

SUFFOLK COUNTY PLANNING COMMISSION

c/o Suffolk County Department of Economic Development & Planning
100 Veterans Memorial Highway, PO Box 6100, Hauppauge, NY 11788-0099

T: (631) 853-5192 F: (631) 853-4767

Joanne Minieri, Deputy County Executive and Commissioner, Department of Economic Development
and Planning

Sarah Lansdale, Director of Planning

Notice of Meeting

May 4, 2016 at 2:00 p.m.

Suffolk County Department of Health Services

360 Yaphank Road – Room #4

Yaphank, New York

Tentative Agenda Includes:

1. Meeting Summary for March 2016 and April 2016
2. Public Portion
3. Chairman's Report
4. Director's Report
5. Guests
 - Councilman John Bouvier, Town of Southampton
 - Kathleen Murray, Deputy Town Attorney, Town of Southampton
6. Section A 14-14 thru A 14-23 & A 14-25 of the Suffolk County Administrative Code
 - Town of Southampton, Moratorium on Planned Development Districts
7. Section A-14-24 of the Suffolk County Administrative Code
 - None
8. Other Business:
 - 2016 Rules of Proceedings

NOTE: The **next meeting** of the SUFFOLK COUNTY PLANNING COMMISSION will be held on June 1, 2016 2 p.m. Maxine S. Postal Auditorium, Evans K. Griffing Building, Riverhead County Center, 300 Center Drive Riverhead, New York 11901



Steven Bellone
SUFFOLK COUNTY EXECUTIVE
Department of
Economic Development and Planning

Joanne Minieri
Deputy County Executive and Commissioner

Division of Planning
and Environment

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

Applicant: Southampton Town Board own motion for “A New Local Law to consider enacting Town Code Chapter 319, imposing a moratorium on all new planned Development District (PDD) applications within the Town of Southampton”
Municipality: Town of Southampton
Location: Entirety of Southampton Town

Received: 4/7/16
File Number: SH-16-01

Nature of Municipal Zoning Request: Moratorium

PROPOSAL DETAILS

OVERVIEW – The subject referral, by the Southampton Town Boards own motion, is for a proposed local law to enact a 365 day moratorium on all new Planned Development District (PDD) applications within the Town of Southampton.

Referred moratorium language indicates that it is necessary to review PDD goals, procedures and mechanisms to ascertain if such goals have been achieved.

The Town of Southampton’s current Zoning Law identifies the purpose of the Towns PDD legislation to include:

- Facilitate increase flexibility in regulation and design to achieve more desirable development
- Act as a receiving site for development rights or Pine Barrens credits
- Provide incentives or bonuses for development providing substantial community benefits

Community benefits are defined by the Town Planned Development District chapter as open space, housing for persons of low or moderate income, parks, elder care, day care, or other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the affected community or communities and commensurate with the benefit to the applicant.”

The moratorium language indicates that the one year hold on any new PDD applications within the Town is in order to “preserve the status quo” while the Town Board determines whether PDD legislation is a tool it wants to continue to utilize within the Town and if so, what form that legislation should take.

The proposed law is to apply to all properties within the confines of the Town of Southampton. The Town is approximately 141 square miles with a population of approximately 59,000 people.

STAFF ANALYSIS

It is indicated in the proposed moratorium that the purpose of the law is to “preserve the status quo while the Town Board assess and evaluates whether PDD legislation is a tool it wants to continue to utilize within the Town and if so, what form that legislation should take.” Moreover the moratorium language states that the moratorium “will afford the Town the opportunity to study the current law and draft and adopt amendments for any new, resultant laws that may arise during the planning process.” The moratorium language continues, “Though not exclusive, central to that review will be the re-examination of community benefits...as well as an analysis of how community benefits have been derived from projects in the past.”

The Town of Southampton Zoning Law (Chapter 330-242) permits seven classes of Planned Development Districts:

- Airport PDD
- Mixed Use PDD
- Maritime PDD
- Recreation/Tourism PDD
- Agricultural PDD
- Residential PDD
- Commercial Industrial PDD

The Planned Development District Legislation was adopted and put into the Southampton Town Code in 1995 (L.L. No. 46-1995) and amended in 2001 (L.L. No. 43-2001). There have been twenty-two PDDs approved and codified by the Town of Southampton from 1999 to 2015. The number and type of PDDs approved are as follows:

- 07 Agricultural PDDs
- 01 Airport PDD
- 01 Commercial/Industrial PDD
- 02 Maritime PDDs
- 04 Mixed Use PDDs
- 03 Recreation/Tourism PDDs
- 04 Residential PDDs

The proposed moratorium suspends the processing, reviewing, and/or taking of any action on any **new** PDD application for a one year period (emphasis added). The proposed law precludes the Town Board, the Planning Board, the Zoning Board of Appeals or any other agency, department or office of the Town from accepting new PDD applications.

It is interesting to note that per the Town of Southampton Zoning Law section 330-443 the procedure for planning and zoning approval of a PDD involves a two-stage process, the first of which is Town Board approval. No **new** PDD can be initiated without first obtaining Town Board approval (emphasis added). Petitions to the Town Board are legislative actions and therefore include no mandate to entertain a request of a petitioner to change the land use designation to PDD

or any mandatory time frame for Town Board review and determination. It is also noted that the “Exclusions” section (319-4.D.) of the proposed moratorium includes “the processing of any PDD applications that are initiated and authorized by the Town Board of the Town of Southampton.” Given the preceding, it can be questioned whether the moratorium is necessary to pause the review of PDD petitions and if enacted, can it be effective since the Town Board has excluded itself from the moratorium.

The moratorium language does not contain any findings as to whether the Town of Southampton investigated if there are any alternatives less burdensome on property owners than the proposed moratorium or indicate what recent circumstances have occurred that justify the adoption of the moratorium. The proposed local law did not indicate how serious or urgent the circumstance warranting the moratorium are or what hard evidence there is to support the necessity of the moratorium.

The specific action plan in the proposed resolution is limited to “...opportunity to study the current law, and draft and adopt amendments for any new, resultant laws that may arise during the planning process. Though not exclusive, central to that review will be the re-examination of community benefits...as well as an analysis of how community benefits have been derived from projects in the past and how the town should deal with community benefits in the context of PDD applications going forward, should it decide to continue to utilize this discretionary land use tool.” Community Benefits are defined by New York State Town Law Section 261-b as “open space, housing for persons of low or moderate income, parks, eldercare, day care or other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community authorized by the town board.”

There is no framework in the moratorium to guide the town toward making reasonable progress in carrying out an assessment and evaluation of community benefits through PDDs and preparing new or revised Town Code. The Town does not indicate if this would be an in-house effort or subject to the process of retaining a planning professional or what local bodies are responsible for the noted study.

Many vacant and underutilized properties within the Town of Southampton have the potential for economic development within the County. Moreover, it is the policy of the Suffolk County Planning Commission to encourage a diversity of housing types including the development of multi-family and/or rental housing as well as the development of low and moderate income housing units, where appropriate. Four of the seven general category PDDs have housing as a principal or secondary use allowed in the district. The major purposes of the town PDD tool is to facilitate increased flexibility in regulation and design to achieve more desirable development; act as a receiving site for development rights or Pine Barrens credits; and provide incentives or bonuses for development providing substantial community benefits. These are goals and objective shared by the Suffolk County Planning Commission as discussed in the Suffolk County Planning Commission Guidebook (see sections 4.1 and 4.8).

A moratorium is the most extreme land use action that a municipality can take because it suspends completely the rights of property owners from obtaining development approvals to use their property. The proposed moratorium prohibits a certain type of land use that the Suffolk County Planning Commission has deemed a county-wide priority. The Suffolk County Planning Commission has listed as a specific housing policy the development of multi-family and rental housing as well as the development of low and moderate income housing units. Moreover, as indicated in the introduction to the Suffolk County Planning Commission Guidebook “The County is primarily concerned with regional land use considerations such as economic development...” Many vacant and underutilized properties in the Town are suitable for improvement that would create a range of employment opportunities for a variety of ages, education levels, and skill levels (see Section 4.5 Economic

STAFF RECOMMENDATION

Disapproval of the referral from the Southampton Town Board for “A Local Law to consider enacting Town Code Chapter 319, imposing a moratorium on all new Planned Development District (PDD) applications within the Town of Southampton” for the following reasons:

1. A moratorium is the most extreme land use action that a municipality can take because it suspends completely the rights of property owners from obtaining development approvals to use their property.
2. The moratorium language did not contain any findings as to whether the Town Board investigated if there are any alternatives less burdensome on property owners than the proposed moratorium.
3. The moratorium language did not include findings that indicate what recent circumstances have occurred that justify the adoption of the moratorium. The proposed local law did not indicate how serious or urgent the circumstance warranting the moratorium are or what hard evidence there is to support the necessity of the moratorium.
4. The proposed moratorium is not explicitly tied to an imminent Master Plan development process. It does not appear that there is a specific action plan to resolve the necessity outlined in the proposed moratorium. There is no framework to make reasonable progress in carrying out a “solution or comprehensive plan” to diligently pursue within a twelve month time period a course of action.



Town of Southampton
Long Island, NY

Town Board Resolution
RES-2016-314



Notice of Public Hearing to Consider Enacting Town Code Chapter 319, Imposing a Moratorium on All New Planned Development District Applications within the Town of Southampton

Information

Department:	Town Attorney	Sponsors:	Councilman John Bouvier
Category:	Public Hearings	Functions:	None

Financial Impact

None, see resolution text.

Body

RESOLVED, that the Town Board of the Town of Southampton hereby directs that a public hearing shall be held on April 12, 2016, at 1:00 p.m., at Southampton Town Hall, 116 Hampton Road, Southampton, New York, to hear any and all persons either for or against a proposed local law entitled, "A LOCAL LAW to consider enacting Town Code Chapter 319, imposing a moratorium on all new Planned Development District (PDD) applications within the Town of Southampton," which provides as follows:

LOCAL LAW NO. OF 2016

A LOCAL LAW to consider enacting Town Code Chapter 319, imposing a moratorium on all new Planned Development District (PDD) applications within the Town of Southampton.

BE IT ENACTED by the Town Board of the Town of Southampton as follows:

SECTION 1. Amendment.

The Southampton Town Code is hereby amended by adding the underlined words as follows:

Chapter 319

Planned Development District (PDD) Moratorium

§319-1. Legislative Intent.

Currently, the Southampton Town Code, at Article XXVI, dictates the procedures, rules, and regulations attendant to Planned Development District, or "PDD" applications proposed within the Town. Indeed, as articulated in the Article's purpose, when the Town first adopted PDD legislation it sought to, among other objectives, "facilitate increased flexibility to achieve more desirable development through the use of more creative and imaginative design of residential, mixed use, commercial and industrial areas than is presently achievable under conventional land use techniques and zoning regulations," consistent with the Town's Comprehensive Plan. Today, the Town Board finds it necessary to review those PDD goals, as well as the mechanism by which those goals were achieved, and the procedures by which PDD applications were evaluated.

Thus, a moratorium is necessary to preserve the status quo while the Town Board assesses and evaluates whether PDD legislation is a tool it wants to continue to utilize within the Town. The moratorium will afford the Town the opportunity to study the current law, and draft and adopt amendments for any new, resultant laws that may arise during the planning process. Though not exclusive, central to that review will be the re-examination of community benefits as that term is contemplated in New York State Town Law §261-b, as well as an analysis of how community benefits have been derived from projects in the past, and how the Town should deal with community benefits in the context of PDD applications going forward, should it decide to continue to utilize this discretionary land use tool.

In short, the objective of the moratorium is to allow the Town decision-makers to engage in a comprehensive analysis and review of the current PDD provisions, prior to taking action on any new PDD applications. This moratorium shall be enacted for one year so that the processing, reviewing, and/or the taking of any action on any new PDD applications shall be suspended during this time period.

§319-2. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

ACTIVE REVIEW - those PDD applications that have had at least one public hearing pursuant to the Town's pre-application procedures set forth in Town Code §330-244(A)(1) and §330-244(B)(1).

APPLICATION - Any request or application for a new Planned Development District ("PDD") zoning designation as defined in Article XXVI of the Town Code of the Town of Southampton. This shall include all new PDD applications, regardless of whether the applicant seeks a residential, multifamily, mixed-use, maritime, or any other category of PDD contemplated within the Town Code. Only Agricultural PDDs shall be excluded from this moratorium.

MORATORIUM PERIOD - The period of one year from the effective date. The same may be extended for good cause by appropriate action of the Town Board.

STUDY AREA - the Town of Southampton.

TOWN OF SOUTHAMPTON - The Town Board, the Planning Board, the Zoning Board of Appeals, or any other agency, department, or office of the Town.

§319-3. Moratorium.

No new PDD applications shall be accepted by the Town Board, the Planning Board, the Zoning Board of Appeals, or any other agency, department, or office of the Town of Southampton during the moratorium period.

§319-4. Exclusions.

The following are excluded from this Article:

- A. Agricultural PDDs;

- B. Those PDD applications that are currently pending and under active review by the Town Board of the Town of Southampton;
- C. Town Code amendments that are initiated and authorized by the Town Board of the Town of Southampton;
- D. The processing of any PDD applications that are initiated and authorized by the Town Board of the Town of Southampton.

§319-5. Statutory authority; supersession of Town and State laws.

This chapter is adopted pursuant to, and shall supersede, amend, and take precedence over any inconsistent provisions of New York State Town Law under the Town's municipal home rule powers pursuant to Municipal Home Rule Law §§10(1)(ii)(a)(11), (12), and (14), §10(1)(ii)(d)(3), and §22. In particular, this Local Law shall supersede (i) any inconsistent provisions set forth in New York State Town Law Section(s) 261-b, 261-c, 264 and 265; (ii) any other inconsistent provisions set forth in Article 16 of New York State Town Law; (iii) any inconsistent provisions set forth in the Southampton Town Zoning Code (Chapter 330); and (iv) any inconsistent provisions set forth in any and all other local laws of the Town of Southampton.

Pursuant to 6 NYCRR §617.5(c)(30), a local law to implement a moratorium is a Type II action under the New York State Environmental Quality Review Act ("SEQRA"), which has been determined not to have a significant impact on the environment or is otherwise precluded from environmental review under Environmental Conservation Law Article 8 and thus, not subject to any further review.

SECTION 2. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

SECTION 3. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Town Board of the Town of Southampton hereby directs the Town Clerk to forward a copy of this proposed local law to the Southampton Town Planning Board, as well as the Suffolk County Planning Commission pursuant to General Municipal Law §239-m, for their review and recommendations; and be it further

RESOLVED, that the Town Clerk is hereby directed to publish the following Notice of Public Hearing:

Notice of Public Hearing

TAKE NOTICE, that the Town Board of the Town of Southampton hereby directs that a public hearing shall be held on **April 12, 2016, at 1:00 p.m.**, at Southampton Town Hall, 116 Hampton Road, Southampton, New York, to hear any and all persons either for or against a proposed local law entitled, "A LOCAL LAW to consider enacting Town Code Chapter 319, imposing a moratorium on all new Planned Development District (PDD) applications within the Town of Southampton."

Summary of Proposed Law

The Town Board of the Town of Southampton proposes a one year moratorium on any new PDD applications within the Town in order to preserve the status quo while the Town Board assesses and evaluates whether PDD legislation is a tool it wants to continue to utilize within the Town and, if so, what form that legislation should take.

Copies of the proposed law, sponsored by Councilman Bouvier, are on file in the Town Clerk's Office, Monday through Friday, from 8:30 a.m. to 4:00 p.m.

BY ORDER OF THE TOWN BOARD
TOWN OF SOUTHAMPTON, NEW YORK
SUNDY A. SCHERMEYER, TOWN CLERK

Meeting History

Mar 8, 2016 1:00 PM Video **Town Board** **Regular Town Board Meeting**

RESULT: ADOPTED [UNANIMOUS]
MOVER: John Bouvier, Councilman
SECONDER: Julie Lofstad, Councilwoman
AYES: Jay Schneiderman, Julie Lofstad, Christine Preston Scalera, John Bouvier, Stan Glinka

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Joanne Minieri, Deputy County Executive and Commissioner, Department of Economic Development
and Planning
Sarah Lansdale, Director of Planning

AGENDA

May 4, 2016 at 2:00 p.m.

**Suffolk County Department of Health Services
360 Yaphank Road – Room #4
Yaphank, New York**

1. Meeting Summary for March 2016 and April 2016
2. Public Portion
3. Chairman's Report
4. Director's Report
5. Guests
 - Councilman John Bouvier, Town of Southampton
 - Kathleen Murray, Deputy Town Attorney, Town of Southampton
6. Section A 14-14 thru A 14-23 & A 14-25 of the Suffolk County Administrative Code
 - Town of Southampton, Moratorium on Planned Development Districts
7. Section A-14-24 of the Suffolk County Administrative Code
 - None
8. Other Business:
 - None

NOTE: The **next meeting** of the SUFFOLK COUNTY PLANNING COMMISSION will be held on June 1, 2016 2 p.m. Maxine S. Postal Auditorium, Evans K. Griffing Building, Riverhead County Center, 300 Center Drive Riverhead, New York 11901

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

SUFFOLK COUNTY PLANNING COMMISSION
SUMMARY OF REGULARLY SCHEDULED MEETING

Chairwoman
Jennifer Casey

Sarah Lansdale, AICP
Director of Planning

Date: May 4, 2016
Time: 2:00 p.m.
Location: Suffolk County Department of Health Services Building
360 Yaphank Road – Room #4
Yaphank, New York 11980

Members Present (11)

Ramon Accettella – Town of Babylon
Samuel Kramer – Town of East Hampton
Jennifer Casey – Town of Huntington
Matthew Chartrand – Town of Islip
Nicholas Morehead – Town of Shelter Island
Barbara Roberts – Town of Southampton
Nicholas Planamento – Town of Southold
Michael Kaufman – Villages Under 5,000
Kevin Gershowitz – At Large
Errol Kitt – At Large

Staff Present (6)

Sarah Lansdale – Director of Planning
Andrew Freleng – Chief Planner
Ted Klein – Senior Planner
John Corral – Senior Planner
Christine DeSalvo – Senior Clerk Typist
Robert Braun – Deputy County Attorney (Counsel to the Commission)
Richard Weinschenk – Assistant County Attorney (Counsel to the Commission)

Call to Order

- The Suffolk County Planning Commission meeting of May 4, 2016 was called to order by Chairwoman Jennifer Casey at 2:20 p.m.

The Pledge of Allegiance

Adoption of Minutes

- The adoption of the March 2016 Meeting Minutes. Motion to adopt the minutes as written was made by Commission member Kramer, seconded by Commission member Roberts. Vote Approved: 11 ayes, 0 nays, 0 abstentions.
- The adoption of the April 2016 Meeting Minutes. Motion to adopt the minutes as written was made by Commission member Charttrand, seconded by Commission member Kramer. Vote Approved: 13 ayes, 0 nays, 0 abstentions.

Public Portion – No members of the public requested to address the Commission.

Chair's Report – Chairwoman Casey updated the Commission of following:

- Regarding the adoption of the 2016 Rules of Proceedings, the Chair stated that the Rules Committee and the staff were still reviewing the proposed Rules of Proceedings and will table its adoption until the next Commission meeting.
- On the issue of "East End North Fork Traffic Study", Chairwoman Casey indicated that they were still assembling the working group, and should get going soon.

Guest Speaker(s)

Supervisor Jay Schneiderman, Councilman John Bouvier, and Town Attorney James Burke, of the Town of Southampton, gave a presentation overview of the Town of Southampton's reasoning for a proposed moratorium on Planned Development Districts (PDDs), and addressed the questions and concerns of the Commission.

Section A14-14 thru A14-25 of the Suffolk County Administrative Code

- **Town of Southampton own motion to enact a local law to establish a 365 day moratorium on all new Planned Development Districts (PDD) applications within the Town of Southampton;** the application is referred by the Southampton Town Board, received on April 7, 2016 - the Commission's jurisdiction for review is that the application is a zoning action, amendment to a local law and a moratorium. The Town is proposing a 365 day moratorium on all new Planned Development Districts (PDD) to stop the flow of new applications in order to study and amend the current law regarding PDDs.

The staff report recommended disapproval of the moratorium with four(4) reasons. After deliberation and the Town's representatives indicating that it would be in accord, the Commission resolved to disagree with staff's recommendation and approve the moratorium subject to one (1) modification.

The motion to approve the moratorium with the one (1) modification was made by Commission member Roberts and seconded by Commission member Accettella, vote to Approve; 11 ayes, 0 nays, 0 abstentions.

Section A14-14 thru A14-25 of the Suffolk County Administrative Code (continued)

Director's Report – Director Lansdale informed the Commission as follows:

- Advised the Commission about the timely and best way of filing of the Commissioners' financial disclosure requirements.

Meeting Adjournment (3:35 p.m.)

- The motion to adjourn the meeting was made by 2nd Vice Chair Chu, seconded by Chairwoman Casey; Vote Approved: 11 ayes, 0 nays, 0 abstentions.