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) 853-4044
Joanne Minieri, Deputy County Executive and Commissioner, Department of Economic Development and Planning
Sarah Lansdale, Director of Planning

Notice of Meeting

P L E A S E N O T E C H A N G E O F L O C A T I O N

October 1, 2014 at 1:00 p.m.

Maxine S. Postal Auditorium
Evans K. Griffing Building, Riverhead County Center
300 Center Drive Riverhead, New York 11901

Tentative Agenda Includes:

1. Swearing in of new member – Samuel Kramer
2. Meeting Summary for June 2014 and August 2014
3. Public Portion
4. Chairman's Report
5. Director's Report
6. Guest Speaker
   - Supervisor Sean Walter, Town of Riverhead
7. Section A 14-14 thru A 14-23 & A 14-25 of the Suffolk County Administrative Code
   - Draft Lawrence Aviation Land Use Plan (Brookhaven)
     SCTM No: 0200-13600-0200-022000 et al.
   - CR39 Corridor Land Use Plan (Southampton)
   - Moratoriums on building Permits and Approvals
     (Inc. Village of Southampton)
8. Section A-14-24 of the Suffolk County Administrative Code
   - Enterprise Park at Calverton (Riverhead)
     SCTM No: 0600-66000-0400-01001

9. Other Business:
   Consideration of municipal Geothermal Model code
   Consideration of municipal Public Security Design Code

NOTE: The **next meeting** of the SUFFOLK COUNTY PLANNING COMMISSION will be held on November 5 2014 at 2:00 p.m.at the Maxine S. Postal Auditorium Evans K. Griffing Building, Riverhead County Center 300 Center Drive Riverhead, New York 11901.

COUNTY OF SUFFOLK

S-1

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 A14-26 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Enterprise Park at Calverton (EPCAL) – Town of Riverhead
Municipality: Riverhead
Location: Southerly side of Middle Country Road (SR 25) and the northerly side Grumman Boulevard, in the hamlet of Calverton.

Received: 8/22/14
File Number: S-RH-14-02
T.P.I.N.: 0600 13500 0100 007001, 007002, 007033 & 007004
Jurisdiction: Adjacent to State Roads 25 & 25A, Federal & State Lands, Pine Barrens, and Airport.

ZONING DATA

- Zoning Classification: Currently: Planned Recreational Park (PRP), Light Industrial (LI) and Calverton Office (CO); Pending proposed change to all Planned Development District (PDD).
- Minimum Lot Area: LI = 80,000. Sq. Ft. (proposed PPD not specified)
- Section 278: N/A
- Obtained Variance: No. Pending amendments to the zoning code and zoning map (for a PDD) would allow for the proposed subdivision (into 50 lots) for redevelopment with a mix of uses.

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: No
- SEQRA Information: Draft Supplemental GEIS
- SEQRA Type Type I
- Minority or Economic Distressed No

SITE DESCRIPTION

- Present Land Use: Mostly vacant with recreation and runway use.
- Existing Structures: Community Center, STP and other (Navy's soil restoration structures would eventually be removed)
- General Character of Site: Partially cleared, gently rolling topography, and irregular in shape
- Range of Elevation within Site: 48' to 85' above msl
- Cover: Mostly natural growth with grass adjacent to runway
- Soil Types: Mostly Haven loam, and Carver & Plymouth sands
- Range of Slopes (Soils Map): 0-15%
- Waterbodies or Wetlands: Yes (Adjacent, within western & northeastern portion)

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: Major subdivision application
- Layout: Grid and curvilinear with an network of proposed cul-de-sacs and connection with existing roadways and land uses.
- Area of Tract: 2,324 +/- acres
- No. of Lots: 50 lots
- Open Space: Yes

ACCESS

- Roads: Middle Country Road (SR 25), Grumman Boulevard, with multiple points of access proposed, and Wading River Road, Peconic Avenue (paper street) with no points of access proposed.
- Driveways: Some temporary along Middle Country Road, eventually all along internal roadways.

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
  - Design of System: Storage capacity based on an 8 inch rainfall
  - Recharge Basins Catch Basins and Drainage Reserve Areas
- Groundwater Management Zone: III
- Water Supply: Riverhead Water District
- Sanitary Sewers: Calverton Sewer District

PROPOSAL DETAILS

OVERVIEW – The applicant is proposing to subdivide approximately 2,324 acres of land that was once part of the Navy-Grumman facility in Calverton, now known as the Enterprise Park at Calverton (or EPCAL). The referred subdivision map contains a total of 50 lots. Future development would occur on proposed Lots 1 through 42, which comprises a total of 654.3 acres (28% of total), including roadways (34.5 acres) and drainage reserve areas (51.3 acres). The other eight lots are comprised of the following: Lot 43 – STP Recharge Parcel (23.2 acres); Lot 44 – Open Space (880.4 acres); Lot 45 – STP Expansion Area (2.9 acres); Lot 46 – Town of Riverhead Parcel (40.2 acres); Lot 47 – Open Space (265.9 acres); Lot 48 – Open Space (356.0 acres); Lot 49 – Veterans Memorial Park (96.7 acres); and Lot 50 – Community Center (4.0 acres). The proposal intends to subdivide the property consistent with the Town of Riverheads pending adoption of a change of zone of the property to a Planned Development District for mixed use development, as recommended by the "Reuse and Revitalization Plan for EPCAL".

Local land uses include light industrial, commercial, agriculture, recreation, cemetery, office and research, and some pockets of residential.

STAFF ANALYSIS

GENERAL MUNICIPAL LAW CONSIDERATIONS: New York State General Municipal Law, Section 239-l provides for the Suffolk County Planning Commission to consider inter-community issues. Included in such issues are compatibility of land uses, community character, public convenience and maintaining of a satisfactory community environment.

It is the belief of the staff that the proposed subdivisions would provide an appropriate location for potential economic development while respecting existing natural features of the environment and local ecology.

LOCAL COMPREHENSIVE PLAN RECOMMENDATIONS: Town of Riverhead is in the process of amending its Comprehensive Land Use Plan and zoning map in accordance with recommendations of an updated urban renewal plan entitled "EPCAL Reuse and Revitalization Plan". Staff believes the proposed subdivision would provide for a desirable mix of land uses in conformance with the goals of the Town of Riverhead, its Master Plan, Zoning Code and Map as amended; and encourage the highest and best adaptive reuse of the property. The layout of the proposed subdivision is guided by the anticipated adoption of the PDD zoning as recommended by the "EPCAL Reuse and Revitalization Plan.

The proposed subdivision could attract development to an area that is economically and environmentally feasible for development due to existing infrastructure and other proposed improvements.

SUFFOLK COUNTY PLANNING COMMISSION GUIDELINE CONSIDERATIONS:

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

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 July 11, 2012). Below are items for consideration regarding the Commission policies:

In terms of environmental protection, as the 2,323.9+/- acres located within EPCAL includes regulated wetlands, land within the Wild and Scenic Recreational Rivers System Act "WSRRS" for the Peconic River, Pine Barrens Core Protection Area and habitat for endangered species, the subdivision provides for maintenance of buffers of a minimum of 1,000 feet around designated wetlands (to accommodate tiger salamander habitat), and also provides for approximately 596.4 acres of maintained grassland (458.1 acres of existing grassland, and 138.3 acres of grassland to be created) as habitat for the short-eared owl, northern harrier and upland sandpiper. The future extension and improvement of infrastructure (i.e. STP and Drainage Recharge Areas) within the proposed subdivision is intended to mitigate the degradation of the Peconic Estuary and the Central Suffolk Pine Barrens ecosystem;

In terms of energy efficiency, it is the belief of the staff that by the very nature of the proposal subdivision, as guided by the recommendations of EPCAL Reuse and Revitalization Plan and pending zoning code amendment, would promote 'Green Technology' uses and utilized "Multi-Modal Freight" options.

As for economic development, worth noting is the subject property was originally conveyed to the Town of Riverhead Community Development Agency for no consideration contingent upon the reuse of the property for economic development. The EPCAL Plan which the proposed subdivision was developed from identified four primary goals and general goals. The primary goals were identified as follows:

The attraction of private investment in the site; and
The maximization of the real property tax ratable base; and
The maximization of skilled, high paying employment opportunities; and
The protection of the natural environment and the sustaining of the regional quality of life.

In terms of transportation, the subject property is uniquely characterized as benefiting from an existing airport runway and a rail spur within its boundary, and the proposed subdivision could promote their use. The future development of the subdivision is likely to necessitate roadway enhancements depending upon particular types of uses. It is expected that as the parcels are developed, capacity improvements will be required to the following roads: New York State Route 25 (from CR 46 to Grumman north entrance), Wading River Road (from New York State Route 495 to New York State Route 25) and CR 46. Also, as employment opportunities develop new bus routes to serve the subject location could be provided to reduce the traffic impacts.

STAFF RECOMMENDATION

Approval, subject to the following comments:

1. The Town should consider modifying the proposed subdivision to eliminate the proposed double frontage lots along the southerly side of NYS Route 25A; And as an alternative create an “open space” buffer strip along this section of the proposed subdivision fronting NYS Route 25A while maintaining the proposed access roads. This would eliminate the need for many access/curb-cut (assuming one for each new lot), reduce the potential for numerous traffic disruptions as well as parked vehicles along the road; It would allow for the continued use of the existing walkway/bikeway during construction (which could be years); It would also allow for the existing trees and all newly planted landscaped vegetation to continue to grow and mature along NYS Route 25A while development occurs on the newly subdivided subject property.

2. Cul-de-sac streets within an industrial subdivision should be avoided. The road system for an industrial subdivision should be laid out for efficient movement of traffic, particularly large trucks and tractor trailers. Industrial cul-de-sacs are often blocked by haphazard parking, and large trucks have difficulty turning around in cul-de-sac areas because of turning radius limitations complicated by haphazard parking.

   The Town should consider reconfiguring the proposed subdivision street plan to eliminate the proposed long cul-de-sacs. The excessive lengths of the proposed cul-de-sacs are also problematic (proposed Road “D” measures 4,200 feet from the corner of proposed Road “B”) with the respect that with no other means of access emergency and service vehicles would have no way of reaching a property if the one road leading to it was blocked. One potential alternative to this would be to connect the existing and proposed cul-de-sacs across the two runways/proposed open space parcels. Both would be preferred layouts to what is being proposed, and provide a more safe and efficient truck/vehicle circulation within the proposed subdivision.

3. Some type of alternative means of access should be provided to any newly created lot to insure access by emergency and service vehicles in the remote possibility that the sole means of access has been blocked.

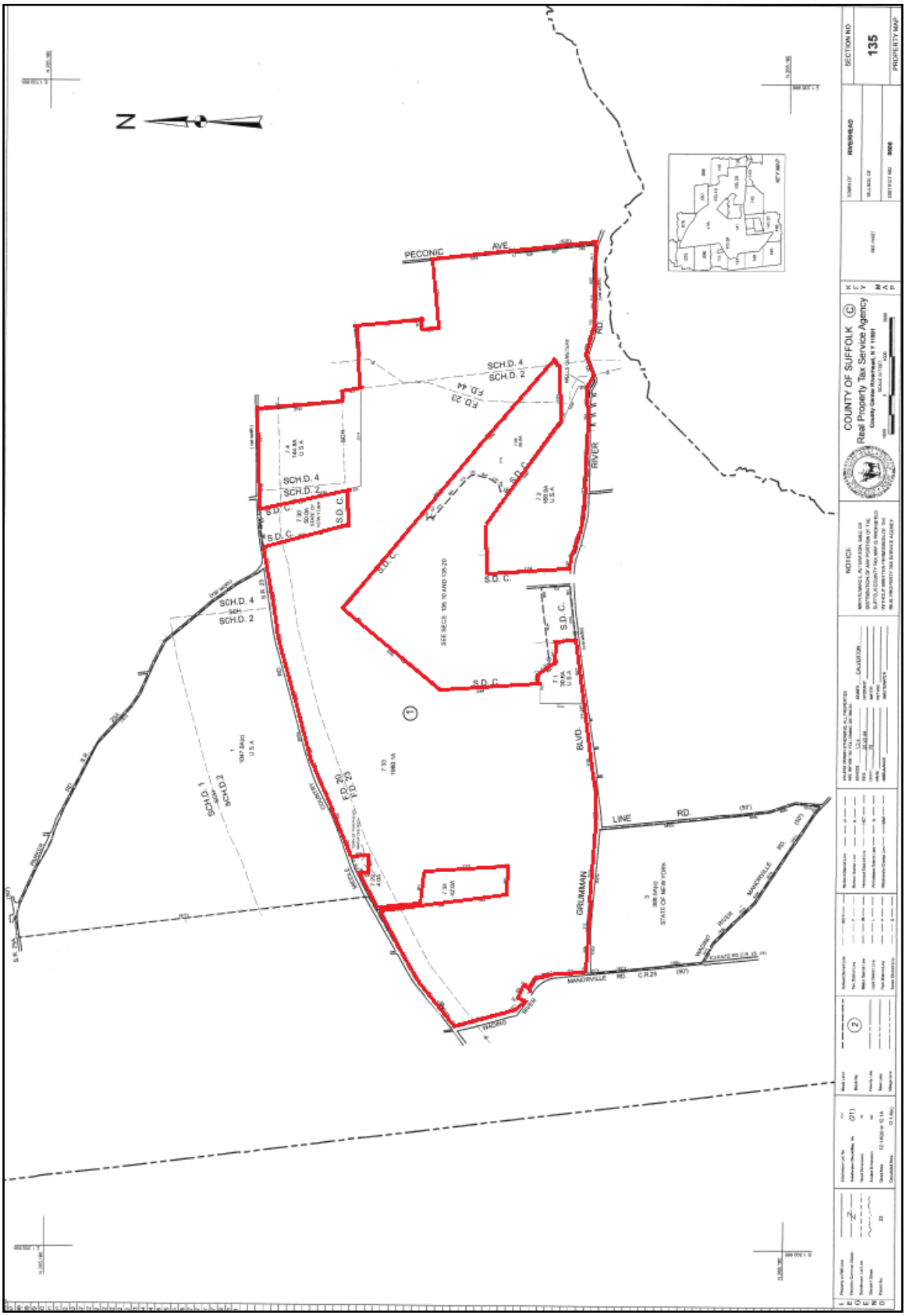
4. The long, straight streets that are depicted in the proposed subdivision (proposed Road “B” measuring nearly 1.5 miles end-to-end) would encourage speeding which could endanger all occupancies and users of the proposed subdivision, and result in other social and economic problems.

5. The Town should consider optimizing the existing rail spur onto the subject property, and also in no way limit its potential resource while subdividing the subject property. It is recommended that it be considered a significant amenity of the property and any subdivision of the property should continue to allow for its possible extension in order to maximize its regional benefit.

6. Proposed Lot #43 appears to be “landlocked” and creation of such a lot is contrary to good subdivision layout principals even if intended for an unoccupied uses as a recharge area. I should be accessible for monitoring and service purposes.

7. The Suffolk County Planning Commission’s publication on Managing Stormwater - Natural Vegetation and Green Methodologies should be reviewed and additional stormwater mitigations incorporated where practical.

8. The applicant should review the Suffolk County Planning Commission Guidebook particularly with respect to public safety and incorporate practical methodologies for the assurance of public safety into the design of the subdivision where appropriate.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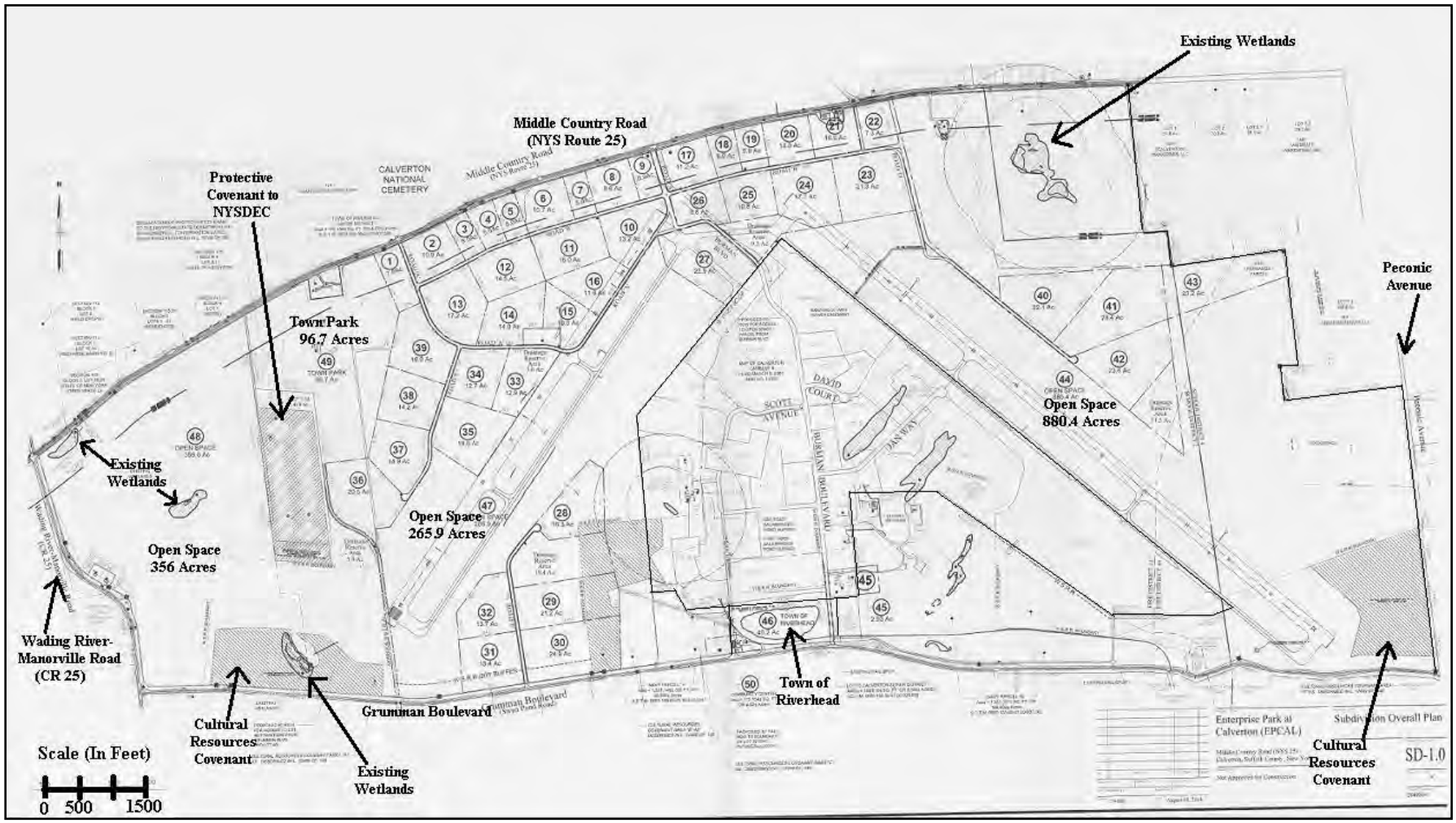
GRUMMAN BLVD.
LINE RD.
MANORVILLE RD.
C.R.25
WADDED RIVER
STATE OF NEW YORK
SECTION NO
135
PROPERTY MAP
COUNTY OF SUFFOLK
Real Property Tax Service Agency
County Center Riverhead, N.Y. 11901
NOTICE



S-1: Enterprise Park at Calverton
SCPD: S-RH-14-02
SCTM No: 0600-135.00-01.00-007.001 et al.

COUNTY OF SUFFOLK

Z-1

Steven Bellone
SUFFOLK COUNTY EXECUTIVE
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Joanne Minieri
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STAFF REPORT
SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Lawrence Aviation Land Use Plan
Municipality: Town of Brookhaven
Location: Port Jefferson Station

Received: 9-12-14
File Number: BR-14-14

Jurisdiction: Amendment to Comprehensive Plan

ZONING DATA

- Zoning Classification: Industrial, residential
- Minimum Lot Area: N/A
- Section 278: N/A
- Obtained Variance: N/A

SUPPLEMENTARY INFORMATION

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

SITE DESCRIPTION

- Present Land Use: Industrial, vacant, and one single family residence
- Existing Structures: Multiple
- General Character of Site: Industrial and vacant wooded land

- Range of Elevation within Site: 190 feet to 250 feet
- Cover: Cleared industrial area and wooded lands
- Soil Types: CpE - Carver and Plymouth Sands, HaA/PIM - Haven and Plymouth loam, and RdB – Riverhead Sandy Loam
- Range of Slopes (Soils Map): 0 – 35 %
- Waterbodies or Wetlands: One 0.75 acre pond; no other wetlands present

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: land use plan
- Layout: N/A
- Open Space: N/A

ACCESS

- Roads: Sheep Pasture Road
- Driveways: Existing

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
  - Design of System: None
  - Recharge Basins No
- Groundwater Management Zone: I
- Water Supply: public - SCWA
- Sanitary Sewers: none

PROPOSAL DETAILS

OVERVIEW – The Brookhaven Town Board proposes to amend and update the Town Comprehensive Plan to adopt the Lawrence Aviation Land Use Plan (LUP). The LUP study area is 153 acres in size and includes the Lawrence Aviation Industries (LA) Superfund Site as well as adjacent parcels associated by ownership or potential groundwater contamination impacts. The study area is located on the south side of Sheep Pasture Road and is approximately half a mile west of State Route 112 in the hamlet of Port Jefferson Station.

The LUP was developed with input and guidance from the Lawrence Avaition Land Use Plan Citizens Advisory Committee which was composed of representatives from the North Brookhaven Chamber of Commerce, the Port Jefferson Station-Terryville Civic Association, the Comsewogue School District, the Terryville Fire District, and the Comsewogue Historical Society. Additional input and Guidance was also received from the Lawrence Avaition Citizens Advisory Committee Ex-Officio Members which included elected officials (or their designees) from the Local, County, State and Federal levels of government.

A number of Town of Brookhaven Planning actions preceded this LUP. In 2007, the Brookhaven Town Board adopted a one year building moratorium to allow time for a Comprehensive Plan to be developed for the Terryville-Port Jefferson Station community. In 2008, the Town Board accepted the Comsewogue Hamlet Comprehensive Plan. This was followed in 2009 by a second moratorium for 21 parcels (including the LA site) which were recommended by the 2008 Comsewogue Hamlet Comprehensive Plan for a Change of Zone or additional study. This moratorium was considered by the Suffolk County Planning Commission on December 12, 2009. After deliberating, the Planning Commission took no action. The Town Moratorium was extended for the LA site two additional times in 2010 and in January of 2013. The second moratorium extension was reviewed and conditionally approved by the Suffolk County Planning Commission on January 2, 2013. The

moratorium for the LA site is scheduled to expire on January 18, 2015.

The goals of the (LUP) as stated in the Executive Summary "are to be protective of the environment and residents, while returning the study area to productive industrial use. This will be achieved by clustering industrial development on parcels north of the NYSDOT multi use path, protecting nearby residential development from potential adverse impacts, and limiting permitted industrial uses; while encouraging green energy production". The LUP proposes to accomplish these goals by rezoning 6 parcels totaling 81.36 acres from B-1 Residence to L Industrial 1 (Light Industry). The Plan also proposes to create a Lawrence Road Aviation Overlay District which is designed to control land uses, encourage green energy uses and establish residential development standards for adjacent parcels. As summarized below, the proposed Overlay District will:

- prohibit certain L Industrial 1 permitted and special permit uses such as Agricultural, Day Care Facilities, and Kennels,
- permit transfer-of-development yield between the industrial zoned parcels to encourage clustering and habitat preservation,
- require significant vegetative buffers to all residentially zoned and used parcels,
- provide incentives for green energy production,
- create a Lawrence Aviation Residential Transition Area with performance standards that include requiring advisory notices on Certificate of Occupancy's of residential property down gradient of the Lawrence Aviation site and require at grade construction for all new residential development,

An additional component of the LUP is to require soil and volatile organic chemical (VOC) testing, and as warranted soil and/or VOC remediation, to ensure safety at the site and to require Soil Management Plans for each site where materials are proposed to be removed or where significant grading is proposed.

STAFF ANALYSIS

The Lawrence Aviation Land Use Plan proposes to rezone 6 parcels totaling 81.36 acres that are currently zoned B-1 Residence or are Split Zoned as B-1 Residence/L Industrial 1 to L Industrial 1 (Light Industry). The Land Use Plan notes that the parcels zoned B-1 Residence could permit the construction of up to 81 single family homes.

The LUP notes that there are serious environmental issues affecting the currently zoned residential parcels including a VOC plume, soils contaminated with heavy metals and untested soils in the outlying parcels of the Lawrence Aviation site. In addition, the LUP notes that that the United States Environmental Protection Agency recommended that the main parcels of the Lawrence Aviation site be restricted to commercial or industrial use.

The serious environmental concerns related to the Lawrence Aviation site and its associated VOC groundwater plume is also the reason why the Town has proposed a Lawrence Aviation Residential Transition Area which is located to the Northwest of the Lawrence Aviation Site as shown on the attached study area base map.

It is also important to note that a number of the Suffolk County Tax Map parcels in the Lawrence Avaition Industries Site study area also owe a significant amount of money in back taxes and penalties. Most recent records indicate that eight different tax map parcels have a combined outstanding tax lien of approximately 11.2 million dollars.

The 2008 Comsewogue Hamlet Comprehensive Plan, which was accepted by the Town of

Brookhaven, discussed a range of options for the Lawrence Aviation site as well as additional study for the site. The proposed plan for industrial use after any needed environmental remediation is completed does appear to be consistent with one of the Hamlet Plans preferred options for the site. In addition, the 1996 Town of Brookhaven Comprehensive Plan proposed a light industrial land use for the Lawrence Aviation Industries site.

Suffolk County's industrial properties have a very low vacancy rate. A survey conducted on industrial market trends by Newmark, Brubb, Knight, and Frank found that in the second quarter of 2014 Suffolk County's industrial market had a vacancy rate of only 4.4 % as compared to 7.0 % in Nassau County and 7.7 % nationwide. This strong market for industrial zoned properties combined with the environmental constraints on the study area support the Town's LUP strategy of rezoning from residential to industrial.

The LUP notes that this Plan is the next step in the planning process for the study area. The Plan notes a number of areas that will need continued coordination and further consideration moving forward. As noted in the Plan there are significant environmental concerns related to the Lawrence Aviation Site. Environmental testing and remediation (if determined to be warranted) are key components of the LUP. The Town should continue to coordinate with the United States Environmental Protection Agency, the New York State Department of Environmental Conservation and the Suffolk County Health Department to insure proper coordination of all environmental testing and remediation work.

Another area noted in the Plan that requires additional planning and coordination is the treatment of wastewater in the study area. The Plan notes that there are a number of Sewer Treatment Plants in the vicinity including Suffolk County Sewer District # 1 (Port Jefferson) and Suffolk County Sewer District # 2 (Tallmadge Woods- Miller Place). The Town should continue to coordinate with the Suffolk County Department of Public Works and the Suffolk County Department of Health Services regarding treatment of wastewater for the study area. The LUP also discusses proposed mitigations that would improve access to the study area. The Town should continue to work with the New York State Department of Transportation and Suffolk County Transit to facilitate improved access to the Study Area.

In addition, during its site development planning the Town of Brookhaven should consult with the Suffolk County Planning Commission guidelines for reference information on energy efficiency, public safety and universal design.

STAFF RECOMMENDATION

Approval of the Lawrence Aviation Land Use Plan Use Plan with the following comments:

Comments:

1. Pursuant to General Municipal Law, proposed Change of Zone(s) associated with the Lawrence Aviation Land Use Plan should be submitted to the Suffolk County Planning Commission for review.

2. The Town should continue to coordinate with the Suffolk County Landbank to facilitate the redevelopment of the property.

3. The Town should continue to coordinate with the United States Environmental Protection Agency, the New York State Department of Environmental Conservation and the Suffolk

County Health Department to insure proper coordination of all required environmental testing and remediation work.

4. The Town should coordinate with the Suffolk County Department of Public Works and the Suffolk County Department of Health Services to properly plan for the wastewater that would result from the reuse of the Lawrence Aviation Industries Site.

5. The Town should continue to work with the New York State Department of Transportation and Suffolk County Transit to facilitate improved access to the Study Area.

6. During site development planning the Town should review the Suffolk County Planning Commission Guidebook particularly with respect to energy efficiency and incorporate where practical, elements contained therein.

7. During site development planning the Town should review the Suffolk County Planning Commission guidelines related to public safety and universal design.

2.0 EXECUTIVE SUMMARY

The Study Area encompasses approximately 153-acres of parcels in varying ownership which comprise the collectively known "Lawrence Aviation Industries" study area. Additionally, the Land Use Plan identified adjacent parcels which are affected by the plume. These areas are being recommended for a "transition area" for an overlay district that will contain certain provisions designed to protect the health, safety and neighborhood of the residents and business owners.

The goals of the Lawrence Aviation Land Use Plan (LUP) are to be protective of the environment and residents, while returning the study area to productive industrial use. This will be achieved by clustering industrial development on parcels north of the NYSDOT multi-use path, protecting nearby residential development from potential adverse impacts, and limiting permitted industrial uses; while encouraging green energy production.

The Plan proposes the following strategies to accomplish these goals:

1.) Rezone six (6) parcels (IV, V, VI, VII, X and XI on the Base Map) totaling 81.36-acres to L Industrial 1 (Light Industry), thereby eliminating future residential uses from parcels associated with the Superfund site. These parcels are currently zoned B-1 Residence, or split-zoned L Industrial 1/B-1 Residence which could permit up to 81-single family homes to be constructed.

2.) Create a Lawrence Aviation Overlay District as a mechanism to control uses, encourage green energy uses, establish residential development standards for certain adjacent parcels, provide innovative planning tools to encourage both light-industrial redevelopment and substantial preservation of natural vegetation.

2.a) Eliminate certain currently permitted uses in the L Industrial 1 District from the Lawrence Aviation site. The uses to be prohibited include:

- Agricultural;
- Church, or similar place of worship;
- Day Care Facility;
- Non-motorized Recreational Activities.

2.b) Eliminate certain currently permitted Planning Board Special Permit uses in the L Industrial 1 District from the Lawrence Aviation site. The Special Permit uses to be eliminated include:

- Assembly and social recreation hall or dance hall;
- Kennels;
- Non-degree granting sports instruction/programs, including dance, gymnastics, self- defense, and swimming (note: non-degree granting instruction/programs associated with manufacturing or professional driver training are permitted);

- Public, private school or parochial school;
- University or College.

2.c) Permit transfer-of-development yield, including both sanitary & clearing, between industrially-zoned parcels to encourage clustering and habitat preservation;

2.d) Require significant vegetated buffers to all residentially zoned and used properties.

2.e) Provide incentives for green energy production, particularly solar energy to include:

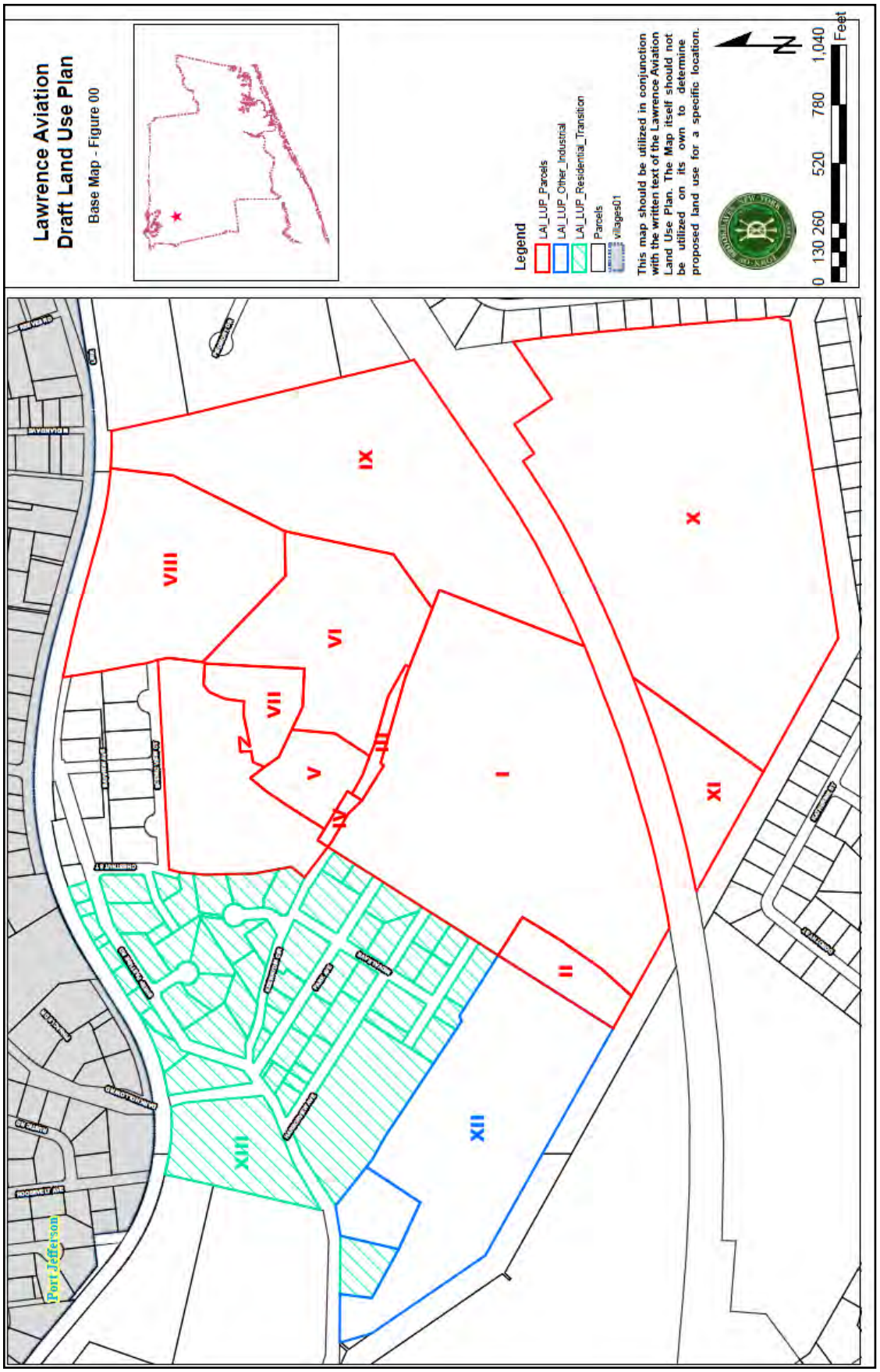
- Permitted with a Planning Board Special Permit at time of site plan review;
- Increase security fence heights (from 6 to 10');
- Allow unpaved areas as suitable for stormwater containment;
- Expedited Environmental Review;
- Environmental impacts analyzed in LA LUP GEIS;
- Increased lot coverage limits (from 60% to 75%);
- Decreased lot setback requirements (from 100' to residential uses to 50'),
- Permit clearing of natural vegetation for solar arrays.

2.f) Create a LA Residential Transition Area with performance standards:

- Require advisory notices on Certificate of Occupancy's of residential property down gradient of the LA site.
- Require at-grade construction for all new residential development.

3.) Require soil and volatile organic chemical (VOC) testing, and as warranted soil and/or VOC remediation to ensure safety at the site and require Soil Management Plans for each site if materials are proposed to be removed from the site or if significant grading is to occur.

4.) Maintain L Industrial 1 (Light Industrial) zoning on contiguous parcel XII.


Lawrence Aviation
Draft Land Use Plan
Base Map - Figure 00
Legend
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LAI_LUP_Other_Industrial
LAI_LUP_Residential_Transition
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villages01
This map should be utilized in conjunction with the written text of the Lawrence Aviation Land Use Plan. The Map itself should not be utilized on its own to determine proposed land use for a specific location.
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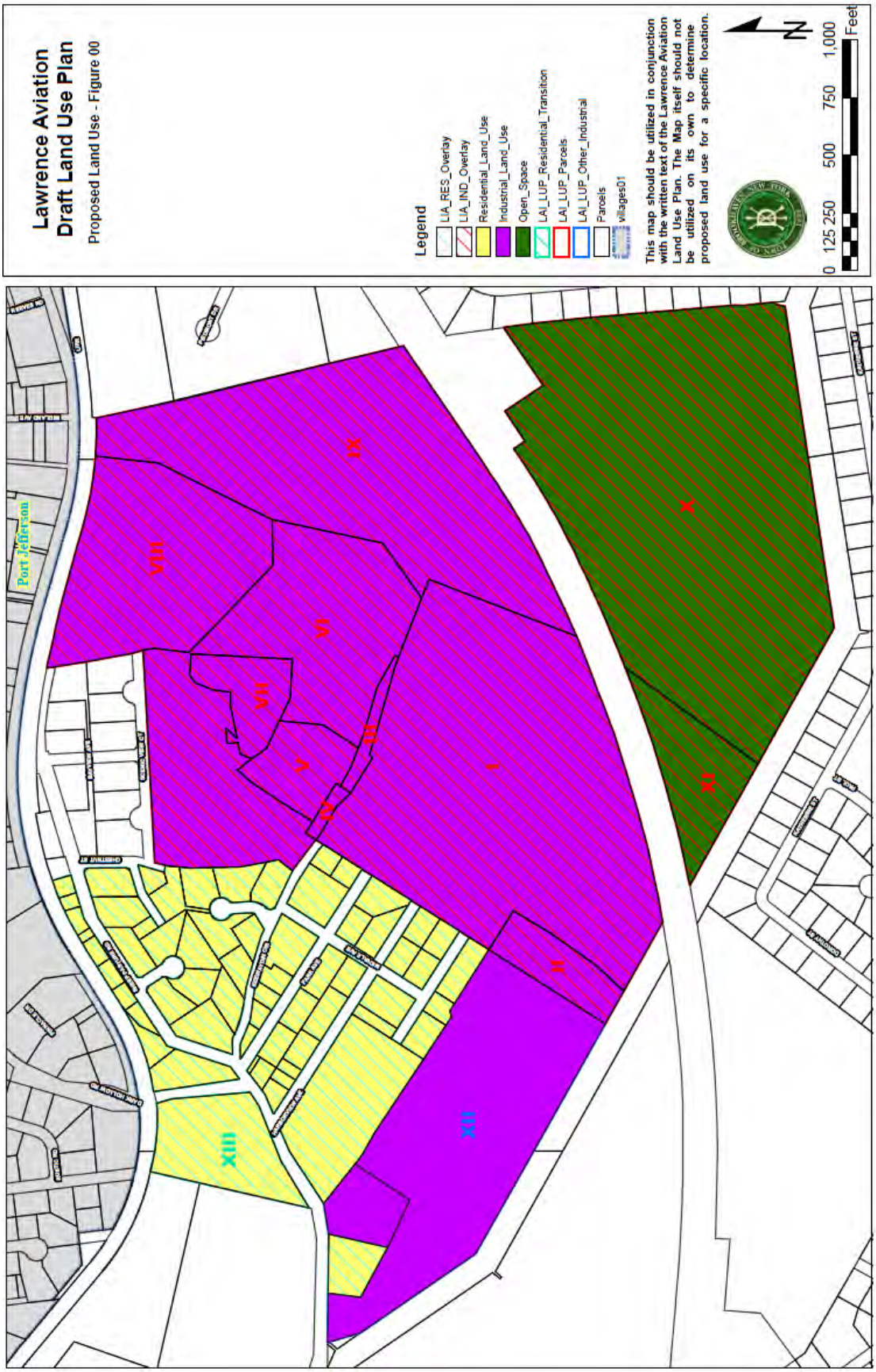
Lawrence Aviation
Draft Land Use Plan
Proposed Land Use - Figure 00
Legend
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Residential_Land_Use
Industrial_Land_Use
Open_Space
LAI_LUP_Residential_Transition
LAI_LUP_Parcels
LAI_LUP_Other_Industrial
Parcels
villages01
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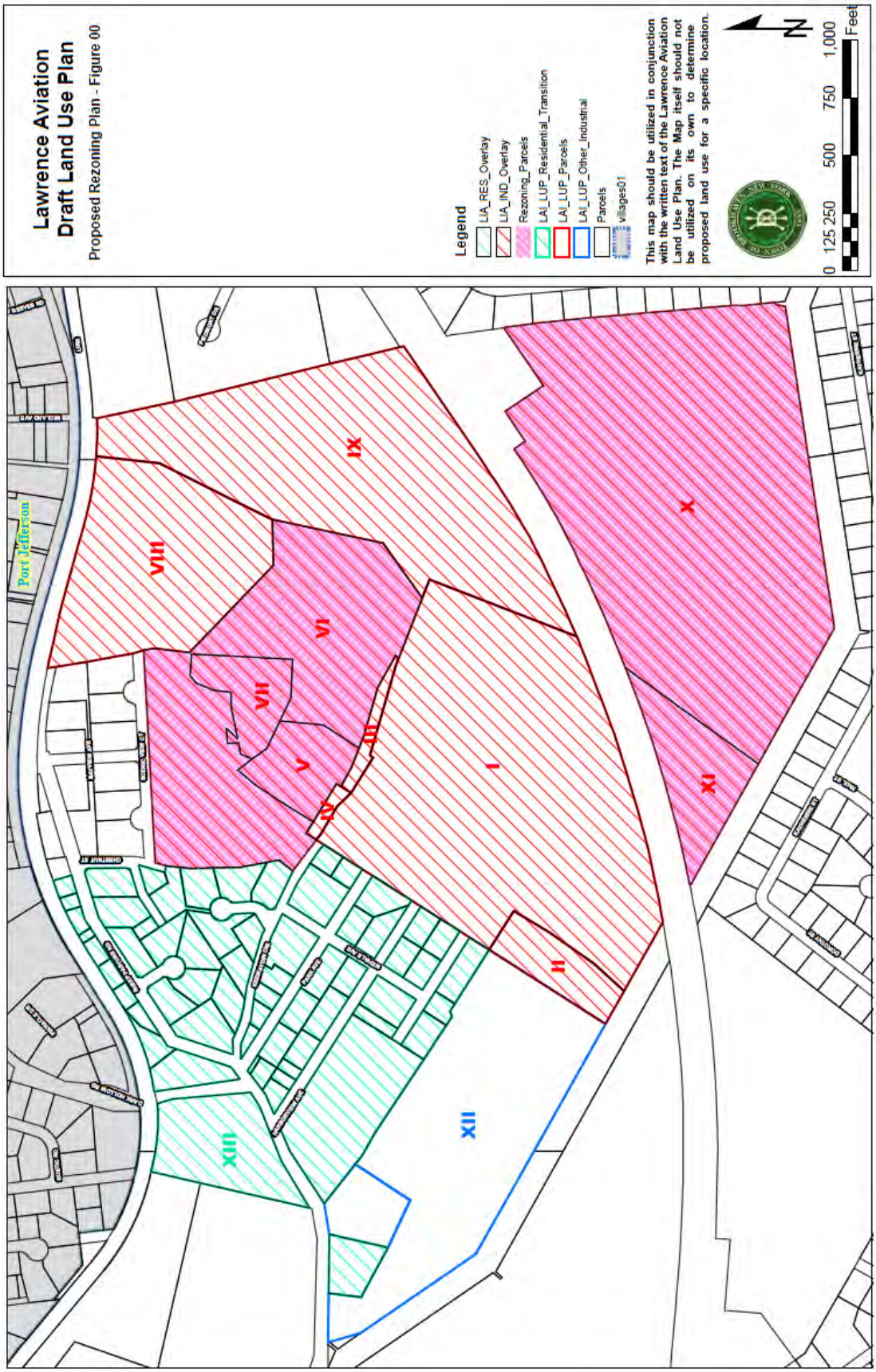
Lawrence Aviation
Draft Land Use Plan
Proposed Rezoning Plan - Figure 00
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LAI_LUP_Parcels
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Parcels
Villages01
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COUNTY OF SUFFOLK

Z-2

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: CR-39 Corridor Land Use Plan
Municipality: Town of Southampton
Location: CR-39 Corridor: Shinnecock Hills to Flying Point

Received: 09/02/2014
File Number: SH-14-02

Jurisdiction: Amendment to Comprehensive Plan

ZONING DATA

- Zoning Classification: Residential and commercial
- Minimum Lot Area: N/A
- Section 278: N/A
- Obtained Variance: N/A

SUPPLEMENTARY INFORMATION

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

SITE DESCRIPTION

- Present Land Use: various land uses in hamlets and between including residential, commercial, agricultural, and recreational
- Existing Structures: multiple
- General Character of Site: County Road Corridor

- Range of Elevation within Site: NA
- Cover: NA
- Soil Types: N/A
- Range of Slopes (Soils Map): N/A
- Waterbodies or Wetlands: N/A

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: Land Use Plan
- Layout: N/A
- Open Space: N/A

ACCESS

- Roads: Existing
- Driveways: Existing

ENVIRONMENTAL INFORMATION

- Stormwater Drainage N/A
  - Design of System: in accordance with SWPPP
  - Recharge Basins yes
- Groundwater Management Zone: IV - V
- Water Supply: public - SCWA
- Sanitary Sewers: Individual on site

PROPOSAL DETAILS

OVERVIEW – The Southampton Town Board proposes to create a gateway corridor with commercial concentrations, managed access to and from the roadway, and visual upgrades for the entire County Road 39 corridor. The entire proposed CR 39 Corridor Land Use Plan can be found at the following link http://www.southamptontownny.gov/documentcenter/view/2724 Historically traffic congestion has been widespread, particularly during the summer season when Southampton's population increases from 57,421 to 167,682 people. Though the construction of an additional eastbound travel lane has increased the capacity of the roadway and improved operating safety, traffic congestion persists during peak travel times. The study identifies and examines the existing conditions of the roadway and adjacent areas in order to develop a comprehensive plan to guide future growth, economic development, and environmental protection. This plan is intended to address negative aspects of the corridor and strive to protect and enhance positive attributes through the development of land use, zoning, site design and environmental protection strategies. The County Road 39 Land Use Plan is a companion study to the Access Management Plan (and included as part of the CR 39 LUP) developed by the Transportation Committee of the Town of Southampton. The goals and objectives of the study follow the intent of the 1970 Master Plan and the 1999 Comprehensive Plan to make the County Road 39 "*a productive and attractive area for businesses to better serve the citizens in adjacent hamlets and safely accommodate visitors."*

Goals and objectives for the CR-39 corridor as outlined in the Plan include:

1. Maintain/Enhance Community Character
2. Facilitate Movement/Enhance Safety
3. Manage development Along the Corridor
4. Protect and Enhance the Area's Environmental Quality

The Southampton Town Board has provided design guidelines for the study area included in the CR 39 Corridor LUP as a separate booklet. The guidelines are broken up into 3 sections: business zones, transition zones and sustainable site development. Please refer to pamphlet for specific

details http://www.southamptontownny.gov/DocumentCenter/Home/View/2726 The County Road 39 Corridor Study Area begins just east of the Shinnecock Canal in the Town of Southampton. It passes through the hamlets of Shinnecock Hills, Tuckahoe, North Sea, and Water Mill, sharing its southern boundary with the Incorporated Village of Southampton for about 1/3 of its length. The corridor terminates at the intersection of Montauk Highway and Flying Point Road.
Land uses adjacent to County Road 39 include commercial, residential, educational, open space and recreational uses.

STAFF ANALYSIS

The County Road 39 corridor can be considered the Towns largest commercial district and its most important commuter thoroughfare. The CR 39 corridor is also the primary east-west regional thoroughfare of the South Fork. The County Road 39 Corridor Land Use Plan (LUP) is divided into four main sections: an introduction which includes general recommendations for the corridor, specific issues and recommendation for each quadrant, implementable action items, and an appendix.

The County Road 39 Land Use Plan is a companion study to, and included with an Access Management Plan developed by the Transportation Committee of the Town of Southampton. The Access Management Plan provides potential locations for cross access, recommendations on curb cuts placement and consolidation, and builds on the site design strategies developed in the County Road 39 Land Use Plan and design guidelines.

While concentrating on CR39 and development adjacent to it, the CR 39 LUP also considers the surrounding area within a minimum of ½ mile from the roadway. A number of recommendations that are applicable in all or most quadrants are outlined below:

1. Modify the Highway Business (HB) zoning category to improve the quality and diversity of land uses.

2. Deploy new Hamlet Office Business (HOB) zoning category.

3. Promote open space retention on remaining large residentially zoned tracts.

4. Create consistency in the look of the corridor.

5. Improve the appearance of key intersections with “gateway treatments” designed through an open competition

6. Improve the operation of the roadway by creating new breakdown areas and/or dedicated right hand turning lanes.

7. Consider the role of curb and driveway management in improving safety and traffic flow through the Access Management Plan and implement the recommendations listed in the Access Management Plan.

There are a number of recommendations specific to each quadrant, please refer to the CR39 Corridor Land Use Plan for details. Recommendations regarding the pending PDD application for a supermarket shopping center (one of the largest pending applications along the corridor) at the intersection of Magee Street and CR 39 are preliminary and further analysis regarding intersection effects and possible mitigations would be helpful for further corridor planning purposes.

The CR 39 LUP also includes a market study. Said study identified several feasible Commercial

options that would be consistent with the planning goals for the Roadway corridor. The report concluded that the CR 39 corridor could support additional restaurants, as well as, automobile dealerships, auto parts accessories and tire shops, microbreweries, furniture and home furnishing outlets, building materials and garden supply centers.

The majority of the study recommendations concentrate on design guidelines to make for a more aesthetic appeal and better movement of vehicles on the roadway.

Ultimately, the study recommends that fewer curb cuts for access directly from or onto the corridor be permitted and instead, more traveling be channeled between the backs of neighboring properties along the commercial corridor.

It is not apparent in the Land Use Plan whether Suffolk County Department of Public Works was included in the development of the plan. Prior to final adoption of the LUP the Town should consult with the County DPW regarding opportunities to incorporate complete street treatments to the corridor right-of-way in conduction with any individual site improvements on a lot.

The Town should also consider including additional analysis regarding mass transit and its ability to mitigate congestion on CR 39. The S92 bus service can assist in moving commuters through the corridor with additional accommodations along property lines adjacent to the CR 39 ROW. The LIRR is not more than ½ mile from the corridor and has or had stations in the LUP area. It is noted that the LIRR has an upcoming mandated signal system upgrade, and is planning a system-wide network analysis. The railroad represents an underutilized asset in the area. A re-visit of the LIRR scoot service potential is warranted and future land use accommodations should be investigated in the CR 39 Land Use Plan.

STAFF RECOMMENDATION

Approval of the Town of Southampton County Road 39 Land Use Plan (August 2014) with the following comments:

Comments:

1. The Town of Southampton County Road 39 Corridor Land Use Plan is a well-conceived and developed template for restoring the corridors low trip generating land uses, commercial appeal, and visual aesthetic as the “gateway” to the Hamptons and the South Fork. The Town is commended for completing this part of the planning for this County Roadway corridor.

2. Pursuant to General Municipal Law, Site Plan applications along the CR 39 corridor following adoption and implementation of the Land Use Plan should be submitted to the Suffolk County Planning Commission for review.

3. Applicants for Site Plan approval along the CR 39 corridor should be directed to contact and begin dialogue with the Suffolk County Department of Public Works as early as possible.

4. The Town should also consider including additional analysis regarding mass transit and its ability to mitigate congestion on CR 39. The S92 bus service can assist in moving commuters through the corridor with additional accommodations along property lines adjacent to the CR 39 ROW. The LIRR is not more than ½ mile from the corridor and has or had stations in the LUP area. It is noted that the LIRR has an upcoming mandated signal system upgrade, and is planning a system-wide network analysis. The railroad represents

an underutilized asset in the area. A re-visit of the LIRR scoot service potential is warranted and future land use accommodations should be investigated in the CR 39 Land Use Plan.

5. Applicants for Site Plan approval along the CR 39 corridor should be encouraged to review the Suffolk County Planning Commission publication on *Managing Stormwater-Natural Vegetation and Green Methodologies* and incorporate into any proposal, where practical, design elements contained therein.

6. Applicants for Site Plan approval in the CR 39 corridor should be encouraged to review the Suffolk County Planning Commission Guidebook particularly with respect to energy efficiency and incorporate where practical, elements contained therein.

7. Applicants for Site Plan approval along the CR 39 corridor should review the Planning Commission guidelines related to public safety and incorporate into the proposal, where practical, design elements contained therein.

8. Applicants for Site Plan approval in the LIO District should review the Planning Commission guidelines particularly related to universal design and incorporate into the proposal, where practical, design elements contained therein.

COUNTY OF SUFFOLK

Z-3

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: Moratorium With Respect To Issuance Of Building Permits And Other Approvals For One-Family Dwellings Which Exceed Certain Height Limitations
Municipality: Inc. Village of Southampton
Location: Properties effected by Federal Emergency Management Agency requirements

Received: 8/18/14
File Number: Sh-14-01

Jurisdiction: Zoning Action/ Local Law/ Moratorium

ZONING DATA
- Zoning Classification: Moratorium (on one-family dwellings)
- Minimum Lot Area: N/A
- Section 278: N/A
- Obtained Variance: N/A

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

SITE DESCRIPTION
- Present Land Use: various land uses in flood zone including residential and commercial
- Existing Structures: multiple

- General Character of Site: NA
- Range of Elevation within Site: NA
- Cover: NA
- Soil Types: N/A
- Range of Slopes (Soils Map): N/A
- Waterbodies or Wetlands: N/A

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: moratorium
- Layout: NA
- Open Space: N/A

ACCESS

- Roads: NA
- Driveways: NA

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
  - Design of System: N/A
  - Recharge Basins N/A
- Groundwater Management Zone: V
- Water Supply: public - SCWA
- Sanitary Sewers: Private

PROPOSAL DETAILS

OVERVIEW – Referral from the Inc. Village of Southampton of a proposed Local Law to temporarily suspend the authority of the Building Inspector to issue building permits for construction projects involving a proposed one-family dwellings which exceeds the maximum height limitation (35' measured from average natural grade along the front of the dwelling and 27' for a "flat" roof [pitch less than 7/12]). The proposed moratorium is intended to be for a period of six months.

The moratorium would be applicable to a one family dwelling that must be elevated in order to comply with flood damage prevention regulations commonly referred to as Federal Emergency Management Agency (FEMA) requirements.

The Village Board of Trustees made a finding indicating that "amendments to such maximum height regulations are necessary in order to adequately control the height of one-family dwellings and adequately balance the rights and interests of property owners, the neighborhood and community under such circumstances."

The proposed moratorium indicates that the Village Planning Commission is in the process of performing planning work with respect to studying the issue and intends to make recommendations to the Village Board of Trustees with respect to changes regarding existing maximum height regulations. The duration of the moratorium is also intended to include consideration by Board of Trustees of said planning work.

The proposed Local Law for the six month moratorium includes an exemption section that allows affected lot owners the opportunity to file hardship claims with the Village Board of Trustees against the moratorium.

STAFF ANALYSIS

On September 10, 2014 Suffolk County Planning Commission requested additional information related to the Local Law in accordance with the Suffolk County Planning Commission Advisory

News bulletin *Moratorium on Development* (Vol. 2 Issue 1, 1998).

The Village of Southampton responded by letter dated September 17, 2014 (see attached) that included additional findings related to the purpose and need of the proposed moratorium.

Suffolk County Planning Commission staff notes the following from the Village's response:

- "Revised FEMA requirements (including revised base flood elevations) incorporated in Chapter 62 of the Village Code became effective in or about September of 2009. It has recently come to the attention of the Village Board of Trustees that where a one-family dwelling must be elevated (two feet above the base flood elevation) in order to comply with the revised flood damage prevention regulations contained in Chapter 62 of the Village Code, the revised elevation requirement can involve a significant increase in the required elevation…In other words, it recently come to the attention of the Village Board of Trustees that, where a one-family dwelling must be elevated in order to comply with the revised flood damage prevention regulations, the project can involve a significant increase in height in relation to natural grade."

- "In light of the above mentioned circumstances, the Village Board of Trustees believes that amendments to the Zoning Code maximum height regulations are necessary in order to adequately control the height of one-family dwellings and adequately balance the rights and interests of property owners, the neighborhood and the community under such circumstances…A decision to allow building permits (and other approvals) involving such significant increases in height to be issued during such period (a decision not to enact a temporary moratorium) would result in a permanent impact on the neighborhood and community from the construction permitted by such building permits."

- The Village of Southampton correspondence also included a copy of a Local Determination letter from the Suffolk County Planning Commission (August 23, 2004) in connection with a Village of Southampton "Moratorium with respect to issuance of building permits and other approvals for one-family dwellings with exceed certain limitations."

It is the belief of the staff that the August 23, 2004 Local Determination (LD) is not relevant to the current Local Law referral. The 2004 LD was related to maximum gross floor area limitations and maximum height limitations on one-family dwellings based on the lot area of the lot. The Moratorium was Village wide. The maximum height limitations were proposed to be on a sliding scale ranging from 29 feet to 35 feet depending on lot area. The Current referral is relevant only to the areas affected by revised FEMA regulations. Said areas would be those areas of the Village of Southampton typically referred to as being in a "flood zone." The maximum height limitation in the current referral is stated to be "35 feet measured from the average elevation of the natural grade along the front of the dwelling."

The ten plus years between the 2004 and 2014 referrals has made the facts specific to each case comparatively dissimilar. Moreover, there has been a heightened awareness toward storm damage prevention, resiliency and decreasing repetitive loss in flood prone areas by the County of Suffolk due to recent severe storm events.

Suffolk County Planning Commission staff also notes that the proposed restriction only applies to one-family dwellings which exceed the maximum height limitation when they must be elevated in order to comply with FEMA derived flood damage prevention regulations. An analysis of the Village of Southampton zoning maps, flood zone maps and land use indicate that while there are numerous "one-family dwellings" in several residential zoning districts in the flood zones, there are also numerous non-residential uses in the flood zone (church, bathing corp. beach and tennis clubs,

etc.). The non-residential uses abut adjacent residentially zoned properties and would also warrant the consideration that if these properties propose increases in height above 35 feet than the need to "adequately balance the rights and interests of property owners, the neighborhood and community under such circumstances" would also be relevant. Also noted, is that the moratorium temporarily suspends the authority of the Building Inspector and the Board of Architectural Review but does not preclude the Planning Board from processing applications that may conceptually pierce the height limit. Similarly the Village Zoning Board of Appeals is not constrained from entertaining area variances as they may pertain to height.

According to referral material from the Village of Southampton revised FEMA requirements were incorporated in Chapter 62 of the Village Code effective about September of 2009. Since that time Hurricane Irene occurred in August of 2011 and Hurricane Sandy occurred in October of 2012. It is not evident in the findings of the Village what true emergency exists or what recent circumstances have occurred that justify the adoption of the moratorium or how serious and urgent the circumstances are.

The moratorium does not make findings as to whether alternatives that are less burdensome on property rights have been considered or how other like municipalities in Suffolk County have addressed similar issues without the imposition of a moratorium.

It has long been the sentiment of the Suffolk County Planning Commission that 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 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 these circumstances are. In addition, more explicit findings are in order regarding the conditions that mandate the imposition of the moratorium and whether there are no other alternatives that are less burdensome on property rights.

STAFF RECOMMENDATION

Approval of the proposed Inc. Village of Southampton Local Law Establishing A Moratorium With Respect to Issuance Of Building Permits And Other Approvals For One-Family Dwellings Which Exceed Certain Height Limitations within the following condition.

> *Condition:* The moratorium shall include additional findings that confirm the necessity of this action. The Law shall further indicate what recent circumstances have occurred that justify the adoption of the moratorium and how serious and urgent these circumstances are. In addition, more explicit findings shall be included regarding the conditions that mandate the imposition of the moratorium and whether there are no other alternatives that are less burdensome on property rights.

Local Law No. of 2014

A Local Law Establishing A Moratorium With Respect To Issuance Of Building Permits And Other Approvals For One-Family Dwellings Which Exceed Certain Height Limitations

Section 1. Purpose.

(a) The Board of Trustees hereby finds that the existing maximum height regulations contained in the Village Zoning Code (Chapter 116 of the Village Code) do not adequately control the height of one-family dwellings, particularly under circumstances where a one-family dwelling must be elevated in order to comply with flood damage prevention regulations contained in Chapter 62 of the Village Code (such regulations being commonly referred to as Federal Emergency Management Agency requirements). The Board of Trustees hereby finds that amendments to such maximum height regulations are necessary in order to adequately control the height of one-family dwellings and adequately balance the rights and interests of property owners, the neighborhood and the community under such circumstances. The Village Planning Commission (hereinafter referred to as the Planning Commission) is in the process of performing planning work with respect to studying the foregoing and then recommending changes to such existing maximum height regulations. The purpose of this local law is to establish a moratorium with respect to issuance of building permits and other approvals for one-family dwellings which exceed certain height limitations pending an opportunity for the Planning Commission to complete said planning work and for the Board of Trustees to consider said planning work.

(b) It is the purpose of this local law to temporarily suspend the authority of the Building Inspector to issue building permits under Chapter 116 of the Village Code for construction projects involving a proposed one-family dwelling which exceeds the maximum height limitation hereinafter set forth. It is the purpose of this local law to temporarily suspend the authority of the Board of Architectural Review and Historic Preservation (hereinafter referred to as the BARHP) to grant architectural review approvals under Chapter 116 of the Village Code and certificates of appropriateness under Chapter 65 of the Village Code for construction projects involving a proposed one-family dwelling which exceeds the maximum height limitation hereinafter set forth. It is the purpose of this local law to temporarily suspend the authority of the BARHP to schedule or hold public hearings under Chapter 116 and Chapter 65 of the Village Code for such construction projects. It is the purpose of this local law to temporarily supersede any provision of law inconsistent herewith, including any inconsistent provisions of §§65-6C and 116-32E of the Village Code.

Section 2. The period of this moratorium shall commence on the effective date of this local law, shall continue for a period of six months from and after the effective date of

this local law, and shall expire on the date six months after the effective date of this local law.

Section 3. During the period of this moratorium, no building permit shall be issued for construction, reconstruction, alteration or enlargement of a one-family dwelling if the proposed one-family dwelling exceeds (does not conform with) the maximum height limitation set forth in Section 7 of this local law.

Section 4. During the period of this moratorium, no architectural review approval shall be granted by the BARHP for construction, reconstruction, alteration or enlargement of a one-family dwelling if the proposed one-family dwelling exceeds (does not conform with) the maximum height limitation set forth in Section 7 of this local law.

Section 5. During the period of this moratorium, no certificate of appropriateness shall be granted by the BARHP for construction, reconstruction, alteration or enlargement of a one-family dwelling if the proposed one-family dwelling exceeds (does not conform with) the maximum height limitation set forth in Section 7 of this local law.

Section 6. During the period of this moratorium, the BARHP shall not schedule or hold a public hearing on an application for architectural review approval and/or a certificate of appropriateness with respect to construction, reconstruction, alteration or enlargement of a one-family dwelling if the proposed one-family dwelling exceeds (does not conform with) the maximum height limitation set forth in Section 7 of this local law.

Section 7. Maximum Height Limitation.

(a) For the purpose of this moratorium, except as otherwise provided in subsection (b) below, the height of a one-family dwelling shall not exceed 35 feet measured from the average elevation of the natural grade along the front of the dwelling.

(b) For the purpose of this moratorium, the height of a one-family dwelling with a roof pitch flatter than 7/12 (i.e., seven inches of rise for every twelve inches of run) shall not exceed 27 feet measured from the average elevation of the natural grade along the front of the dwelling.

Section 8. Exemptions.

The Board of Trustees may grant an exemption from this moratorium in accordance with the following provisions.

(a) Procedural requirements. The following procedural requirements shall be prerequisite to the grant of an exemption by the Board of Trustees:

(i) The owner of the lot shall have filed with the Board of Trustees ten copies of a written application specifically requesting an exemption from

this moratorium, together with ten copies of a survey and plans for the proposed project; and

(ii) The Board of Trustees shall have held a public hearing on the application upon at least ten days prior public notice published in the official newspaper.

(iii) The owner of the lot shall have mailed, at least ten days prior to the public hearing, written notice of the date, time and place of the public hearing, by certified mail, return receipt requested, to all the property owners within 200 feet of all boundaries of the lot as shown on the latest Village assessment roll.

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

(i) Failure to grant an exemption will cause the applicant undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the grant of the exemption; and

(ii) Grant of the exemption will clearly have no adverse effect upon any of the Village's goals or objectives in adopting this moratorium; and

(iii) The proposed project for which the applicant seeks an exemption is in harmony with the existing character of the Village as a whole and the area of the Village in which the lot is located, and is consistent with any interim data, recommendations or conclusions which may be drawn from the planning work then in progress or under review.

(c) Discretionary provisions. The Board of Trustees may request and obtain written comments from the BARHP and/or the Planning Commission to assist the Board of Trustees in considering and determining whether the substantive requirements for an exemption are met.

Section 9. Pursuant to 6 NYCRR §617.5(c)(30), adoption of this moratorium is exempt from environmental review under SEQRA.

Section 10. Should any part or provision of this local law be determined by a court to be unconstitutional or invalid, such determination shall not affect the validity of this local law as a whole nor any part or provision of this local law other than the part or provision so determined to be unconstitutional or invalid.

Section 11. This local law shall become effective upon the filing thereof with the Secretary of State of the State of New York.

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COUNTY OF SUFFOLK

Steven Bellone
SUFFOLK COUNTY EXECUTIVE
Department of
Economic Development and Planning

Joanne Minieri
Deputy County Executive and Commissioner

Division of Planning
and Environment

September 10, 2014

Village of Southampton
23 Main Street
Southampton, NY 11968-4899
Attn: Stephen Funsch CPA, Village Administrator

RE: Local Law Referral "…Moratorium with Respect to Issuance of Building Permits and other Approvals for One Family Dwellings which exceed certain Height Limitations"
SCPC File No: Sh-14-Inc.

Dear Mr. Funsch:

Please be advised that pursuant to NYS GML Section 239 and Sections A 14-14 to 26 of the Suffolk County Administrative Code, the above captioned application will not be reviewed until the following information is submitted through the offices of the municipal referring agency. In accordance with NYS GML section 293 and the Suffolk County Administrative Code please provide a "full statement" of facts including the following information:

- Completed Environmental Assessment Form along with all other materials associated as to the environmental review process.
- Planning Board report (if any).
- In accordance with the Suffolk County Planning Commission "Advisory News-Moratorium on Development" (enclosed) please provide information related to the Local Law that addresses the following:
    - Other alternatives investigated less burdensome on property rights than the moratorium.
    - What recent circumstances have occurred that justify the moratorium.

H. LEE DENNISON BLDG ■ 100 VETERANS MEMORIAL HWY, 4th Fl ■ P.O. BOX 6100 ■ HAUPPAUGE, NY 11788-0099 ■ (631) 853-5191

- How urgent are the circumstance necessitating the moratorium.
- What is the plan of action and/or steps in the process to complete the "planning work" indicated in section 1 "Purpose" that justifies the 180 day moratorium.

Please note the complete Policies and Guidelines for the referral of proposed municipal zoning actions to the Suffolk County Planning Commission can be found at: http://www.suffolkcountyny.gov/Portals/0/planning/Publications/FinalComissionGuidelinesALL.pdf

Very truly yours,

Sarah Lansdale
Director of Planning

Andrew P. Freleng
Chief Planner

Enc.
APF/cd

H. LEE DENNISON BLDG ■ 100 VETERANS MEMORIAL HWY, 4th Fl ■ P.O. BOX 6100 ■ HAUPPAUGE, NY 11788-0099 ■ (631) 853-5191

Suffolk County Planning Commission Advisory News

Volume 2
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Spring - 1998

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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.

631 283-0247
FAX 631 283-4990

Village of Southampton

23 MAIN STREET
SOUTHAMPTON, NEW YORK 11968-4899
Website: www.southamptonvillage.org
Email: info@southamptonvillage.org

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VILLAGE ADMINISTRATOR
STEPHEN FUNSCH
VILLAGE ATTORNEY
RICHARD E. DEPETRIS
BUILDING INSPECTOR
JONATHAN B. FOSTER

MAYOR
MARK EPLEY
TRUSTEES
WILLIAM J. HATTRICK JR.
MICHAEL G. IRVING
NANCY C. MCGANN
RICHARD W. YASTRZEMSKI

September 17, 2014

Suffolk County Planning Commission
H. Lee Dennison Building – 4th Floor
100 Veterans Memorial Highway
Hauppauge, NY 11788-0099
Attention: Andrew P. Freleng, Chief Planner

Re: Local Law Referral
SCPC File No. Sh-14-Inc.

Dear Mr. Freleng:

The Village of Southampton respectfully submits the following points and information in response to your letter dated September 10, 2014:

1. Pursuant to 6 NYCRR §617.5(c)(30), adoption of the proposed moratorium is not subject to environmental review under SEQRA (the foregoing is recited in Section 9 of the proposed local law). Therefore, no Environmental Assessment Form is required, and no other materials associated with environmental review are required.

2. There is no report from the Village Planning Commission (nor from the Village Planning Board) regarding the proposed moratorium. The Village Planning Commission has focused its attention on the planning work referred to in Section 1(a) of the proposed local law and has engaged the Village's planning consultant (Nelson, Pope & Voorhis, LLC) to conduct a study which should facilitate timely completion of the planning work. The Village expects the process referred to in Section 1(a) of the proposed local law (completion of the planning work by the Village Planning Commission and consideration thereof by the Village Board of Trustees) to be completed prior to expiration of the proposed moratorium, so that the Village Board of Trustees can then follow the normal process for amendments to the Zoning Code.

3. The proposed moratorium is a narrow moratorium – it only applies to projects involving a one-family dwelling with a proposed height which exceeds 35 feet (or 27 feet in the case of a "flat" roof pitch) measured from the average elevation of the natural grade along the front of the dwelling. Furthermore, the proposed moratorium is of short duration (six months). Moreover, the proposed moratorium contains a provision (Section 8) for seeking an exemption from the moratorium. Thus the proposed moratorium recognizes property rights.

4. It is difficult to perceive any significant county-wide or inter-community impact from this narrow moratorium of short duration. Indeed, it should perhaps be noted that, in response to referral to the Suffolk County Planning Commission of a moratorium proposed by the Village in 2004 (such moratorium was broader than the current proposed moratorium), the then Chief Planner reported to the Village that such matter "is considered to be a matter for local determination as there is no apparent significant county-wide or inter-community impact" (a copy of the August 23, 2004 letter from the Chief Planner to the Village is enclosed herewith).

5. Revised FEMA requirements (including revised base flood elevations) incorporated in Chapter 62 of the Village Code became effective in or about September of 2009. It has recently come to the attention of the Village Board of Trustees that, where a one-family dwelling must be elevated (to two feet above the base flood elevation) in order to comply with the revised flood damage prevention regulations contained in Chapter 62 of the Village Code, the revised elevation requirement can involve a significant increase in the required elevation. In this connection, under the Building Inspector's long-standing interpretation of the Zoning Code (Chapter 116 of the Village Code), the natural grade along the front of a dwelling may be increased vertically incident to a building permit in order to accommodate the elevation requirement, such that a proposed one-family dwelling having a height of 35 feet measured from the higher finished grade along the front of the dwelling (the finished grade resulting from the vertical increase in the natural grade to accommodate the elevation requirement) may be permitted incident to a building permit. In other words, it has recently come to the attention of the Village Board of Trustees that, where a one-family dwelling must be elevated in order to comply with the revised flood damage prevention regulations, the project can involve a significant increase in height in relation to natural grade.

6. In light of the above-mentioned circumstances, the Village Board of Trustees believes that amendments to the Zoning Code maximum height regulations are necessary in order to adequately control the height of one-family dwellings and adequately balance the rights and interests of property owners, the neighborhood and the community under such circumstances. The purpose of the proposed moratorium is to maintain the status quo pending an opportunity for the Village Planning Commission to complete the planning work and for the Village Board of Trustees to consider such planning work. The alternative is to allow building permits (and other approvals) to be issued for one-family dwellings involving a significant increase in height in relation to natural grade during the period of the proposed moratorium (by not enacting a moratorium). A decision to allow building permits (and other approvals) involving such significant increase in height to be issued during such period (a decision not to enact a temporary moratorium) would result in a permanent impact on the neighborhood and community from the construction permitted by such building permits.

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7. A decision as to whether to enact or not to enact the proposed moratorium involves a legislative decision by the Village Board of Trustees. In making such decision, the rights and interests of property owners, the neighborhood and the community should be considered. In making such decision, the standards established by judicial precedents should be considered. The Village Attorney has informed the Village that there are ample judicial precedents which support a conclusion that the circumstances are sufficient to justify enactment of the proposed moratorium.

8. A decision as to whether the circumstances are sufficient to justify enactment of the proposed moratorium involves a legislative decision by the Village Board of Trustees. It is respectfully submitted that this narrow moratorium of short duration should be considered to be a matter for local determination.

9. In any event, the Village respectfully requests that the Suffolk County Planning Commission act upon this referral at its meeting on October 1, 2014.

Very truly yours,

Mark Epley
Mayor

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COUNTY OF SUFFOLK

STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

THOMAS ISLES, AICP
DIRECTOR OF PLANNING

DEPARTMENT OF PLANNING

August 23, 2004

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Village Clerk
Inc. Village of Southampton

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VILLAGE CLERK
SOUTHAMPTON

Applicant: Village of Southampton

Zoning Action: Moratorium with respect to issuance of building permits and other approvals for one-family dwellings which exceed certain limitations

Public Hearing Date: 8/31/04

S.C.P.D. File No.: Sh-04-2

Gentlemen:

Pursuant to the requirements of Sections A 14-14 to 23 of the Suffolk County Administrative Code, the above referenced application which has been submitted to the Suffolk County Planning Commission is considered to be a matter for local determination as there is no apparent significant county-wide or inter-community impact(s). A decision of local determination should not be construed as either an approval or disapproval.

Very truly yours,

Thomas Isles
Director of Planning

S/s Gerald G. Newman
Chief Planner

GGN:cc
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LOCATION
H. LEE DENNISON BLDG. - 4TH FLOOR
100 VETERANS MEMORIAL HIGHWAY

MAILING ADDRESS
P. O. BOX 6100
HAUPPAUGE, NY 11788-0099

(631) 853-5190
TELECOPIER (631) 853-4044