAIRMAN CALONE: Okay. Okay, good.

Right. And that was obviously --  
something we heard was a critical community  
need, obviously, as well.

Okay. Michael. Sorry, I wanted to --

COMMISSIONER KELLY: Thank you.

Thanks, Dan.

Just a concern or a comment in terms of  
trying to balance the overall plan that was

Suffolk County Planning Commission 11/4/09 206  
done and the visioning with the -- the need  
for a hamlet center versus what the existing,  
I guess, state of the -- the -- the parcel is  
right now and what it could potentially be.  
Whether it be a -- a small office park and a  
bank, or should it be something else.

8 I believe the -- the landowner went  
9 through significant troubles, and it sounded  
10 like he had some type of support at the town  
11 level to say -- you know, specifically, I  
12 know the supervisor is -- is preaching this  
13 100-day approval process, especially on a  
14 corridor like this. This is -- this is a --  
15 both at the town and the county want to see  
16 some type of redevelopment in this stretch.

17 So how do you balance that and say,  
18 All right, this landowner has an application  
19 that he has been fighting for for -- for many  
20 years, balance that with, you know, leaving  
21 it vacant as it -- as it sits, and trying to  
22 redevelop an area. So I have a hard time  
23 not -- not putting this back to a local  
24 determination and saying, All right, if the  
25 town and the supervisor is supporting this,

1 Suffolk County Planning Commission 11/4/09 207  
2 you know, maybe that's what should be done.

3 VICE CHAIRMAN KONTOKOSTA: (Indicating)

4 CHAIRMAN CALONE: Constantine.

5 VICE CHAIRMAN KONTOKOSTA: Dan, just a  
6 point of clarification.

7 So they're not -- this isn't the change  
8 of zone application.

9 DEPUTY DIRECTOR GULIZIO: (Head gesture)

10 VICE CHAIRMAN KONTOKOSTA: And the town  
11 has not considered changing the zone of this

12 property as of yet; is that correct?

13 DEPUTY DIRECTOR GULIZIO: The only  
14 consideration I would say is that the -- the  
15 recommendation within the corridor study  
16 specifically identified the need to change  
17 the zoning code to discourage shopping  
18 centers and suburban development patterns.

19 VICE CHAIRMAN KONTOKOSTA: So my concern  
20 maybe, and you can help me with this, is  
21 that -- the study is a fantastic study and  
22 it -- it's great that it's been adopted, but  
23 I'm somewhat concerned about using planning  
24 studies as a proxy for zoning changes.  
25 Whereas, the town really should be rezoning

1 Suffolk County Planning Commission 11/4/09 208  
2 this property to be in accordance with the  
3 planning study, not the other way around. I  
4 mean, the applicant shouldn't bear the brunt  
5 necessarily that just because -- they're  
6 building as-of-right as opposed to what the  
7 planning study might say, but the town hasn't  
8 adopted that officially through legislative  
9 act to change the zoning to -- to require  
10 consistency with that zoning -- with that  
11 plan, excuse me.

12 Is that kind of correct?

13 DEPUTY DIRECTOR GULIZIO: Well, I think  
14 the point is that once a town adopts a  
15 comprehensive plan, the idea is that land use  
16 decisions of all types should be in

17 accordance with the comprehensive plan, not  
18 just zoning actions. In this case, the town  
19 could take a more proactive approach and  
20 consider rezoning this on its own motion.  
21 Maybe that's something that comes up as a  
22 result of this application, but the only  
23 point we're making -- and, again, we're not  
24 saying what decisions the town ought to make  
25 in conjunction with the policies for the

1 Suffolk County Planning Commission 11/4/09 209  
2 corridor study, but once you adopt a corridor  
3 study, you ought to follow it.

4 VICE CHAIRMAN KONTOKOSTA: So there's  
5 probably a recommendation to the town here  
6 that they should, you know, make some zone  
7 changes. But isn't -- isn't there a concern  
8 of putting the plan, as a precedent, ahead of  
9 as-of-right zone -- zoning in this case?  
10 Which is a concern.

11 I'm not sure if you could respond -- if  
12 you could answer that either --

13 DEPUTY DIRECTOR GULIZIO: I don't know  
14 if I can answer it adequately, but I would  
15 say that you would have to do the plan first  
16 before you consider any theories of town  
17 board or motion rezonings within the  
18 corridor. So I think the first necessary  
19 step is, yeah, what's -- let's look at the  
20 corridor, let's come up with a vision, and

21 then let's start to implement that vision.  
22 Part of that implementation process should be  
23 a series of town board or motions, but in the  
24 interim, which is reality, this is what it  
25 is, we have pending applications. So you

1 Suffolk County Planning Commission 11/4/09 210  
2 have to make decisions about those  
3 applications as they're moving also.

4 VICE CHAIRMAN KONTOKOSTA: Thank you.

5 CHAIRMAN CALONE: Others --

6 COMMISSIONER TALDONE: (Indicating)

7 CHAIRMAN CALONE: Vince.

8 COMMISSIONER TALDONE: Dan, I didn't  
9 follow you before.

10 What happened to that assisted nursing  
11 or -- facility that was proposed on that  
12 corner?

13 DEPUTY DIRECTOR GULIZIO: The Commission  
14 ultimately recommended that as a local  
15 determination.

16 COMMISSIONER TALDONE: Because I  
17 recall the --

18 DEPUTY DIRECTOR GULIZIO: You made the  
19 motion --

20 COMMISSIONER TALDONE: -- discussion  
21 here.

22 DEPUTY DIRECTOR GULIZIO: -- I believe.

23 COMMISSIONER TALDONE: Do you know --

24 (Laughter)

25 CHAIRMAN CALONE: This is like the

1 Suffolk County Planning Commission 11/4/09 211  
2 sequel where we're going to rehash the first  
3 one. All right.

4 COMMISSIONER TALDONE: Hold on. I'll --  
5 only because, you know, there is a continuity  
6 here.

7 There was a group -- I forget their  
8 name -- I think Kevin McConnell, and there's  
9 a -- another -- a woman I -- whose name  
10 escapes me, that's part of that big visioning  
11 plan for that corridor. They were supporting  
12 the assisted living center and felt it  
13 somehow fit in, and would bring people into  
14 the -- the little village that they imagined  
15 a few blocks away, and people could walk  
16 over, wheel over, however, get there, and --  
17 and spend time. You know, so it was more  
18 responsive to the community's vision, I  
19 thought, the last time around.

20 This is not in -- in concert with that  
21 vision. I assume they're not supporting it,  
22 but we don't really know. Although, I -- I  
23 do respect the issue of -- zoning is what I  
24 look at when I look at a property's  
25 potential, and I might miss a study

1 Suffolk County Planning Commission 11/4/09 212  
2 somewhere. So it's sort of unfair to the

3 owner of the property that he should also be  
4 required to go and find every -- every report  
5 that's been done before, you know, making --

6 CHAIRMAN CALONE: This was just done  
7 this year -- last year.

8 COMMISSIONER TALDONE: I mean, the  
9 zoning map is what I grab, and that's what  
10 should tell me what -- what's -- what's going  
11 on.

12 But is there any way we can -- we can do  
13 this with a comment to the town that it  
14 really should be looking at rezoning these  
15 properties?

16 I'm not against the recommendations of  
17 the staff, I actually support it. I just  
18 agree also that the town really should be  
19 taking some action, and not relying on  
20 reports to inform property owners.

21 DEPUTY DIRECTOR GULIZIO: I -- I don't  
22 disagree.

23 I would state that the town has stated  
24 within some of its corridor studies, and I  
25 believe within this study, if they don't like

1 Suffolk County Planning Commission 11/4/09 213

2 the idea or prefer not to rezone properties  
3 on their own motion, but to create overlay  
4 districts to help better guide development.

5 COMMISSIONER TALDONE: Right.

6 DEPUTY DIRECTOR GULIZIO: One of the  
7 problems with that approach is what we see

8 here today, where you have an overlay  
9 district that gives you design guidelines,  
10 but the underlying zoning remains in effect.  
11 And so you have an inconsistency between  
12 where they say they want development and  
13 where development is actually proposed.

14 CHAIRMAN CALONE: Well, if we have an  
15 inconsistency, the town's the one that needs  
16 to sort that out, I would think.

17 COMMISSIONER HOLMES: Yes.

18 CHAIRMAN CALONE: And we should convey  
19 to them that they're causing, you know,  
20 problems not only for the developer but also  
21 for just their own plan, because unless  
22 you're going to take action to validate your  
23 own plan, no one's going to pay attention to  
24 it. And I think the issues you guys raised  
25 are -- are very valid ones.

1 Suffolk County Planning Commission 11/4/09 214

2 DEPUTY DIRECTOR GULIZIO: Again, just to  
3 be perfectly clear for the record, our  
4 criticism isn't of the design of the  
5 development as proposed by the applicant.  
6 The applicant is playing by the rules and  
7 proposing a development plan in accordance  
8 with the code. According to their testimony,  
9 they worked with the current planning  
10 commissioner, they've met with town counsel  
11 in the supervisor's office. That's not the

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concern.

Again, the concern that we have and the opportunity we have to consider as to this referral is that the town also, at the same time, has a plan to guide development decisions, and this particular application appears to be inconsistent with that plan.

COMMISSIONER POTTER: (Indicating)

CHAIRMAN CALONE: Yes, Job.

COMMISSIONER POTTER: Can we say that, make it look -- a matter of local determination --

THE REPORTER: I can't --

COMMISSIONER POTTER: -- and add that

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Suffolk County Planning Commission 11/4/09 215  
comment?

CHAIRMAN CALONE: Yes, we can make it a matter of local determination.

What Job said was, can we make it a matter of local determination and add that comment?

THE REPORTER: Thank you.

CHAIRMAN CALONE: And I said, yes, we can.

The question becomes kind of, for this body, is do we see ourselves as kind of validating plans that are out there, that are adopted, or in this murky situation where you have a plan that was adopted but no zoning -- you know, the zoning has not caught up with

17 that, do we say in that interim time period  
18 that it is a local determination, but, Hey,  
19 town, you know, figure out what you want to  
20 be?

21 I think those are maybe our two choices.

22 Let me get a sense of where people are  
23 on whether this should be a local  
24 determination versus a -- a disapproval.

25 Who would be more inclined to do a local

1 Suffolk County Planning Commission 11/4/09 216  
2 determination as opposed to a straight  
3 disapproval?

4 (WHEREUPON, the members voted.)

5 CHAIRMAN CALONE: Okay. That's  
6 basically -- it's about half and half.

7 Okay. The key question may be what we  
8 put as the -- as the conditions.

9 But let's -- let's see if there's any  
10 other conversations that anyone wants to  
11 have.

12 COMMISSIONER TALDONE: (Indicating)

13 CHAIRMAN CALONE: Yeah, Vince.

14 COMMISSIONER TALDONE: I just need to be  
15 a little more clear on -- on the -- what you  
16 had just mentioned, Dan. That there is an  
17 overlay -- there -- other than the study,  
18 what -- what took place after the study was  
19 completed; they had a visioning, they know  
20 what they want in that location, it's part of

21 a comp plan. But if I go into the Buildings  
22 Department and say, What is my property zoned  
23 for, what can I do here? Would I be aware of  
24 that? How would I be aware of that?

25 DEPUTY DIRECTOR GULIZIO: Well, there is

1 Suffolk County Planning Commission 11/4/09 217  
2 an overlay zoning district incorporated  
3 within the zoning code that applies to these  
4 properties outside of the planned development  
5 districts or town centers. So you're  
6 certainly going to be aware that you're  
7 within an overlay zoning district that  
8 relates back to a comprehensive plan  
9 injunction.

10 COMMISSIONER TALDONE: Which also has  
11 design guidelines, as I think you mentioned?

12 DEPUTY DIRECTOR GULIZIO: Yes, it does.

13 And keep in mind, this was also an  
14 exhaustive public outreach process. There  
15 were over 600 people that attended the  
16 process, through a series of public meetings.  
17 There were notices, there were fliers, there  
18 was public hearings. So I think it was a  
19 fairly extensive public hearing process to  
20 get the word out on -- on the plan and  
21 discuss the vision for the community. So  
22 I -- I don't think it's something that people  
23 aren't aware of. I don't think that's one of  
24 the concerns. I think that most property  
25 owners are probably aware of it.

1 Suffolk County Planning Commission 11/4/09 218

2 COMMISSIONER TALDONE: Okay. So that --  
3 what you're saying is the property owner, in  
4 this case, would be fully aware of this --

5 DEPUTY DIRECTOR GULIZIO: Well, I don't  
6 want to speak for a property owner. I think  
7 the biggest point that we would make, and I  
8 apologize for extending this, is that there's  
9 simply an inconsistency, it appears, between  
10 what the goals of the plan are and what the  
11 zoning actually permits. And that's an issue  
12 that, you know, as we receive applications  
13 along this corridor, one of our obligations  
14 is to consider what type of long-range  
15 planning documents exist that apply to these  
16 properties, and to apply those standards to  
17 these properties and applications.

18 COMMISSIONER TALDONE: Thank you.

19 COMMISSIONER KELLY: (Indicating)

20 CHAIRMAN CALONE: Michael.

21 COMMISSIONER KELLY: Dan, this study was  
22 done last year?

23 DEPUTY DIRECTOR GULIZIO: 2008 it was  
24 adopted --

25 COMMISSIONER KELLY: 2008 it was --

1 Suffolk County Planning Commission 11/4/09 219

2 DEPUTY DIRECTOR GULIZIO: -- in August.

3 COMMISSIONER KELLY: -- adopted.

4 So, if I recall the testimony, the  
5 landowner purchased the property under the  
6 zoning that existed then, I think that was  
7 over eight years ago. So he purchased the  
8 property under a zoning that existed that  
9 would have met his plan, and it still  
10 exists -- yeah -- and then a -- then a  
11 visioning came into play, and now he's no  
12 longer -- you know, he's no longer viewed  
13 as -- as something that's useful.

14 So I -- I have a -- I have a hard time,  
15 his property rights are just shot down,  
16 because he owned a piece of property, tried  
17 to get it zoned, and then this visioning took  
18 place and he's no longer able to do what is  
19 originally intended to do. And I -- I  
20 struggle with it.

21 COMMISSIONER POTTER: (Indicating)

22 COMMISSIONER McADAM: (Indicating)

23 CHAIRMAN CALONE: Job, and then Tom.

24 COMMISSIONER POTTER: I -- and I

25 appreciate Michael's point, but,

1 Suffolk County Planning Commission 11/4/09 220  
2 unfortunately, that happen- -- does happen  
3 with zoning to owners. But you mentioned a  
4 overlay district.

5 Is this application consistent with the  
6 overlay district?

7 DEPUTY DIRECTOR GULIZIO: The overlay  
Page 188

8 district applies to -- applies to  
9 architectural design guidelines and site  
10 design guidelines. Our concern is not with  
11 the lack of compliance with the overall  
12 design guidelines, I think it's something  
13 that, from a planning standpoint, seems  
14 reasonable and appropriate.

15 COMMISSIONER POTTER: Okay. All right.

16 DEPUTY DIRECTOR GULIZIO: It's the use  
17 that --

18 COMMISSIONER POTTER: That doesn't help.  
19 Okay.

20 DEPUTY DIRECTOR GULIZIO: Yeah.

21 CHAIRMAN CALONE: All right. Tom.

22 COMMISSIONER McADAM: Okay. I just want  
23 to make sure that I understand this now.

24 If we -- if we have a study or a  
25 comprehensive plan for -- say for a -- for a

1 Suffolk County Planning Commission 11/4/09 221  
2 section of Middle Country Road -- we had  
3 another one in Ridge or Middle Island.  
4 Before we even entertain that, we have to  
5 make sure that the zoning is in place for  
6 whatever the plan is that the town is  
7 presenting. And -- you know, I'm not --  
8 I'm -- that's the way -- the way I understand  
9 it. If we approve the particular plan, and  
10 there were some zoning matters that  
11 weren't -- weren't cleared up at the time.

12 CHAIRMAN CALONE: Well, what you have is  
13 that the plan was -- the notion behind the  
14 plan is to change zoning to encourage res- --  
15 development in areas not including this one,  
16 but the zone is kind of -- this development  
17 is appropriate for the zone as it is now. So  
18 that what you would ideally have is a plan  
19 adopted by the town, and then immediately  
20 thereafter or in conjunction with it, they  
21 would change the zone. And then you would  
22 have a plan and a zoning that's -- that is  
23 zoning that's consistent with it. If that  
24 had happened, this would probably no longer  
25 be zoned as it is. However, the town didn't

1 Suffolk County Planning Commission 11/4/09 222  
2 do that, they took one of two steps. They  
3 did a -- they adopted the plan, but did not  
4 adopt the change of zone. So we're left in a  
5 situation where this is an as-of-right  
6 development, and yet it is inconsistent with  
7 the plan as developed for Middle Country.

8 COMMISSIONER McADAM: So the question is  
9 how do we handle this in the future when we  
10 get more of these studies?

11 CHAIRMAN CALONE: Well, the question  
12 is -- yeah, the question is how do we handle  
13 it today --

14 COMMISSIONER McADAM: Yeah.

15 CHAIRMAN CALONE: -- but --

16 (Laughter)

17 CHAIRMAN CALONE: No, I don't mean it  
18 as -- yes. But it sets -- it sets certain  
19 parameters, which is why no matter what we  
20 do, we should say, I think, that the town is  
21 to choose one or the other. You know, start  
22 to move your zoning towards the way your  
23 plan's is going to be, or -- or tell us  
24 you're not going to abide by the plan.  
25 Because this is not fair to developers, it's

1 Suffolk County Planning Commission 11/4/09 223  
2 not fair to, you know, anyone, quite frankly.  
3 The community who is asking in between, Well,  
4 what are you doing here? You pass our plan  
5 but you didn't do the zoning; to the  
6 developer, you're doing this plan but, you  
7 know, I'm in this limbo. So either way I  
8 think we need to speak strongly to the town  
9 on that.

10 COMMISSIONER BOLTON: Okay.

11 CHAIRMAN CALONE: Charla.

12 COMMISSIONER HORTON: (Indicating)

13 CHAIRMAN CALONE: Charla, and then Josh.

14 COMMISSIONER BOLTON: There are two  
15 issues.

16 One, I see the -- the plot --

17 I'm sorry, I am very tired, and  
18 something just went out of my head.

19 CHAIRMAN CALONE: Well, we come back to  
20 you, if you want.

21                   COMMISSIONER BOLTON:   Okay.  I see an  
22                   issue for this Commission, which is that the  
23                   plan -- the comprehensive plan devised for  
24                   this area was developed over a period of time  
25                   and is of regional interest.  It expresses

1                   Suffolk County Planning Commission 11/4/09   224  
2                   the need to change the whole development,  
3                   character, so to speak, of that Route 25  
4                   corridor in that location.  I know that  
5                   there's been an incredible amount of effort  
6                   over a long period of time.  I can't say  
7                   which came first, the developer or the plan.

8                   At the same time, I do have problems  
9                   with the fact that the Town of Brookhaven did  
10                  take a zoning action, so to speak, subsequent  
11                  to the plan, which was the development of  
12                  these design guidelines in the overlay  
13                  district, but failed to really consider how  
14                  to -- how to change the zoning consistent  
15                  with the plan's intentions.

16                  And as a result of that, I, at this  
17                  moment, am really struggling to make the  
18                  right decision.  And I'm leaning toward local  
19                  determination because of the fact that  
20                  Brookhaven did take this action but failed to  
21                  take the necessary action to execute the  
22                  plan.

23                  CHAIRMAN CALONE:  Okay.

24                  Josh, and then I'd like to repoll and  
25                  see where we are.  We're going to do this one

1 Suffolk County Planning Commission 11/4/09 225

2 way or the other.

3 COMMISSIONER HORTON: I'm good.

4 CHAIRMAN CALONE: You're good. Okay.

5 COMMISSIONER TALDONE: (Indicating)

6 CHAIRMAN CALONE: I'm sorry, Vince, did

7 you --

8 COMMISSIONER TALDONE: I do want to say

9 one more thing. I'm sorry.

10 CHAIRMAN CALONE: Quickly, and then --

11 COMMISSIONER TALDONE: Okay.

12 CHAIRMAN CALONE: -- we're going to -- I

13 just want to see where we are.

14 COMMISSIONER TALDONE: I just want to

15 say quickly that, you know, we do encourage

16 communities to do these visionings and for

17 communities to adopt these plans, and -- and

18 then if they're ignored, what's the purpose?

19 So I -- to some extent, we also need to stand

20 behind these efforts of communities to vision

21 their own futures.

22 And they did put steps in place, they

23 didn't rezone the -- the land. Perhaps that

24 should have been done. Maybe that's a

25 recommendation we need to make to the

1 Suffolk County Planning Commission 11/4/09 226

2 municipality, the town, but if -- we do want

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to back this.

The last time we -- we didn't, only because we found the actual use, in our view, to be somewhat compatible and also an urgent regional need to have more housing. So went for it. This is a bank and an office park. There's no regional issue here, that I can find, but I don't want to be seen not -- not standing behind the visioning idea. Otherwise, why do it? I mean, why would communities do it if it's going to be ignored even by the County Planning Commission?

COMMISSIONER McADAM: (Indicating)

VICE CHAIRMAN KONTOKOSTA: (Indicating)

CHAIRMAN CALONE: Thank you, Vince.

Tom, and the Constantine, and then we're stopped.

COMMISSIONER McADAM: Okay. According to the report, this is J-2, J- -- J-4 and a J-2; is that correct?

CHAIRMAN CALONE: Yes.

COMMISSIONER McADAM: And they're not asking for a change in zone.

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CHAIRMAN CALONE: Correct.

COMMISSIONER McADAM: Okay. So they're putting one part of the building on one -- in one zoning area, and then parking in another area.

CHAIRMAN CALONE: Basically.

8           COMMISSIONER McADAM: Okay. So what I'm  
9           trying to get -- what I'm trying to get to is  
10          whether this is as-of-right. It's  
11          as-of-right the way it's zoned now, but it's  
12          not as-of-right if he decides -- if they  
13          decide to change the zone.

14          CHAIRMAN CALONE: Well, I think  
15          that's -- well, sure.

16          COMMISSIONER McADAM: Is that correct?

17          DEPUTY DIRECTOR GULIZIO: The only  
18          question is whether or not as-of-right, in my  
19          mind -- this was an issue that came up,  
20          actually, previously in the Town of  
21          Brookhaven, is that --

22          John, if you could just go to the site  
23          plan, please.

24          MR. CORRAL: (Compl ying)

25          DEPUTY DIRECTOR GULIZIO: I apol ogy ze,

1           Suffolk County Planning Commission 11/4/09 228  
2           but just to answer the question.

3           This portion of the property is zoned  
4           for retail (indicating). This two-thirds of  
5           the western section is zoned for office  
6           (indicating). All the parking for the retail  
7           use is actually on the office zoning portion  
8           of the property. This is a technical issue  
9           but from a technical standpoint, retail  
10          parking is not permitted accessory use in a  
11          J-4 office zoning district. That allows, in

12 effect, for this retail use to be much wider  
13 than it would typically be if this were just  
14 for retail use as well as the retail parking.

15 So whether or not it's -- as-of-right  
16 use is an interpretation from -- for the  
17 town, I believe, but in looking at it, it  
18 would seem to me that if the perm- -- if the  
19 retail use is not permitted on the office  
20 district, and the accessory parking for the  
21 retail is also not permitted on the office  
22 district across from the property, then the  
23 result of that is that the retail use then  
24 becomes much larger than it would normally be  
25 as-of-right.

1 Suffolk County Planning Commission 11/4/09 229

2 CHAIRMAN CALONE: Okay. Thank you, Dan.  
3 Constantine.

4 VICE CHAIRMAN KONTOKOSTA: Yes, just to  
5 get back to Vince's point here.

6 While I don't want to undermine in any  
7 way -- in fact, I want to do everything we  
8 can to encourage these plans, what we can't  
9 do is -- well, at least I believe we can't do  
10 is let individual property owners bear the  
11 burden for a municipality's failure to  
12 implement the plan adequately in going  
13 through the necessary steps to change the  
14 zone, giving them time for public hearings,  
15 times for comment, the entire process. So I  
16 don't want to undermine that process, as

17 well. So, for me, I have difficulty in this  
18 case in denying it because it's not  
19 consistent with the plan, since it is, to a  
20 certain degree, consistent with the existing  
21 zoning.

22 CHAIRMAN CALONE: Okay.

23 I want a show of hands, I want to take a  
24 poll in terms of who is still -- you know, is  
25 on the local determination side at this

1 Suffolk County Planning Commission 11/4/09 230  
2 point.

3 COMMISSIONER POTTER: With the comment.

4 CHAIRMAN CALONE: With the comment.

5 Wait, the comment was --

6 COMMISSIONER POTTER: The comment was  
7 essentially the --

8 CHAIRMAN CALONE: That --

9 COMMISSIONER POTTER: -- the reason why  
10 we're --

11 CHAIRMAN CALONE: -- Brookhaven -- deal  
12 with yourself.

13 COMMISSIONER POTTER: -- deal with  
14 yourself.

15 CHAIRMAN CALONE: Right. Okay.

16 COMMISSIONER HORTON: If Constantine  
17 made a motion that reflected what he said,  
18 that is what I would be supporting. He  
19 articulated very clearly what --

20 CHAIRMAN CALONE: Okay. And I don't

21 think that was inconsistent with what Job  
22 said; is that correct?

23 COMMISSIONER POTTER: I would just add  
24 to his comment, if it wasn't there, that we  
25 would prefer to seeing the town follow

1 Suffolk County Planning Commission 11/4/09 231  
2 through on the plan and make the appropriate  
3 zone changes.

4 CHAIRMAN CALONE: Okay. That's fine,  
5 and just act consistent with the plan.

6 COMMISSIONER POTTER: Yeah.

7 CHAIRMAN CALONE: Okay.

8 Again, poll on local determination with  
9 that comment.

10 (WHEREUPON, the members voted.)

11 CHAIRMAN CALONE: All right. Well,  
12 we're not going to get anywhere because I  
13 don't -- we're 5-5. So if anyone wants to --

14 COMMISSIONER BOLTON: What happens if  
15 it's 6-5?

16 CHAIRMAN CALONE: No, nothing, we need  
17 8 votes.

18 Again, show of hands on local  
19 determination with that comment, please.

20 (WHEREUPON, the members voted.)

21 CHAIRMAN CALONE: Let's see, 3, 4, 5 --

22 COMMISSIONER TALDONE: Can I ask what  
23 happens --

24 CHAIRMAN CALONE: -- 5, 6 --

25 COMMISSIONER TALDONE: I'm sorry.

1 Suffolk County Planning Commission 11/4/09 232

2 CHAIRMAN CALONE: -- 7.

3 Yes, Vince. What happens is that it  
4 goes back with a local determination -- oh,  
5 no, I'm sorry, it goes back as a no action,  
6 which has the same effect as a local  
7 determination, and, of course, there's no  
8 comments or anything.

9 COMMISSIONER TALDONE: With no comments.

10 CHAIRMAN CALONE: Right.

11 COMMISSIONER HOLMES: Well, I think --

12 CHAIRMAN CALONE: Yes, Linda.

13 COMMISSIONER HOLMES: I think if it  
14 comes to that --

15 (Overlapping conversations)

16 CHAIRMAN CALONE: All right. I  
17 recognized Linda. Linda first, then Vince.

18 COMMISSIONER HOLMES: I think if it  
19 comes to that and there are 7 people who want  
20 to do local determination with these comments  
21 that are quite germane, I would be in favor  
22 of that.

23 CHAIRMAN CALONE: Thank you, Linda.

24 Vince.

25 COMMISSIONER TALDONE: Me too.

1 Suffolk County Planning Commission 11/4/09 233

2 CHAIRMAN CALONE: Okay. You too.

3 Okay. I'll entertain a motion for local  
4 determination with the comment as described,  
5 which is the Town of Brookhaven needs to move  
6 towards adopting its zoning to ratify or be  
7 consistent with its plan.

8 Who's making that motion?

9 COMMISSIONER KELLY: (Indicating)

10 VICE CHAIRMAN KONTOKOSTA: (Indicating)

11 CHAIRMAN CALONE: Mr. Kelly, seconded by  
12 the vice chairman.

13 All in favor, raise your hand.

14 (WHEREUPON, the members voted)

15 CHAIRMAN CALONE: I think that's  
16 unanimous.

17 Okay. Thank you, and our last item is  
18 from Rocky Point.

19 (Discussion held off the record)

20 CHAIRMAN CALONE: Okay. Here we go.

21 Go John.

22 MR. CORRAL: Okay. The applicants are  
23 seeking Town Planning Board approval for a  
24 47 lot residential subdivision on a 34-acre  
25 parcel in the hamlet of Rocky Point. Our

1 Suffolk County Planning Commission 11/4/09 234  
2 jurisdiction for this application is State  
3 Road 25A, Route 25. State -- I'm sorry,  
4 State Route 25A which is North Country  
5 Road -- North County Road. The applicant --  
6 the subject parcel fronts on that road.  
7 Also, New York State land is just to the

8 south, it's within 500 feet of the subject  
9 parcel.

10 Currently, to the -- directly to the  
11 north of the -- is a LIPA right-of-way and  
12 then residential land use; to the east and  
13 west is a mix of commercial and residential  
14 land use; and to the south is Route 25A, it  
15 fronts on slightly, but there's also -- the  
16 majority of the subject parcel is removed  
17 from Route 25A by approximately 400 feet, and  
18 there's a variety of separately owned  
19 commercial uses on the north side of 25A,  
20 south of the subject parcel.

21 The land itself -- there's pretty  
22 significant topography on the land. It's  
23 primarily wooded and it's been disturbed by  
24 sand -- a sand mining operation.

25 This view is looking at it from the east

1 Suffolk County Planning Commission 11/4/09 235  
2 (indicating). There's one vacant lot on the  
3 property, but -- one vacant residential  
4 structure on the property, but predominantly  
5 wooded.

6 The zoning for the parcel is Residential  
7 B-1, which allows 22,500-square-foot lots  
8 for -- for development.

9 Okay. The subdivision is a 47-lot  
10 subdivision. The majority of the lots are  
11 22,500 square feet or slightly larger.

12 There's a few larger lots, one in the  
13 northeast corner (indicating). There's also  
14 a recharge basin that's 74,000 square feet.  
15 They propose access via New York State  
16 Route 25A and Hallock Landing Road with a  
17 40-foot paved -- 40-foot paved roadway that  
18 loops with a small cul-de-sac to divide  
19 access to all the 47 lots.

20 Our three kind of major issues that our  
21 department looked at with this property is  
22 the significant slopes -- the significant  
23 slopes, the coordination of the commercial  
24 lots directly to the south of the subject  
25 parcel, and also conformance with three of

1 Suffolk County Planning Commission 11/4/09 236  
2 the Suffolk County Planning Commission  
3 Guidelines; affordable housing, energy  
4 efficiency, and public safety.

5 So, specifically, our recommendations  
6 for this application is approval subject to  
7 the following conditions, and those  
8 conditions relate to those three kind of  
9 broad principles.

10 One being recommendation of clearing  
11 limited to slopes less than ten percent;

12 Consideration given to clustering the  
13 proposed lots away from the steepest slopes,  
14 and also balancing the cutting and grading on  
15 the site. There's a -- as proposed, a  
16 significant amount of grading and removal of

17 material from the site;

18 And related to the steep slopes and the  
19 topography is the concern to make sure that  
20 all stormwater runoff remains on-site.

21 That's another condition;

22 Because of the commercial uses to the  
23 south and that this has a small frontage on  
24 Route 25A which has a sidewalk, we wanted a  
25 condition that a sidewalk be added along with

1 Suffolk County Planning Commission 11/4/09 237  
2 the proposed access from Route 25A to better  
3 facilitate access to the commercial uses to  
4 the south. And also to work with -- consider  
5 coordination with cross accesses to the  
6 commercial uses;

7 And then the three last conditions we  
8 had -- one is that the applicant shall be  
9 directed to consult the Suffolk County  
10 Planning Commission's adopted Energy  
11 Efficiency and Public Safety Guidelines;

12 Consistent with the Suffolk County  
13 Planning Commission Affordable Housing  
14 Guidelines -- that's five lots in this  
15 subdivision shall be set aside as affordable  
16 in accordance with the Suffolk County  
17 Planning Commission Guidelines and Affordable  
18 Housing;

19 And also, that the town ensures that  
20 this proposed subdivision shall be in

11 04 09\_Planning.txt  
21 conformance with the New York State Long  
22 Island Workforce Housing Act.  
23 So that's the staff --  
24 CHAIRMAN CALONE: Thanks, John.  
25 And you gave one comment on LIPA which

1 Suffolk County Planning Commission 11/4/09 238  
2 is -- makes sense.

3 MR. CORRAL: Right.

4 CHAIRMAN CALONE: Well, we're done --  
5 we're done now.

6 Tom, any -- thank you, John.

7 Anything from the Brookhaven  
8 perspective, Michael?

9 COMMISSIONER KELLY: No.

10 COMMISSIONER POTTER: (Indicating)

11 CHAIRMAN CALONE: Job.

12 COMMISSIONER POTTER: I assume as it's  
13 drawn, it's consistent with the town code  
14 subdivision requirements. It's amazing to me  
15 that there's no required reserve area in this  
16 day and age. This really looks like a 1960s  
17 plan. So I would like to -- if we're going  
18 to approve it, if it's consistent with  
19 zoning, request some reserve area. I'm  
20 thinking about kids who would be living in  
21 here, the possibility of having sidewalks on  
22 this -- at least on one side of the internal  
23 road, as well. And then the other thing is,  
24 if they're going to do a reserve, if there's  
25 any way they can put a small recreation area

1 Suffolk County Planning Commission 11/4/09 239  
2 or pocket park in here to be used by the  
3 residents.

4 CHAIRMAN CALONE: I think we could add  
5 those maybe as comments.

6 COMMISSIONER POTTER: All right.

7 COMMISSIONER KELLY: (Indicating)

8 CHAIRMAN CALONE: Yeah, Mike.

9 COMMISSIONER KELLY: In terms of the  
10 pocket park, I know the town over the past  
11 two years was just trying to inventory the  
12 amount of parks that they had, and they  
13 couldn't figure out what they had in  
14 inventory. So, you know, in terms of the  
15 internal pocket parks, while it sounds nice,  
16 I think it might be overreaching for us.

17 COMMISSIONER POTTER: Can I just --

18 CHAIRMAN CALONE: Go ahead, Job.

19 COMMISSIONER POTTER: I only want to  
20 respond to that in a sense that I'm talking  
21 about something that's within walking  
22 distance to the residents, this looks like  
23 someplace families would be --

24 But my real reaction is just I'm  
25 surprised that the subdivision code would

1 Suffolk County Planning Commission 11/4/09 240  
2 allow a plan that looks like this. That's

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just --

CHAIRMAN CALONE: Right.

Any other thoughts or comments?

(WHEREUPON, there was no response.)

CHAIRMAN CALONE: Can we say something a little more neutral with regard to Michael's concern with -- just that the -- that there be some consideration that there be some reserve space and just leave it open as a -- I mean, this is a comment and I -- I think it was more --

Job, if I'm correct, this is more just throwing it out there and putting it on the town for --

COMMISSIONER POTTER: It is.

CHAIRMAN CALONE: Which is fine. Which is fine, I think.

COMMISSIONER BOLTON: (Indicating)

CHAIRMAN CALONE: Yes, Charla.

COMMISSIONER BOLTON: I just have a really quick question.

Are the roads that are being proposed to access this subdivision where they meet

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Suffolk County Planning Commission 11/4/09 241

current public roads, are those legal width?

MR. CORRAL: Yeah, they're 40 -- they're 40-foot paved roads within a 60-foot wide right-of-way.

COMMISSIONER BOLTON: Oh, okay. Thank you.

8 CHAIRMAN CALONE: All right. Any other  
9 thoughts, comments, questions?  
10 (WHEREUPON, there was no response.)  
11 CHAIRMAN CALONE: If not, I'll entertain  
12 a motion to approve the staff report with the  
13 one comment added that Job suggested.  
14 COMMISSIONER HOLMES: (Indicating)  
15 CHAIRMAN CALONE: Moved by  
16 Commissioner Holmes.  
17 COMMISSIONER POTTER: (Indicating)  
18 CHAIRMAN CALONE: Seconded by  
19 Commissioner Potter.  
20 All in favor, please raise your hand.  
21 (WHEREUPON, the members voted.)  
22 CHAIRMAN CALONE: That's 12 to 0, I  
23 think, or 11.  
24 Thank you, all. Two last --  
25 First, thank you, John.

1 Suffolk County Planning Commission 11/4/09 242  
2 So it's 11 to 0 to 0.  
3 Two last things.  
4 I don't think we have anything on the  
5 comprehensive plan, you know, other than what  
6 I mentioned earlier.  
7 The other thing on the task force  
8 process, we'll keep that moving forward and  
9 get suggestions to the Commission over the  
10 next month or two.  
11 If anyone's interested in officerships

12 for next year, we have the Nominating  
13 Committee now. So you can reach out to Tom  
14 McAdam or --  
15 COMMISSIONER HOLMES: Did we appoint the  
16 Nominating --  
17 CHAIRMAN CALONE: Well, I guess I kind  
18 of did it by default.  
19 So, without objection, if we can appoint  
20 Tom and Sarah as the Nominating Committee,  
21 and maybe Barbara will join them. I think it  
22 would be wise --  
23 SECRETARY ESPOSITO: But they're not  
24 here, who nominates them?  
25 CHAIRMAN CALONE: There you go, all in

1 Suffolk County Planning Commission 11/4/09 243  
2 favor of adding Barbara to the nominating  
3 Commission, without objection -- there you  
4 go.  
5 All right, guys, thanks for sticking it  
6 out.  
7 Motion to adjourn by  
8 Commissioner Chartrand and seconded by the  
9 Vice Chairman.  
10 All in favor --  
11 (WHEREUPON, this meeting of the Suffolk  
12 County Planning Commission was adjourned at  
13 3:50 p.m.)  
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1 Suffolk County Planning Commission 11/4/09 244

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C E R T I F I C A T E

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I, THERESA PAPE, a Shorthand Reporter and  
7 Notary Public of the State of New York, do hereby  
8 certify:

9

That the foregoing is a true and accurate  
10 transcription of the stenographic notes taken  
11 herein.

12

I further certify that I am not related to  
13 any of the parties to this action by blood or  
14 marriage; and that I am in no way interested in the  
15 outcome of this matter.

16

IN WITNESS WHEREOF, I have hereunto set my  
17 hand this 4th day of November 2009.

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