

SUFFOLK COUNTY PLANNING COMMISSION

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

NOTICE OF MEETING

September 7, 2011
Town Board Room @ 159 Pantigo Road
Town of Easthampton
12:00 P.M.

Tentative Agenda Includes:

1. Adoption of minutes for June & July 2011
2. Public Portion
3. Chairman's report
4. Director's report
5. Guest Speakers:
 - Hon. William J. Wilkinson, Supervisor, Town of East Hampton
 - Village of North Haven (invited)
 - Presentation on Draft East End Wind Code - Town of Southampton and Town of East Hampton
6. Section A14-14 thru A14-23 & A14-25 of the Suffolk County Administrative Code
 - Moratorium on Dock Approvals (Village Wide) (Inc. Village of North Haven)
 - The Meadows@Yaphank 0200 55200 0100 001003 et al. (Town of Brookhaven)
7. Section A14-24 of the Suffolk County Administrative Code
 - NONE
8. Discussion:
9. Other Business:

NOTE: The **next meeting** of the SUFFOLK COUNTY PLANNING COMMISSION will be held on WEDNESDAY, October 5, 2011 in the Town of Smithtown Board Room.

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STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PLANNING

SARAH LANSDALE, A.I.C.P.
DIRECTOR OF PLANNING

STAFF REPORT
SECTIONS A14-14 THRU A14-25 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Moratorium on Dock Approvals
Municipality: Inc. Village of North Haven
Location: Shoreline of the Inc. Village of North Haven

Received: 8/12/2011
File Number: Nh-11-01
Jurisdiction: LOCAL LAW

PROPOSAL DETAILS

OVERVIEW - Referral from the Inc. Village of North Haven of a proposed Local Law to “prohibit temporarily the processing and approval of any application for approval of any dock or structure accessory to a dock in any waters within or bounding the Village to a distance or 1,500 feet from the shoreline...”

Said proposed Local Law is for a six month moratorium on the approval of any dock or structure accessory to a dock and/or the issuance of building permits for said land uses...” along the shoreline of the Village of North Haven

LOCATION - Applicable to multiple properties along the shoreline of Sag Harbor Cove, Noyack Bay, Shelter Island Sound and Sag Harbor.

STAFF ANALYSIS

Referral material to the Suffolk County Planning Commission includes a brief reference to the intent and need of the Moratorium. The local Law reads that the moratorium shall remain in effect “pending the completion of ongoing efforts by the Board of Trustees to enact new legislation pursuant to its enabled authority under New York Navigation Law § 46-a (attached) addressing each of these land use activities, it being the Board’s intention that the status quo be maintained in the interest of avoiding the loss of valuable and limited local resources and in the interest of enabling the future regulatory management of these resources by means of new legislative enactments.” The Local Law continues to read that “the approval of any dock or structure accessory to a dock and/or the issuance of building permits for said land uses are not consistent with the present best interests of the Village.”

A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends completely the rights of land owners to use their property. From the perspective of the Suffolk County Planning Commission a limited or narrowly scoped moratorium generally does not involve regional or inter-community impacts of an adverse nature and generally are considered matters for local determination. The Suffolk County Planning Commission has published guidance on the structure and content of moratoria (see attached SCPC Advisory News: Moratorium on Development). The moratorium should be tied to a legitimate comprehensive planning initiative such as the completion of zoning or master plan updates. Where possible the moratorium should be limited and allow for the due process of applications and assure the proper balance between property rights and community planning. The moratorium should not be used to delay controversial development applications.

The moratorium should include findings that confirm the necessity of this action. The Law should indicate what recent circumstances have occurred that justify the adoption of the moratorium and how serious and urgent are these circumstances. In addition, more explicit findings are needed to justify the enactment of the moratorium as well as the lack of other less burdensome alternatives. It is the belief of the staff that *Section 1. Purpose* of the proposed Local Law is too vague.

STAFF RECOMMENDATION

Approval subject to the following modification:

Section 1. Purpose, of the proposed local law shall be modified to include more explicit findings necessitating the proposed moratorium.

Reason:

A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends completely the rights of land owners to use their property. The moratorium should include findings that confirm the necessity of this action. The Law should indicate what recent circumstances have occurred that justify the adoption of the moratorium and how serious and urgent are these circumstances. In addition, more explicit findings more explicit findings are needed to justify the enactment of the moratorium as well as the lack of other less burdensome alternatives.



PUBLIC NOTICE

PLEASE TAKE NOTICE that the Board of Trustees of the Village of North Haven will hold a public hearing on the 18th day of August, 2011, at 5:00 P.M., at the Village Hall, 335 Ferry Road, Sag Harbor, New York, to consider the adoption of a Local Law as follows:

LOCAL LAW NO. _____ OF 2011

**A LOCAL LAW PROVIDING FOR A TEMPORARY MORATORIUM
ON DOCK APPROVALS**

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF NORTH HAVEN AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this Local Law is to prohibit temporarily the processing and approval of any application for approval of any dock or structure accessory to a dock in any waters within or bounding the Village to a distance of 1,500 feet from the shoreline pending the completion of ongoing efforts by the Board of Trustees to enact new legislation pursuant to its enabled authority under New York Navigation Law § 46-a addressing each of these land use activities, it being the Board's intention that the status quo be maintained in the interest of avoiding the loss of valuable and limited local resources and in the interest of enabling the future regulatory management of these resources by means of new legislative

enactments. At this time the approval of any dock or structure accessory to a dock and/or the issuance of building permits for said land uses is not consistent with the present best interests of the Village.

SECTION 2. PROCESSING AND/OR APPROVAL OF DOCK APPLICATIONS.

Except as otherwise provided herein, for a period of one hundred eighty (180) days after the effective date herein, there shall be neither processing nor approval of dock applications and/or dock accessory structure applications and no such application, pending or otherwise, shall be either deemed complete or processed for a hearing before any agency or board.

SECTION 3. PROCESSING AND/OR APPROVAL OF BUILDING PERMIT APPLICATIONS.

Except as otherwise provided herein, for a period of one hundred eighty (180) days after the effective date herein, there shall be neither processing nor approvals of building permit applications for a dock or any structure accessory to a dock and no such application, pending or otherwise, shall be either deemed complete or processed for a hearing before any agency or board.

SECTION 4. SUPERSESSION.

This Local Law shall supersede any inconsistent law, state or local. This declaration of supersession is made by authority of the Village's municipal home rule law powers,

pursuant to §§10(1)(ii)(a)(14) and 10(1)(ii)(e)(3) of the Municipal Home Rule Law, §10(6) of the Statute of Local Governments, and Article 9, §2(b)(3) of the New York State Constitution.

SECTION 5. EXCLUSIONS.

This Local Law shall not apply to any application for a dock or dock accessory structure which has been approved by the Board of Trustees prior to the effective date of this Local Law provided this exclusion shall lapse and be without force or effect upon the expiration of this Local Law as provided in Section 2 above excepting where a building permit has issued and property rights have vested by reason of the substantial completion of construction of any said dock and/or dock accessory structure.

SECTION 6. EXEMPTIONS.

Notwithstanding any other provision of this Local Law, the Board of Trustees may during the term of this Local Law by resolution process, approve or deny an application for approval provided that the following requisites occur:

- A. Procedural requirements. The following procedural requirements shall be prerequisite to the grant of an exemption hereunder:
 - (1) The owner of the land affected shall have filed with the Board of Trustees a written application specifically requesting exemption from this Local Law together with any application fee fixed by

resolution of the Board of Trustees for such an exemption application; and

- (2) The Board of Trustees shall have held a public hearing on the petition upon at least ten (10) days' prior public notice, which notice shall have been published in The Sag Harbor Express.

B. Substantive requirements. No exemption shall be granted hereunder unless the Board of Trustees shall specifically find and determine, and shall set forth in its resolution granting such exemption, that:

- (1) Failure to grant an exemption to the owner will cause the owner undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the grant of the exemption; and
- (2) Grant of the exemption will clearly have no adverse effect upon any of the Village's goals or objectives in adopting this Local Law; and
- (3) The application for which owner seeks an exemption will be in harmony with the existing character of the Village as a whole and the area of the Village in which the affected land is located, and will be consistent with any interim data, recommendations, or conclusions which may be drawn from any planning work then in progress or under review; and
- (4) Owner's circumstances are different from any other member of the community to the extent owner is burdened by this Local Law substantially greater than any other member of the community.

SECTION 7. SEQRA.

This Local Law is exempt from review under 6 NYCRR

§617.5(b)(30).

SECTION 8. SEVERABILITY.

Should any part or provision of this Local Law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Local Law as a whole nor any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 9. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.

All persons in interest will be heard by the Board of Trustees at the public hearing to be held as aforesaid and may appear in person or by representative. The Village Hall is accessible to handicapped persons.

Dated: August 9, 2011

BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF NORTH HAVEN

BY: Georgia Welch, Village Clerk

Suffolk County Planning Commission Advisory News



Volume 2
Issue 1
Spring - 1998

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CHAIRMAN
At Large

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VICE CHAIRMAN
Smithtown Town

Louis Dietz
SECRETARY
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East Hampton Town

George J. Dickerson
Shelter Island Town

Richard London
*Village under 5,000
population*

Michael J. Macco, Esq.
Huntington Town

Laure C. Nolan, Esq.
*Village over 5,000
population*

Richard M. O'Dea
Riverhead Town

Edward J. Rosavitch, PE
Brookhaven Town

Frank A. Tantone, Esq.
Islip Town

vacant
Southampton Town

Mardooni Vahradian
At Large

Linda B. Petersen
At Large

MORATORIUM ON DEVELOPMENT

A moratorium on development is a local law or ordinance that **suspends the right of property owners to obtain development approvals** while the community takes time to consider, draft and adopt land use plans or rules to respond to new or changing circumstances not adequately dealt with by its current laws.

Development moratoria may be general or specific. A **general moratorium** imposes a ban on all development in the community. Hardship exemptions may be provided and certain actions may be exempted.

A **specific moratorium** may prevent development approvals in a particular geographic area or of a certain type. Moratoria have suspended the right to process proposals relating to a specific land use. For example, they have been enacted to affect only the construction of docks, for instance, or communications antennas.

PURPOSE

A **moratorium on development preserves the status quo for a reasonable time** while the municipality develops and adopts a land use strategy to respond to new or recently perceived problems. The moratorium prevents developers and property owners from rushing to develop their land under current land use rules that the community is in the process of changing. By so doing, it helps to accomplish the purpose of the new rules by giving them the broadest possible applicability and preventing development that is inconsistent with them.

AUTHORITY

There is no specific statutory authorization to adopt a moratorium on development. The courts have pointed to two separate sources of authority, while consistently confirming the municipal power to enact moratoria.

Communities are implicitly authorized to take those actions they deem reasonable to encourage the most appropriate use of the land throughout the municipality. In light of new or changing circumstances, a moratorium may be necessary to allow the community to achieve this express purpose of zoning and land use planning.

Some courts have held that a **development moratorium is a form of zoning**, implying that it is part of the statutorily delegated power to adopt and amend zoning provisions. Alternatively, a community's authority to adopt a moratorium has been referred to as a "police power" measure appropriate to prevent conditions that threaten the community's health, safety, welfare and morals.

IMPLEMENTATION

A **moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends completely the rights of owners to use their property.** Seen in this light, it is advisable to precede the adoption of a moratorium by **findings** that confirm the necessity of this action. What are the **conditions** that mandate the imposition of a moratorium? Are no other **alternatives**, less burdensome on property rights, available? Why are the existing land use plans and ordinances not adequate? What **recent circumstances** have occurred that justify the adoption of the moratorium? How serious and **urgent** are these circumstances? What **hard evidence** is there to document the necessity of the moratorium?

When adopting a moratorium, the municipality may set forth how the situation that gave rise to the moratorium is to be dealt with. What local bodies are responsible? What studies are to be done? What resources are being made available to complete those studies? Can deadlines be established for various steps in the process? **The more specific and legitimate this plan and timetable are, the more likely the moratorium will be found to be reasonable.**

Based on this action plan and timetable, a date can be selected for the expiration of the moratorium. A moratorium can be extended if the timetable cannot be met; however, the reasonableness of the action is enhanced by setting a date for expiration that is legitimate under the circumstances.

A moratorium should be adopted in conformance with all procedures required of any zoning or land use action, including notice, hearing, the formalities of adoption and filing. While a moratorium does not require an environmental review under the State Environmental Quality Review Act, if it affects adjacent municipalities or county facilities, it may be subject to review by those governments before it can be formally adopted. **The Suffolk County Planning Commission considers suspension of any portion of a Zoning Code to be a "municipal zoning action" requiring review by the Commission.**

LIMITATIONS AND CONCERNS

Since development moratoria affect property rights so severely, they must be reasonable or run the risk of being challenged, voided by the courts and, perhaps, resulting in a damage award against the locality. Reasonableness is best established if the community can document that it is facing a true emergency. Several court decisions sustaining moratoria refer to the "dire necessity" that justifies them. Such a necessity arises not only when health and safety risks are confronted, but also when the community is facing a significant new land use problem that its existing regulations were not designed to handle.

For the same reason, when specific action plans and timetables are established to deal with the necessity or emergency, the reasonableness of the locality's moratorium

is demonstrated. Similarly, a community needs to make reasonable progress in carrying out the plan and adhering to the schedule so its actions are seen to be reasonable. Moratoria that have been extended for up to three years have been sustained by a showing that the community was diligently pursuing its plan and timetable and shorter moratoria have been voided because the community was making little or no progress. In the same way, the plan must be calculated to deal directly with the necessity or emergency at hand; otherwise, its reasonableness may be questioned.

Moratoria do not apply to approved projects where the developer has completed construction or has completed substantial construction in reliance on a development approval or permit. Such developers are said to have vested rights in their permits and to be immune from changes in applicable regulations. Other property owners, who have made less progress, are said to have no legitimate or enforceable expectation that the rules applicable to the development of their land might not change in the interest of protecting the public health, safety or welfare.

CITATIONS:

1. In *Duke v. Town of Huntington*, 153 Misc. 2d 521, 581 N.Y.S.2d 978 (Sup.Ct., Suffolk Co., 1991), the property owner challenged a moratorium prohibiting construction of any docks. The court held the moratorium unreasonable under the circumstances.
2. In *B & L Development Corp. v. Town of Greenfield*, 146 Misc. 2d 638, 551 N.Y.S.2d 734 (1990), the court struck down a one year moratorium on all building permits and land use approvals including subdivision and site plans. **The court found that in adopting the moratorium, the Town had failed to notify the county government** under General Municipal Law § 239-m and adjacent communities under Town Law § 264 and to follow its own requirements for adopting zoning provisions.
3. In *Cellular Telephone Co. v. Tarrytown*, 209 A.D.2d 57, 624 N.Y.S.2d 170, (2nd Dep't, 1995) the court struck down a moratorium prohibiting the construction of cellular antenna.

SOURCE:

Local Leader's Guide to Land Use Practice, Second Edition (In Progress), Series III: Innovative Tools and Techniques, Issue 1: Moratorium on Development, <http://www.law.pace.edu/landuse/morato~1.html>, downloaded 4/23/98.

§ 46-a. Regulations of vessels.

(1) The local legislative body of a city or the board of trustees of a village may adopt, amend and enforce local laws, rules and regulations not inconsistent with the laws of this state or the United States, with respect to:

- a. Regulating the speed and regulating and restricting the operation of vessels while being operated or driven upon any waters within or bounding the appropriate city or village, including any waters within or bordering a village in the county of Nassau or Suffolk, to a distance of fifteen hundred feet from the shore.
- b. Restricting and regulating the anchoring or mooring of vessels in any waters within or bounding the appropriate city or village to a distance of fifteen hundred feet from the shore.
- c. Restricting and regulating the anchoring or mooring of vessels in such waters when used or occupied as living or sleeping quarters and; providing time limits on duration of the stay of such vessels in such waters and requiring inspection and registration of such vessels when so used.
- d. Restricting and regulating garbage removal from said vessels.
- e. Designating public anchorage area or areas and regulating the use thereof.



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PLANNING

SARAH LANSDALE, A.I.C.P.
DIRECTOR OF PLANNING

STAFF REPORT
SECTIONS A14-14 THRU A14-25 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: The Meadows @ Yaphank
Municipality: Brookhaven
Location: NWC of William Floyd Parkway (CR46) and Long Island Exp.(NYS 495)
Received: 8/18/2011
File Number: BR-11-05
T.P.I.N.: 0200 55200 0100 001003 & 0200 58400 0200 001003
Jurisdiction: Adjacent to CR 46 & NYS Rte. 495-- Pine Barrens Zone

PROPOSAL DETAILS

OVERVIEW - Applicants request a change of zone on the subject property totaling 322.37 acres from J-2 (150.17 ac) and L-1 (172.2 ac) to Planned Development District (PDD). The PDD plan proposes a mix of uses totaling 1,032,500 SF of commercial space including a hotel (150,000 SF), restaurant (5,000 SF), retail space (327,500 SF), office/flex industrial space (250,000 SF) and 850 units of attached housing (303 age restricted; 85 (10%) workforce/affordable) with a mix of 1 and two bedroom rentals (144 units), 1 and two bedroom condominiums (486 units) and 2 and 3 bedroom townhouses (220 units). The 85 workforce housing units are dispersed among the rental units and condominiums.

Town of Brookhaven Zoning Law requirement for off street parking relevant to this action is not met by the proposal and would require adjustments to the requirements of all the uses with the exception of the hotel. The petitioners put forth that “adequate parking to serve the related uses will be provided throughout the development.” Separate parking areas for the recreational amenities and civic spaces are proposed.

Storm water detention ponds are proposed as part of the storm water management system on site.

The application material indicates that the development is to connect to an existing sewage treatment facility associated with an adjacent attached unit development, though the facility will require construction upgrades to adequately accommodate the combined flow.

The petition also includes the proposed creation of a Towne (sic) Square including reflecting pool, concert gazebo, public plaza, great lawn and civic space. The civic space is in the form of a community center pavilion and restrooms. Approximately seven (7) acres of parkland for athletic fields is offered along with 116.98 acres (36%) of existing natural areas to remain. In addition, the proposal includes the retirement of five (5) Pine Barren Credits.

STAFF ANALYSIS

GENERAL MUNICIPAL LAW CONSIDERATIONS: The purpose of the referral process is to bring intercommunity and county wide planning, zoning site plan and subdivision considerations to the attention of neighboring municipalities. Included in such issues are compatibility of land uses, community character, public convenience and maintaining of a satisfactory community environment.

The proposal involves the development and improvement of the subject site in order to provide a use that is presumptively compatible with the existing land use character of the area.

One concern of Suffolk County Planning Commission staff is that the Town of Brookhaven, Town wide, has less than one percent (1%) of its zoned land in an industrial zoning district. This is comparatively less than the adjacent municipalities. The Town should recognize that the preservation and improvement of industrial land with industrial uses creates long term employment opportunities in addition to the short term construction jobs associated with improvement of the land. The Town should give consideration to the preservation of industrial zoned land as a means to achieve long term job creation/retention and balance local municipal services and school costs. The Town should emphasize the use of the “flex space” in this proposal for light industrial (tradesperson) uses.

LOCAL COMPREHENSIVE PLAN RECOMMENDATIONS: The Town of Brookhaven 1996 Comprehensive Land Use Plan identifies the subject parcel as appropriate for “Planned Development.”

The proposal is for a change of zone to a mixed use Planned Development District and is presumptively compatible with the 1996 Comprehensive Plan.

SUFFOLK COUNTY PLANNING COMMISSION GUIDELINE CONSIDERATIONS:

The Suffolk County Planning Commissions has identified six general Critical County Wide Priorities including:

1. Environmental Protection
2. Energy efficiency
3. Economic Development, Equity and Sustainability
4. Housing Diversity
5. Transportation and
6. Public Safety

These policies are reflected in the Suffolk County Planning Commission Guidebook (unanimously

adopted January 2009).

The Town of Brookhaven Department of Planning, Environment and Land Management in concert with the Petitioners consultant (Nelson Pope & Voorhis, LLC) , has jointly prepared and submitted an “Analysis of Conformance to the Suffolk County Planning Commission Policies & Guidelines for the Referral of Proposed Municipal Subdivision and Zoning Actions” dated August 17, 2011 (see attached).

Suffolk County Department of Planning staff has reviewed the “Analysis” formulated by the Town and the petitioner and has the following observations:

Section 4.3, Housing, of the Suffolk County Planning Commission Guidebook:

The general policy of this section is not contradicted by the petitioner’s proposal. However, the Town and Petitioners indicate in the Analysis that 10% of the proposed units will be set aside as workforce housing units. Section 5.1 (standards: Affordable Housing Guidelines pg. 37 of the Suffolk County Planning Commission Guidebook) further elaborates on section 4.3 and indicates that “a minimum of twenty percent (20%) of all units be set aside as affordable units (change of zone applications).” It is the belief of the staff that the workforce housing element of the proposal should be modified to reflect SCPC policy.

It is noted that the Town and petitioners did not address the specific standards found in Chapter 5 of the Suffolk County Planning Commission Guidebook in their submitted “Analysis”. These standards can be further investigated by the Suffolk County Planning Commission in later referrals of the site plan or any other subsequent zoning action relative to this referral pursuant to Section 239 of NYS General Municipal Law and Article 14 of the Suffolk County Administrative Code.

STAFF RECOMMENDATION

Approval with the following modification:

In accordance with Suffolk County Planning Commission Policy, Twenty percent (20%) of the 850 residential units (170 units) shall be set aside for affordable/workforce housing purposes.

Reason:

The Town and Petitioners indicate in their submitted “Analysis” to the Suffolk County Planning Commission that 10% of the proposed units will be set aside as workforce housing units. Section 5.1 (standards: Affordable Housing Guidelines pg. 37 of the Suffolk County Planning Commission Guidebook) further elaborates on section 4.3 and indicates that for change of zone applications “a minimum of twenty percent (20%) of all units be set aside as affordable units.”

SUPPLEMENTAL INFORMATION

ZONING DATA

- Zoning Classification: J-2 & L-1 80,000 SF
- Minimum Lot Area: 15,000. Sq. Ft.
- Section 278: No
- Obtained Variance:

SUPPLEMENTARY INFORMATION

- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: Yes
- Property has Historical/Archaeological Significance: No
- Property Previously Subdivided: No
- Property Previously Reviewed by Planning Commission: Yes
- SEQRA Information: Yes
- SEQRA Type FEIS
- Minority or Economic Distressed Yes

SITE DESCRIPTION

- Present Land Use: Vacant
- Existing Structures: same foundations
- General Character of Site: Rolling
- Range of Elevation within Site: 88' to 135' above mean sea level
- Cover: wooded/brush
- Soil Types: Riverhead/Haven, Carver & Plymouth Series
- Range of Slopes (Soils Map): 0-15%
- Waterbodies or Wetlands: yes-freshwater wetlands on site

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

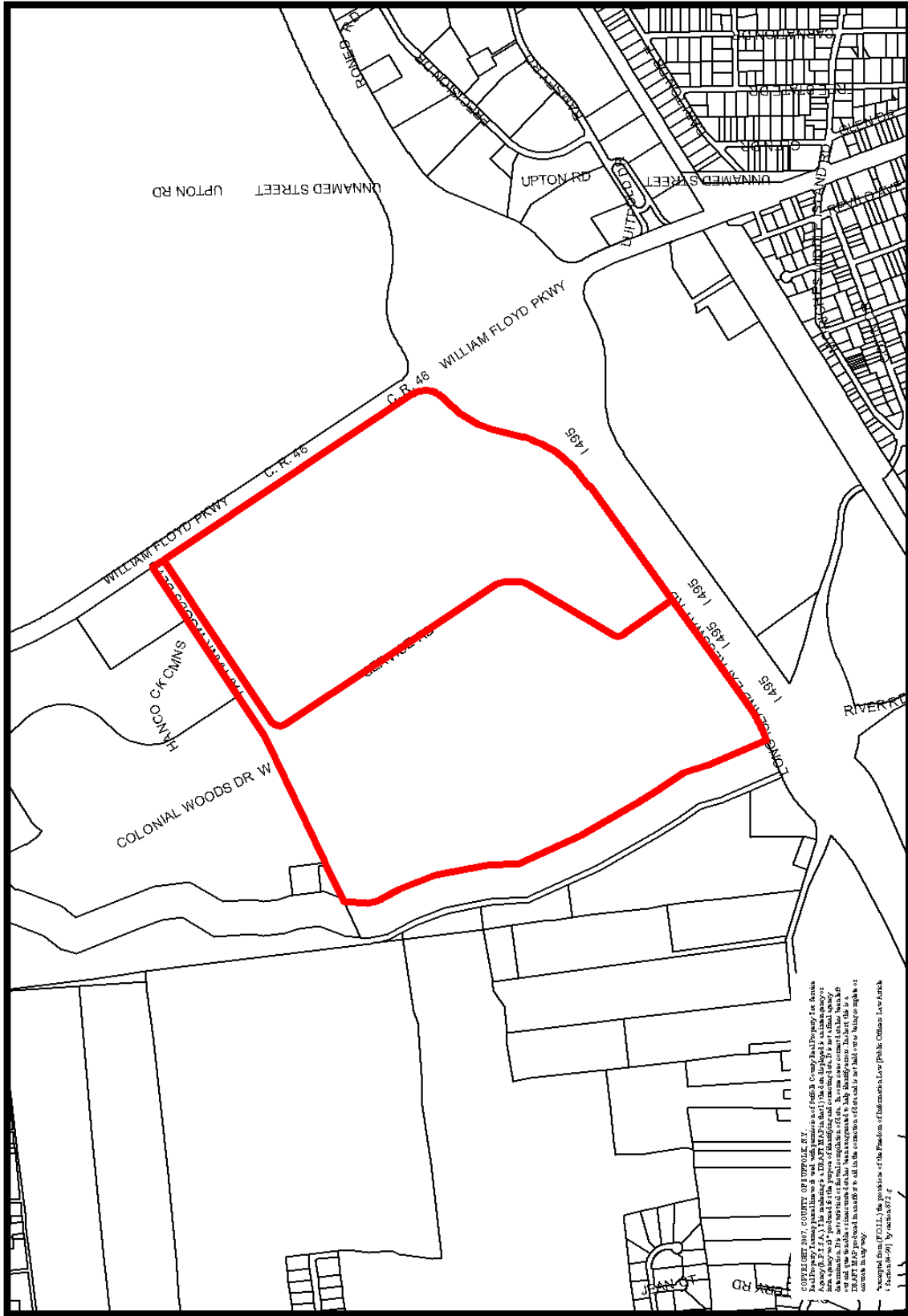
- Type: Change of Zone
- Layout: mixed use
- Area of Tract: 322.37Acres
 - No. of Lots: 850

ACCESS

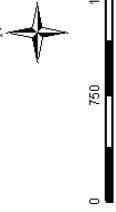
- Roads: Existing
- Driveways: Private

ENVIRONMENTAL INFORMATION

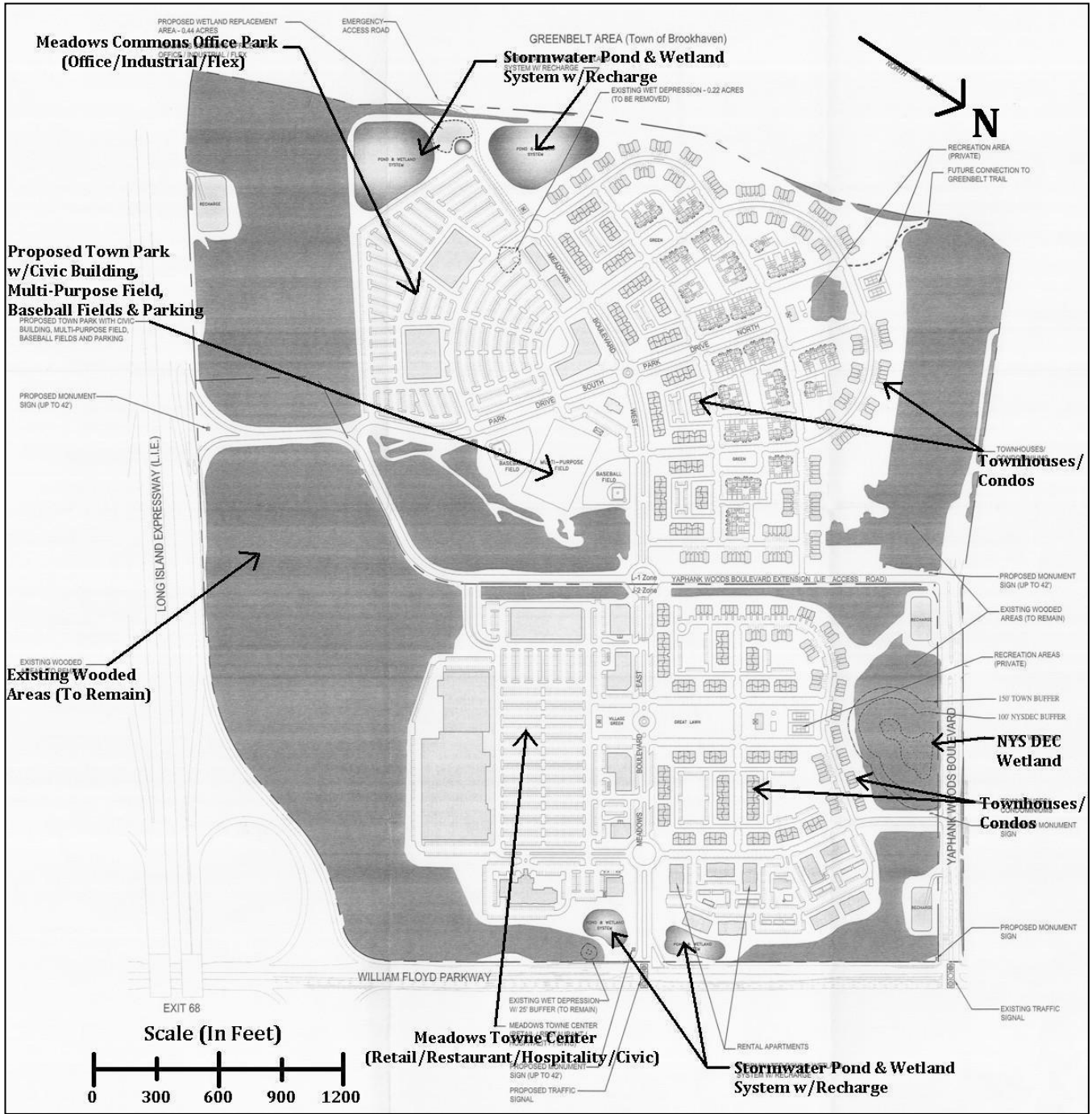
- Stormwater Drainage
 - Design of System: CB-LP
 - Recharge Basins: Created Ponds
- Groundwater Management Zone: III
- Water Supply: Public
- Sanitary Sewers: Public



Town of Brookhaven
Suffolk County, New York
 Date: 9/07/2011



Z-1: Meadows @ Yaphank
SCPD No.: BR-11-05
SCTM No.: 0200 55200 0100 001003 et al.



Z-1: The Meadows @ Yaphank
SCPD: BR-11-05
SCTM No: 0200-552.00-01.00-001.003 &
 0200-584.00-02.00-001.003

9.7.11.11
AUG 13 PM 3:31

ANALYSIS OF CONFORMANCE
to the
SUFFOLK COUNTY PLANNING COMMISSION
POLICIES & GUIDELINES FOR THE REFERRAL OF PROPOSED MUNICIPAL
SUBDIVISION AND ZONING ACTIONS

Prepared by: Town of Brookhaven
Dept. of Planning, Environment & Land Management
Planning Division
1 Independence Hill
Farmingville, New York 11738
Contact: Tullio Bertoli, AICP, LEED®; Commissioner
Phone: (631) 451-6400

Nelson, Pope & Voorhis, LLC
572 Walt Whitman Road
Melville, New York 11747
Contact: Charles J. Voorhis, CEP, AICP
Phone: (631) 427-5665

Prepared for: Suffolk County Planning Commission
Suffolk County Planning Department
H. Lee Dennison Building, 4th Floor
P.O. Box 6100
Hauppauge, New York 11788-0099

Date: August 17, 2011

Introduction

This document provides an analysis of The Meadows at Yaphank with respect to the Suffolk County Planning Commission (SCPC) Policies & Guidelines for the Referral of Proposed Municipal Subdivision and Zoning Actions. The following provides background information with respect to the SCPC procedures, followed by an analysis of each policy and the project's relative conformance.

New York State General Municipal Law and the Laws of Suffolk County require local municipalities to refer certain planning and zoning actions to the [SCPC] for review prior to making a final determination. Actions that are subject to referral include the adoption or amendment of a comprehensive plan, zoning ordinance or local law, the issuance of a special use permit, approval of a site plan, the granting of area or use variances or other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law such as moratoria and the adoption of urban renewal plans. Additional actions subject to referral include preliminary and final subdivisions and undeveloped plats.

These applications are required to be referred to the Commission if they are located within the Suffolk County Pine Barrens Zone, within one mile of a nuclear power plant or airport or within five hundred feet of:

- The boundary of any village or town;
- The boundary of any existing or proposed County, State or Federal park or other recreation area;
- The right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway;
- The existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines;
- The existing or proposed boundary of any other County, State or Federally owned land held or to be held for governmental use;
- The Atlantic Ocean, Long Island Sound, any bay in Suffolk County or estuary of any of the foregoing bodies of water; or
- The boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the New York State Agricultural and Markets Law.

According to New York State law, the purpose of the referral process is to bring pertinent inter-community and county-wide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. The review of referral items may include, but is not limited to, inter-community and county-wide considerations with respect to the following:

- Compatibility of various land uses with one another;
- Traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities;
- Impact of proposed land uses on existing and proposed county or state institutional or other uses. Protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas;
- Drainage;
- Community facilities;
- Official municipal and county development policies, as may be expressed through comprehensive plans, capital programs or regulatory measures; and
- Such other matters as may relate to the public convenience, to governmental efficiency, and to the achieving and maintaining of a satisfactory community environment.

Local municipalities are required by State and County law to refer applications to the [SCPC] when the jurisdictional requirements are met. The failure to refer an application to the [SCPC] may render the local municipal determination procedurally defective and may void the action despite its identified benefits or compliance with local standards.

The jurisdictional criteria capture a great number of local municipal zoning and planning actions that do not involve regional considerations and, as such, it is the intent of the [SCPC] to concentrate its efforts on those truly regionally significant applications which affect county or state land use considerations and/or multiple municipal jurisdictions.

While the local municipality typically exercises final jurisdiction over the application, the [SCPC] may recommend approval, approval with modification or disapproval of the local action. Pursuant to New York State law, in the event the County recommends a modification or disapproval of the local action, the referring body may not act contrary to the County's recommendation except by vote of a majority plus one of all the members. The over-ride must also state the reason(s) for taking action contrary to the [SCPC] recommendation.

There are two circumstances where the [SCPC] has final authority over an action. Pursuant to the Laws of Suffolk County, in the event there is an objection from an adjacent municipality to the amendment or adoption of a municipal zoning ordinance relating to any portion of the town or village within 500 feet of the municipal boundary, it shall not take effect until the ordinance or amendment has been submitted to and approved by the [SCPC].

In addition, when the [SCPC] is considering a zoning action and a state agency having a statutory responsibility involving air pollution, water pollution or estuarine values interposes an objection on the grounds that the action is likely to produce water pollution or air pollution or be destructive of estuarine values, the recommendation of the [SCPC] is final and binding on the local municipality. However, this provision is not applicable to any action which would change the district classification of, or the regulations applying to, real property lying within the Suffolk County Pine Barrens Zone.

The SCPC retains review status over the proposed project due to the subject site's location within the Central Suffolk Pine Barrens Zone. As a result, the SCPC is charged with the responsibility of reviewing the project in light of its Policies and Guidelines, as described below.

Description of the SCPC Policies and Guidelines

The following guidelines provide an overview of the procedural aspects of the referral process along with a review of the policy considerations that guide the [SCPC] in the execution of its duties.

The following policies and guidelines are intended to articulate [SCPC] land use policies in order to better inform local municipalities and applicants, effectively guide regionally significant actions and better coordinate local responses. Central to [SCPC] policy is the promotion of sustainability. Sustainable development is defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Doing so must integrate and balance economic, environmental and social goals. The goal of the following section is to promote sustainable development in Suffolk County defined by the nexus of economic development, environmental health and social equity.

[SCPC] policy is also contained in myriad land use studies, research documents and comprehensive plan documents prepared by the Department of Planning on an annual basis. The following policies and guidelines should be considered a starting point for reference purposes. It is therefore also recommended that applicants and local municipalities consult the resources of the Suffolk County Planning Department for additional guidance or visit the County website at:

www.suffolkcountyny.gov/departments/planning.aspx

Conformance Analysis

Following are the SCPC Policies, General Policy Goals, and Specific Policies (Guidelines) under which the SCPC reviews the applications that are under its jurisdiction per the NYS General Municipal Law. Immediately after each Guideline is a discussion of the proposed project's conformance to that Guideline.

Policy 4.1 Equity and Sustainability

A. *General Policy Goal: Appreciate that economic vitality, environmental quality, and social equity are mutually dependent and reinforcing. Utilize a concept of sustainability predicated on a commitment to social justice, equity, and fairness to guide County policy.*

B. *Specific Equity and Sustainability Policies:*

- *Promote equal access to economic, environmental and social opportunities.*

The proposed project facilitates economic opportunity by providing significant tax revenue and job creation. The mix of uses on the project site ensures that the project will generate a significant tax surplus to all pertinent taxing jurisdictions, particularly to the Longwood Central School District (LCS D), even after deducting the costs of education of the project's school-aged children, as well as ensuring that all taxing jurisdictions will receive significant revenue increases. The project minimizes the number of school-age children anticipated, to minimize potential enrollment and expenditure impacts on the LCS D. The project establishes thresholds on the number of school-age children such that, as development proceeds, the enrollment impact on the LCS D is continually monitored. Environmental opportunity is provided through improved overall environmental conditions on the site, which will be achieved by: the permanent preservation of nearly all of the existing natural vegetation on the site; the creation of new freshwater wetlands greater in area than the existing wetlands associated with the racetrack; and the provision for a future pedestrian connection to a future walking trail in the adjacent Town Greenbelt. A mixed-use project with a variety of housing options (including affordable and senior housing), on-site public and private recreational spaces, employment opportunities and retail use ensures social opportunities by creating a new community which includes a place to live, work and recreate. The site design will ensure that a "sense-of-place" is established through use of a set of project-specific architectural guidelines, so that the project's landscaping, street furniture, presence of open gathering areas and mixed uses, and the project's walkability, both internally and through provision for a connection to the future walking trail in the adjacent Town Greenbelt, is maintained at the highest possible level. The project is appropriately located on a site that fronts two established regional transportation corridors (the LIE and CR 46), and provides social opportunities for site and area residents and visitors, and economic opportunities for residents, neighbors and businesses. In summary, the project represents an attractive and timely re-development opportunity that would simultaneously improve an impacted site and would preserve its remaining natural resources. As such, the proposed project conforms to this Policy.

- *Promote equity in the distribution of societal burdens and potential land use impacts.*

The proposed project has been specifically designed to promote equity in seven (7) ways: 1) it will remove an existing, long-term land use and environmental impact that has been a source of community concern, 2) it will provide a substantial number of affordable rental and for-sale condominium units, 3) it will provide a significant number of employment opportunities for retail and office workers, 4) it will create a community amenity on the subject site, 5) it will provide a significant public recreational amenity and a civic building that provides recreational opportunities for area youth, 6) the project has benefited from the applicant's extensive outreach program to community representatives including applicable government officials and representatives, civic leaders, utility and fire department officials, and youth group and school board members, to fully involve the stakeholders in the development of a PDD concept that meets the goals of the Yaphank community. Many of these stakeholders expressed their support for the project during the DGEIS comment period, including several civic associations and the LCS D, and 7) the applicant has committed to significant off-site improvements (related to traffic and

roadways, and sanitary wastewater treatment) that would benefit the entire community. . Thus, the proposal conforms to this Policy.

Policy 4.2 Land Use

A. *General Policy Goal: Promote sustainable land use and development throughout the county by encouraging density, transit, and mixed uses in downtowns, hamlet centers, and areas with adequate infrastructure.*

B. *Specific Land Use Policies:*

- *Promote redevelopment and infill development as an alternative to continued sprawl.*

The proposed project involves the re-development of a site and, due to the project's nature location in the Pine Barrens Zone, has been designed in a compact manner to minimize sprawl. The proposed project will connect to the existing Dorade STP, which was originally planned and designed to handle wastewater generated on the site, so that the project has minimal potential to induce additional growth in the area. The proposed project is strategically situated in an area that has infrastructure in the form of transportation corridors, bus routes and utility infrastructure, and provides its own amenities (retail shopping opportunities, employment opportunities, public and private parks). The mix of uses internal to the site (diverse housing, recreation, retail) will promote internal interaction, and the placement of this new community within the existing sector of the Town would discourage sprawl and promote smart development. It should be noted that the project represents a reduction in the amount and associated impacts of development that could occur on the site under its existing L-1 and J-2 zonings. The proposed project would conform to this Policy.

- *Encourage a mixture of land uses within communities and individual developments, particularly in hamlet centers and areas near transportation facilities.*

The project generally conforms to this Policy, as it is a mixed-use proposal near the Yaphank hamlet center, provides a substantial number of rental and sale units and substantial retail and employment spaces for site and local residents. The site is currently vacant, but was previously impacted. The re-development of the site includes an appropriate balance of housing, retail, office and recreation uses. The site is located near transportation facilities including the LIE, CR 46, bus routes along CR 46 and local roadways, and connections to the LIRR. Specifically, the project includes a private shuttle bus service to the Mastic/Shirley and Yaphank LIRR stations, as well as to Brookhaven National Laboratory (BNL).

- *Increases in density should be tied to the purchase and/or transfer of development rights or to a one-for-one density offset through upzoning of vacant privately owned land.*

The yield requested for the proposed project is not the result of a TDR or other density transfer; rather, it has been determined through a process that considered implementing a range of uses at yields seen by the Town, community and applicant as needed and appropriate for the site and broader community. This is a central characteristic of a PDD project. In addition, the project includes a number of Special Public Benefits, including: 1) a substantial monetary contribution to the Carmans River Invasive Species Remediation Fund; 2) dedication of 7± acres to the Town for a park; 3) design and construction of two ballfields and a multi-purpose field at the Town park; 4) construction of a pavilion and restroom facility at the Town park; 5) construction of a community building at the Town park; 6) redemption of five (5) Pine Barrens Credits, and; 7) improvements to the Dorade STP. The policy indicates that increases in density "should" be tied to TDR; however, this is not *required* [emphasis added], so that the provision of Special Public Benefits

may be substituted for redemption of PBCs sufficient to fully compensate for all of the increased density. The proposed project provides a means to redevelop the site in a positive way promoting affordable housing, mixed-use development, and substantial open space preservation. The Town and the applicant trust that the SCPC will find this to be one of those cases where the density proposed in connection with site re-development is justified.

Policy 4.3 Housing

A. *General Policy Goal: Encourage sustainable communities by shaping County development regulations, programs, and policies to create energy-efficient, well-designed housing that meets the diverse needs of current and future County residents*

B. *Specific Housing Policies:*

- *Encourage a diversity of housing types, equitably distributed across all communities, including the development of low and moderate income housing units.*

The proposed project is designed and intended to conform to this Policy. The project will contain 224 rental units, 294 condominium units, and 332 townhouse units, of which 303 will be senior units and at least 85 will be workforce units. The nature of the project is such that the size and location of apartments not offered as affordable units, will still provide a cost effective housing alternative to single family dwellings, larger condominium/townhouse units, and larger apartment units. The offering of housing for rent that is sized and priced to meet housing needs in the area will ensure that a diversity of housing types is equitably distributed both within the development, and within the Town of Brookhaven.

- *Housing policies must balance increases in density, the availability of infrastructure and retail services to accommodate growth and environmental constraints to growth.*

The site has been evaluated and determined able to accommodate the level of development proposed in connection with the project. The project will provide needed one-, two- and three-bedroom units (of which 10% are affordable), on a site that was previously developed. The site is proximate to the LIE and CR 46 for automobile and bus transportation, and linkages are available to the LIRR. Utility services are available, and two regional traffic arteries abut the site. The project conforms to this Policy, in that it will utilize a new connection to the existing Dorade STP to treat and dispose of all wastewater. In this way, SCSC Article 6 will not be transgressed in consideration of the project's residential and retail space yields. In addition, the inclusion of an on-site commercial component, as well as the proximity of two regional transportation arteries would benefit the site's residents. Finally, the project's trip generations would be substantially less than the corresponding values if the site were developed with uses permitted under its existing L-1 and J-2 zonings. The Traffic Impact Study indicates that weekday morning traffic is reduced by 14%, weekday evening by 40%, and Saturday peak by 41%.

- *Housing policies should address special needs populations and include as a goal the establishment of policies to end homelessness.*

The project will provide a variety of housing opportunities, including townhouses, condominiums and apartments with senior and workforce units. Thus, the project will provide a substantial number of affordable and smaller, lower-cost rental units, so that the needs of special populations will be addressed. In this way, the proposed project conforms to this Policy.

Policy 4.4 Energy Efficiency

- A. *General Policy Goal: Encourage the design and construction of energy efficient buildings to reduce air, water and land pollution and environmental impacts from energy production and consumption.*
- B. *Specific Energy Efficiency Policies:*
- *All new residential, commercial and industrial building should be designed and constructed to reduce energy consumption and improve environmental quality.*

The applicant is an Energy Star Homebuilder, and all residential units will be constructed to Energy Star standards at a minimum. In addition, the applicant has been meeting with Long Island Power Authority (LIPA) and Syracuse Center for Excellence representatives, and will incorporate sustainable and energy conservation designs into the project, where appropriate. The proposed project will include water- and energy-saving building materials, plumbing and electrical fixtures, appliances and mechanical systems; LEED® systems and principles will be incorporated into site design, and the applicant may seek LEED® certification. All construction will conform to NYS Building standards and requirement, which include energy and water-conserving elements. The developer/operator recognizes the value of sustainable construction and will seek to incorporate all reasonable energy-conserving measures in order to improve environmental quality associated with this project. Thus, the project conforms to this Policy.

Policy 4.5 Public Safety

- A. *General Policy Goal: New buildings and developments should incorporate general design elements that promote public safety.*
- B. *Specific Public Safety Policies:*
- *New residential, commercial and industrial buildings and developments must incorporate design elements that calm traffic, deter criminal activity, and increase public safety.*

The project design conforms to this Policy, in that the internal roadways have traffic-calming characteristics (e.g., continuous curves, on-street head-in parking, narrow roadway and signage), and site design has security features (e.g., security lighting). It is noted that additional such features (e.g., speed bumps, fire and security alarm systems, etc.) may be incorporated into the project during the Town's site plan review stage. The proposed project will be designed such that open spaces do not include "hidden" areas, and lighting will be provided to ensure that the on-site environmental is visible and safe. In general, the project is designed to enhance traffic calming and safety, and therefore conforms with this policy.

Policy 4.6 Economic Development

- A. *General Policy Goal: Support a sustainable economic growth by supporting a broad range of industries and economic opportunities—from local entrepreneurs to national firms—that are linked to transit, housing, and services. Economic opportunity must be equitably distributed among the entire range of potential workers.*
- B. *Specific Economic Development Policies:*
- *Encourage the creation of a range of employment opportunities for a variety of ages, education levels, and skill levels.*

The commercial component of the Meadows project will include retail spaces that will provide service business jobs to be filled by a variety of ages, education and skill levels. Management personnel will be needed, as well as clerks, stocking assistance, maintenance and related job types. The proposed project conforms to this Policy, as it will provide for an estimated 82.2 FTE temporary construction-phase jobs and 2,681 permanent jobs in the project's commercial component.

- *Support local businesses and small entrepreneurial firms while recognizing the importance of national and multinational firms located in the County*

The project conforms to this Policy in five ways: 1) the 850 residences proposed will provide an estimated 1,718 residents that would increase the customer bases for all existing local businesses, 2) the 1.0325 million SF of commercial spaces would provide an estimated 2,681 commercial jobs; 3) construction would utilize eligible local material suppliers, thereby increasing the profit potential of these businesses, 4) the inclusion of a significant amount and variety (as retail, office, office/flex, hotel, and restaurant spaces) of new retail/commercial space on-site would represent an opportunity for local economic growth, and 5) the project will generate an estimated \$32 million annually in purchasing power to the local economy, upon full build-out. That is, if proposed retail space is attractive to national retailers, the spaces may be occupied by such businesses. It is expected that a mix of local, regional and potentially national store types will occupy the retail portions of the site. As a result, the proposed project conforms to this policy.

Provide job assistance and education programs to better match jobseekers and employers, particularly those in the most economically vulnerable groups.

The proposed project is privately proposed and therefore not able to directly provide educational programs to match jobseekers and employers. However, the developer/operator would expect to coordinate with existing services that assist jobseekers in finding employment. Available jobs will be made known through local career services in order to provide job assistance and educational programs.

Policy 4.7 Transportation

A. *General Policy Goal: Expand sustainable transportation options —for commercial, commuter and recreational travel — by providing greater public transit alternatives and creating a diverse, multi-modal transportation system that links jobs, housing, shopping, and recreation and reduces dependence on single-occupant motor vehicles.*

B. *Specific Transportation Policies:*

- *Transportation management solutions are preferred to the continued expansion of infrastructure capacity*

The project provides substantial amounts of on-site employment and housing, thus helping to reduce vehicle usage for those who wish to reside and work on site. The project is conveniently located on both the LIE and CR 46, providing auto and well as bus connection services, with linkages to the LIRR and NYS Route 25. The project includes a private shuttle bus service to the Mastic/Shirley and Yaphank LIRR stations, as well as to BNL. The project has been designed by qualified, licensed professional engineers, including traffic engineers, so that the project's active and passive traffic controls would render maximum effectiveness in addressing potential traffic impacts. It is noted that the project includes provision of numerous off-site traffic improvements necessary to maintain or increase road capacity sufficient to adequately provide traffic access and flow; this would ensure that level of service is maintained to be satisfactory. Further, the entire

project design will be subject to the review and approval of both Town, SCDPW, and NYSDOT traffic engineers. These factors would combine to assure that traffic management aspects are maximized, and that the maximum level of conformance to this Policy is achieved.

- *Infrastructure expansion, when appropriate, should be targeted to downtown centers, transportation nodes and designated growth zones.*

The proposed project does require and would prove necessary expansions of infrastructure. As noted above, the traffic analysis indicated the need for off-site roadway and/or traffic improvements, which will be provided. The site lies on two existing transportation corridors, and so is appropriately located with respect to traffic resources.

- *Promote inter-agency and inter-municipal cooperation including the development of uniform design standards.*

The Town of Brookhaven and pertinent civic groups actively participated in the design of the proposed project, to assist with planning, design, linkages to the community and overall project design. The Town and the applicant completed a number of iterations of the plan to evolve the site design to what is currently proposed. From a transportation standpoint, the project provides on-site jobs and housing such that it will help to minimize off-site vehicle trips. The project is located along the LIE and CR 46, two regional transportation corridors. The existing bus service was a consideration of the design as a means to reduce dependency on the automobile. The cooperative effort and resultant design ensure conformance with this policy.

- *Encourage cumulative traffic impact analysis.*

A cumulative traffic impact study was performed for the proposed project. Thus, the project conforms to this Policy.

- *Promote the development of alternative funding mechanisms.*

This Policy does not apply to the proposed project, as it is a private development proposal that is being privately financed.

- *Improve access management standards.*

The proposed project site plan was developed cooperatively between the Town and the applicant, with substantial input from pertinent civic groups, including input relative to vehicle access and design. The intent was to inter-connect the proposed project with the surrounding community for optimum access management. This is achieved in the pending plan, thus ensuring that the project conforms to appropriate access management standards. Consequently, the proposed project conforms to this Policy.

- *Promote connectivity between developments in order to improve both pedestrian and vehicular access and circulation consistent with smart growth principles.*

The project's major internal roadways have been designed to promote connectivity within the project site, as well as to adjacent roadways via its two access points onto the LIE North Service Road and CR 46. The site's secondary roadways all connect to the major internal roadways, thereby minimizing potential traffic-related impacts to the adjacent condominium development, as desired by the Town and neighbors. Pedestrian access and connectivity within the subject site are promoted by including sidewalks in the project, which enhances pedestrian activity. The project includes a private shuttle bus service to the Mastic/Shirley and Yaphank LIRR stations, as well as to BNL. The project has been designed using smart growth principles to provide multiple modes of transportation (car, bus, walking, proximity to LIRR station), as well as a mix of uses

that promotes internal activities involving residency, shopping, employment and recreation. In this way, the project conforms to this Policy.

Policy 4.8 Environment

A. *General Policy Goal: Protect, preserve, and restore critical natural resources to maintain a healthy and diverse ecosystem for present and future generations. Promote biodiversity limit greenhouse gases, and improve water and air quality by requiring energy efficiency in design, construction, land use, and industry.*

B. *Specific Environmental Policies:*

- *Promote development where it is warranted in downtowns, hamlet centers, adjacent to transportation and retail services and discourage development where it is not warranted within coastal zones, environmentally sensitive areas such as the Pine Barrens, unique ecological habitats and designated open spaces.*

The proposed project conforms to this Policy in that it is located on a previously-developed site that has been designated by the Town and community as needful of re-development. Further, the site is located at the interchange of two regional transportation corridors. As a result, the proposed project is consistent with this policy.

- *Preserve the region's natural resources including, but not limited to, groundwater, surface waters, tidal and fresh water wetlands, dunes, steep slopes, bluffs and Pine Barren regions.*

The project has been designed to address Town and community concerns regarding the long-standing adverse impacts associated with the site's prior use and clearing, as well as the need to retain nearly all of the site's existing natural vegetation. The proposed project will connect to the Dorade STP for treatment and disposal of wastewater, which will result in a significant reduction in the amount of nitrogen reaching groundwater. Finally, the project will enhance freshwater wetland resources, as it will create 0.44 acres of new wetlands adjacent to the Town Greenbelt, to provide a 2:1 mitigation for the loss of a 0.22-acre wet depression associated with the former horseracing oval. There are no other significant natural resources present on the site. In consideration of these factors, the project conforms to this Policy.

- *Preserve open space, farmland and environmentally sensitive land through acquisition, transfer of development rights (TDR), purchase of development rights (PDR) and clustering.*

The proposed project features open space resources in the form of natural vegetation. The proposed project has been designed to retain nearly all of this acreage while locating its developed are on the previously-disturbed portions of the site. As a result, there is no need to acquire or otherwise preserve the entire site by purchase or transfer of development rights.

- *The preservation of agricultural uses through the purchase of development rights and other related preservation tools should be tied to the establishment of best management practices" in order to reduce the potential for impacts related to fertilizer, herbicide and pesticide use.*

The proposed project site does not involve agricultural use, therefore the intent of this Policy would not be applicable to the proposed project.

- *Development densities should be limited by environmental capacities. Growth must occur sustainably in order to protect or environmental resources for the future.*

The proposed project conforms to this Policy. In consideration of the site's size, condition and location, the environmental resources of the site can and will be nearly entirely retained and

preserved (and will be enhanced by the creation of 0.44 acres of wetlands), so that its environmental capacity would be minimally impacted by the project. The project has been designed to conform to SCSC Article 6, so that no significant adverse impact to groundwater or surface water quality is expected.

- *Promote access to the coastal zone and the preservation of water dependent uses.*

This Policy does not apply, as the subject site is not located in or near any coastal zone or water-dependent uses.

- *Promote environmental stewardship through education.*

The proposed project does not include a public education/environmental stewardship program, though the site has substantial natural spaces on-site and on adjacent properties. The project does provide for a future connection to a trail that may be developed by the Town within its Greenbelt, which abuts the property's western border. The applicant has also been meeting with the Longwood Central School District and local school board members to discuss potential future environmental educational opportunities. The project is an example of how beneficial re-development can be employed to enhance an area by employing mixed-uses providing housing, shopping, employment and recreational use in an attractive setting based on smart growth principles.

- *Promote pollution prevention over remediation.*

The site is not pristine or previously-undeveloped land; the western portion was developed as a horseracing track, and the eastern portion was cleared for an unrealized regional shopping mall. However, no other impacts to the site have occurred, so that remediation is not necessary. As a result, it is not too late for pollution prevention measures to be implemented; the project is a form of mitigation in that it will preserve nearly all of the existing natural vegetation on the site (a significant acreage), will create 0.44 acres of new wetlands, and it will not significantly adversely impact groundwater or surface water resources. Since a major project goal is to re-develop the site in a way that does not cause long-term environmental impact, this project conforms to the spirit and intent of this Policy.

- *Promote environmental remediation and enhancement in addition to mitigation associated with development proposals.*

The project conforms to this Policy, as an underlying principle is to re-develop the site.

Policy 4.9 Design

A. *General Policy Goal: Encourage high-quality and innovative design which incorporates universal design principles to positively shape the built environment for living, working, and playing. Sustainable design, which incorporates universal design principles, ensures that the built environment facilitates function, creates an identity of place, provides equal access to all members of society and strengthens a sense of community.*

B. *Specific Design Policies:*

- *Encourage flexibility of design in order to promote a mixture of uses in order to minimize traffic, encourage pedestrian activity and create a sense of place.*

The project incorporates flexible design principles including phasing, locating the public recreational area in the center of the site (for ease of access for all site residents as well as visitors), installing sidewalks throughout (to enable safe and convenient access for all residents),

and use of a cohesive, consistent architectural theme that complements the area aesthetic. The project requires flexibility of design in order to achieve the desired outcome. Traffic is minimized through on-site housing, shopping, employment and recreation, as well as convenient bus access. The site design will ensure that a “sense-of-place” is established through use of architecture, landscaping, presence of open gathering areas and mixed uses, and the project is walkable, both internally and through provision for a connection to the future walking trail in the adjacent Town Greenbelt. As a result, the project conforms to this Policy.

- *Utilize green infrastructure to minimize community and environmental impacts and reduce both private and public development costs.*

Construction of the project will include use of water- and energy-conserving fixtures, materials and mechanical systems, and will incorporate systems and features associated with the LEED system; the project may seek LEED® certification. The project will connect to the Dorade STP, which will significantly reduce the level of nitrogen recharged on-site. In addition, the applicant will consider use of innovative, sustainable stormwater system designs and features; these will be reviewed in more detail during preparation and Town review of the site plan should the rezone application be approved. The developer/operator recognizes the value of sustainable construction and will seek to incorporate all reasonable energy-conserving measures in order to reduce costs of operation. In consideration of these factors, the project conforms to this Policy.

- *Promote energy efficient site plan and subdivision design which encourages compact development and clustering to minimize energy use, encourage open space preservation and the efficient use of infrastructure.*

The project conforms to this Policy, as it has been designed in a compact manner, including sidewalks and bicycle lanes, which would encourage an increased amount of walking for the site’s residents (in lieu of internal vehicle trips). There remains a substantial amount of natural vegetation on the site, the majority of which will remain undisturbed; as a result, the compact design of the project would benefit from the preservation of this resource. The project’s preserved open spaces will be contiguous to Town and County owned natural lands to the west, which represents a benefit for the site’s residents. The project will utilize LEED® principles, and may seek LEED® certification, in order to further minimize energy and water consumptions. Finally, as noted above, the project will efficiently utilize the available infrastructure to reduce potential environmental impacts and reduce energy and water consumptions.

- *Incorporate “universal design” features into building codes in order to ensure that buildings in Suffolk County are equally accessible to all members of the community.*

The project will conform to all applicable Town, County and State requirements for accessibility for residents and commercial patrons, including the Americans with Disabilities Act (ADA). Such features may include, but not be limited to, elevators, wide doorways and low thresholds, plumbing fixtures in both bathrooms and kitchens, signage, parking spaces, sidewalk widths and ramps, etc. In this way, the project would conform to this Policy.

Policy 4.10 Cooperation

- A. *General Policy Goal: The sustainability of the County is inextricably tied to its broader regional, national, and global context. The County recognizes the importance and need for cooperation and coordination among and between County agencies, local municipalities, and neighboring jurisdictions including New York City.*

B. Specific Cooperation Policies:

- *Promote regionalization.*

This Policy recommends that County agencies take action to promote consistency with planning actions taken by other County agencies, as well as with those of other tiers of government (e.g., New York State, Towns, Villages, regional entities and New York City). The Town is available to seek cooperative planning initiatives in conjunction with County agencies.

- *Encourage the use of inter-municipal agreements and inter-agency and inter-governmental cooperation.*

This Policy recommends that County agencies take actions to foster the use of agreements between municipalities to support consistent land use review in order to achieve sustainable development, and to encourage cooperation between and amongst agencies and governments to achieve this goal. The Town is available to seek cooperative planning initiatives in conjunction with County agencies.

To summarize the above analysis, the proposed project conforms to the applicable Policies, either directly or in spirit and intent.