

SUFFOLK COUNTY PLANNING COMMISSION

MINUTES

A regular meeting of the Suffolk County Planning Commission was held in the conference room of the Planning Department, 4th Floor of the H. Lee Dennison Building located in Hauppauge, New York on November 7, 2001.

PRESENT:

Donald Eversoll - Chairman
Robert Martin (Smithtown) Vice-Chairman
Edward Rosavitch (Brookhaven)
Thomas Thorsen (East Hampton)
Linda Petersen (At Large)
Frank Tantone (Islip)
William Cremers (Southold)
Richard London (Village 5000 & Under)
Ronald Parr (At Large)
Laure Nolan (Village 5000 & Under)
Thomas Isles - Director
Harold Withers - Deputy Director

NOT PRESENT:

Louis Dietz (Babylon)
George Dickerson (Shelter Island)

ALSO PRESENT:

Basha Braddish - Counsel
Gerald Newman - Chief Planner
Andy Freleng - Principal Planner
Kathleen Rigano - Planning Commission
Claire Chorny - Planning Commission
Roy Fedelman
Betty Gallagher
Lori Talmage

MINUTES TAKEN AND TRANSCRIBED BY:

Donna Barrett - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 12:15 P.M.*)

CHAIRMAN EVERSOLL:

Why don't we start now. We've been kind to our colleagues, and we'll call the meeting to order at 12:15, I think that's the -- the minutes I'd like a motion to approve the minutes of the October 3rd meeting.

MR. THORSEN:

I'd like to make a correction.

CHAIRMAN EVERSOLL:

Yes.

MR. THORSEN:

On Page 4, the first paragraph, relating to my comments. On the last line it says "Marine of East Hampton." It should be Moraine.

CHAIRMAN EVERSOLL:

Moraine, M-o-r-a-n-i-e.

MR. THORSEN:

Right.

CHAIRMAN EVERSOLL:

Are there any other corrections? That being the case, I entertain a motion to approve.

MR. TANTONE:

I make a motion.

CHAIRMAN EVERSOLL:

Second?

MR. ROSAVITCH:

Second.

CHAIRMAN EVERSOLL:

All those in favor? Any opposed? Any abstentions? (VOTE:10-0-0-0)
Thank you. Tom, any correspondence?

MR. ISLES:

We have no correspondence this month to report back to the Board. Just very briefly, number one is I think I mentioned at the last meeting the Planning Department is required to hold two public hearings per year as per a resolution from the Legislature adopted about two years ago. We're required to have one in the East End of the County and one in the West End of the County. Based upon that we are scheduling the public hearing for November 28th, at 6:00 p.m. at Riverhead County Center to conduct our departmental public hearing. The purpose of the hearing according to the Legislative resolution is to give the Planning Department an opportunity to provide the public with an update of our activities and to be available to answer questions from the general public.

The second item I wanted to note is the Planning Department has been asked to participate in what's known as the Seeds Study, the

Sustainable East End Development Strategy. This is part of the whole initiative to look at transportation issues in the East End and based upon a consortium of the five East End towns. We are participating in that study. Andy Freleng is our representative on the committee. Just to keep us posted, the committee has asked that the Planning Commission be kept advised on this. This is a rather lengthy study that will probably go for about the next two years or so. They are getting their act together at this time. There will be a meeting Thursday night, tomorrow night, in Riverhead concerning stake holders, those with direct interest in transportation issues. And then in March of next year, there will be public meeting called SHERETTS to look at design alternatives. I'll keep you posted as that proceeds.

The next item is just to give you an update on our open space acquisitions which were handled through the Planning Department, Division of Real Estate. This past month there was an acquisition of 300 hundred acres of land as part of the County Open Space Program totaling \$14 million, including the OBI in the Town of the Babylon, which was \$8 million. At this point we've exceeded the expenditures from last year which was a record year for acquisitions \$47 million, so we're on track to break \$50 million this year in open space acquisitions. Next year is much more uncertain, but so far this year we're doing fairly well.

The last item is the Planning Commission is -- serves a role in the review of agricultural districts and must approve agricultural districts that come before the County. Today I would like to have Roy Fedelem, our principal planner, provide a little presentation on Agricultural District Number 5, which is in the Towns of Southampton and East Hampton, which is now in for renewal.

MR. FEDELMAN:

Agricultural districts are renewed every year. And we have the option of renewing them as-is, renewing them as-amended or abolishing them. The Suffolk County Farmland and Agricultural Protection Board has already met concerning this. They have held public hearings, and they have recommended that we submit this Agricultural District Number 5 as-amended, and the amendment is, we are combining Agricultural Districts Number 4 and Number 5. Those are in the Towns of Southampton and East Hampton. So Agricultural District Number 5 will now comprise parcels within East Hampton and Southampton. And you have a summary sheet in your packet. Town of East Hampton, we have 47 parcels with 718 acres. The Village of East Hampton, we have eight parcels with 15.7 acres. Town of Southampton, 354 parcels, 4233 acres. And the Village of Southampton, 20 parcels, 122.5 acres. All together, we're recommended an Ag District of 429 parcels containing 5089.3 acres. Here's a map we have, which shows -- this shows most of -- it shows all of Southampton and part of East Hampton. You can see there's a little bit in the Eastport area, but most of the farm parcels are in the Village of Southampton to the north, Water Mill, Bridgehampton, Sagaponack, in Southampton. And then in the Town of East Hampton, we have some in Wainscott, we have some just north of the Village of East Hampton and a couple in the Village and over in Amagansett. So it was about 3700 acres eight years ago if you combined the two districts. What's happened is we've dropped about 172 acres, and we've added 1700 acres. So it's a positive move for Ag

Districts, and I would like the Commission to recommend to the Legislature, which is the next step, they would have a final determination in sending this up to the State Department of Ag and Markets. Do you have any questions on that?

CHAIRMAN EVERSOLL:

And there is significant tax advantages for this?

MR. FEDELMAN:

The advantages to being in the Ag District, you can apply for Ag assessment, which would greatly reduce your taxes. You don't, however, have to be in an Ag District to do that. You can file an individual commitment, which is eight year commitment, but it rolls every year another eight years. The Ag Districts start and end after eight years, you can get out without penalty. So there's an advantage there. The other advantage is right to farm. If people complain about a farm operation that's doing normal farm practices, the State will go to bat for the farmer, and tell them, look, these are normal farming practices, they're allowed to do them, and you can't complain about them doing normal farming practices. And there's also something on ad valorem taxes. If you're in an Ag District, you can't assess a farm for ad valorem taxes the way you can a house, say they put a water main in. So there's some protection from additional ad valorem taxes.

MR. LONDON:

Roy, is this part of that 30% tax abatement that is available to those in the Ag District?

MR. FEDELMAN:

The tax abatement is based on the product you raise.

MR. LONDON:

Right, the 10-10-10, 10%, 10 acres or more and, like, with horses, 10 or more horses. I know they have that. There's quite a few farms that have taken advantage of that. I don't know if that's specifically what you're referring to.

MR. FEDELMAN:

Well, they can apply for the Ag assessment. And basically you need 10 acres with \$10,000 worth of product to do that.

MR. LONDON:

Okay. That's it then. Thank you.

CHAIRMAN EVERSOLL:

Any other questions? There being no questions, I'd like to entertain a motion to recommend to the Legislature to adopt it.

MR. LONDON:

Second.

CHAIRMAN EVERSOLL:

Any other questions. All those in favor? Opposed? Any abstentions? Unanimous. (VOTE:10-0-0-0)

CHAIRMAN EVERSOLL:

And now we will start the Commissioners' Roundtable. Tom, what's happening out on the East End.

MR. THORSEN:

Well, we're getting our roads resurfaced, so that's pretty nice after a lot of dispute. I'm not sure how the elections went because we're kind of close, and there's a -- there was a referendum up to purchase small lots. Actually, to come up with \$5 million to buy small lots and old file maps and so forth. I think it's mostly targeted for old file maps, a great number of which are in springs. We're expecting a very heavy population unless some of those small undersized lots are acquired. I don't know what's happened to that. I don't know if it's passed or not, but -- I think I heard it was -- it was passing yesterday. That's all I have.

CHAIRMAN EVERSOLL:

Frank in Islip.

MR. TANTONE:

Islip -- actually, I have some news, which some of you may or may not have heard. It's somewhat sad news to a certain extent. Mr. O'Connell as submitted his resignation. Maurice has been the Chairman for 35, 40 years -- 35, something like that.

MR. ISLES:

In 1962 he went on the Commission.

MR. TANTONE:

He's had a conversation with the supervisor, we've all tried to talk him out of it, the supervisor's tried to talk him out of it. It's not anything in particular. I think he's just getting a little bit tired. For those of you who do or don't know him, his legs had been bothering him recently. He's 82 or 83 at this point. So effective probably -- he has told us he wants to Chair one meeting in 2002. So effective right after that, we will probably finalize his retirement rather than resignation, let's put it that way. We are in the process of planning something, I'll keep the Boards apprised for those of you who'd like to attend. That's really all we have in Islip.

MR. MARTIN:

I would like to come.

MR. TANTONE:

I will let you know, absolutely.

CHAIRMAN EVERSOLL:

Bill.

MR. CREMERS:

A few months ago I mentioned that the supervisor was thinking of proposing a five acre zoning plan for Southhold. And then about two weeks it was in the paper that it's kind of fading away, because the farmers in the Farm Bureau were up in arms over the five acre zoning. And she was going to come up with a new plan and announce that this week, which I haven't heard the new plan, but that may fade away too

because the supervisor lost her race yesterday and lost one council seat. So that's where we stand right now.

CHAIRMAN EVERSOLL:
Ron.

MR. PARR:
I'm sorry to hear about Maurice. I'm looking forward to hearing from you as to any arrangements you made.

MR. TANTONE:
Just as a quick aside. One of the first things I was told by the supervisor when I was appointed was if you're ever in doubt, just look down the end of the table and do what Mr. O'Connell does. That was the one piece of advice.

CHAIRMAN EVERSOLL:
Wise.

MR. PARR:
I'm glad you listened to him last time. That's a little personal thing. That's all I have to say.

CHAIRMAN EVERSOLL:
Linda.

MS. PETERSEN:
Things are quiet in Brookhaven. The same people that have been there were reelected, so I'm told that they'll be proceeding with a lot of new land use procedures and focus on the land use issues in Brookhaven. So it will be interesting to see what happens, and hopefully things go well.

CHAIRMAN EVERSOLL:
Ed.

MR. ROSAVITCH:
Nothing at this time.

CHAIRMAN EVERSOLL:
Rich.

MR. LONDON:
I just have a health situation I think that should be made known here. As a matter fact it was asked that I do bring it up. As you know, I used to always talk about West Nile Virus. Well, that's now passed until next spring because we've had our first heavy frost. Unfortunately another problem has come up, and it's in the Loft Road or Loft Avenue, area off Brookside and Old Willets Path in Smithtown. Apparently rabies has been found in bats. What I am told is there was an old grist mill that was being torn down and refurbished at Blydenburgh Pond, the lake there. And by doing that, there's a roost of thousands of bats that have been living there for a number of years, somehow got hold of the virus, and now they're infected. And there was one lady who reached into her feed tub for grain to feed her horse and to pour the scoop of grain one day and she was bit in the

hand by one of these bats, which immediately, she had the sense to cover the bucket over to capture it. And then went to the Department of Health, and they quickly autopsied it and found it to be positive. Within six hours she received the gamma globulin, which is the medication that is give for rabies. And now that's been made public and known that this is around. If you have one mammal with rabies in the vicinity, you have thousands, especially when they're out in the wild like this. So what you have to do is take into account any nocturnal-type animal that you see in the day time, keep your pets away from and your kids as well as yourself, because you cannot survive rabies if don't get medicated and treated probably. That's the only thing I have to say, except that the Board of Health, I would have thought, would have made it, you know, known in the media so far, but we haven't seen anything. But they're the one who suggested it be made known. So they haven't printed it. That's all I have.

MR. MARTIN:
Nothing at all.

CHAIRMAN EVERSOLL:
Nothing from Amityville other than the fact that, I guess, they're going to through with the acquisition the park on Montauk Highway along with the assistance of the County. So taxpayers in Amityville would like to thank you all of you here at the County. Okay. Let's -- Andy.

S-EH-97-09.1 Subdivision application of Maplehurst Farm.

MR. FRELENG:
Okay. Welcome to the 21st Century. We're working on our Power Point presentations for the Commission meeting. The first matter to come before the Commission is the subdivision application of Maplehurst Farm. This is coming to us from the Town of East Hampton. The jurisdiction for the Commission is that the subject property is within 500 feet of the shoreline of East Harbor. The applicants are proposing the subdivision of approximately 21 acres of land into four lots in the A-2 Residence Zone in the Hamlet of Springs. The minimum lot size in the zoning category is 84,000 square feet. The proposed map is not being processed pursuant to 278 cluster provisions. The intended lots range in size from 84,000 square feet to 638,641 square feet. Lot 3 or the largest lot, has about 15 acres, and that is indicated in East Hampton Planning staff reports to be on the table as an offer to sell to the Town. So this largest lot here or the bulk of the property is being offered to the Town. However, the Town staff reports indicate that -- that -- I'm sorry -- the staff reports indicate this it's on an offer, but there is a note on the map here that says that there is no offer to the Town. So we weren't able to clarify that prior to the Commission meeting, so we're just treating this large lot as a potentially subdividable lot. That could happen if even the negotiations were going well, it could always break down. So we're just treating this lot as a potentially subdividable lot. Okay. In November of '97, the Department, on behalf of the Commission, reviewed an eight lot map and rendered a decision of local determination. This was a cluster map, and the cluster was in the southern end of the property. That map offered 38 acres -- 38% of track was proposed as a reserved area. The lot for sale on the

current map would equal close to 70% of the parcel if it was permanently converted to open space.

The parcel is bound on the north by Springs-Amagansett Road. On the east, the property abuts a cemetery and vacant residentially zoned land. This is a small cemetery right here. The rest the land is zoned residential. To the west, predominantly vacant land exists, and some detached single family dwellings are found along the roads and the site is adjacent to Neck Path in to the south. At future meetings we'll have these roads labeled. Okay.

The character of the area surrounding the subject property can be described as an area of lot -- large lot residential development and vacant wooded land. Access to the proposed subdivision is intended via the existing town streets. Lot 4 will front on Neck Path, Lot 4 is this parcel down at the bottom. Lot 1 and 2 are intended to share a common drive easement to Springs-Amagansett Road along an existing cemetery access easement. This cemetery has a easement that runs through this finger here, right here on the map is a small easement and it is proposed that this lot here and this lot take access to Springs-Amagansett Road through the easement. Lot 2 though, as it's designed and by Commission definition is landlocked. Lot 3, the parcel reportedly for sale to the Town is 50 feet of frontage on Neck Path and 15 feet of access frontage along Springs-Amagansett Road, you can see that right up here, the 15 feet and here's the 50 feet of access down below.

The 15 feet of frontage extends back as a flag access strip to the bulk of the lot. Moreover, it dog legs twice, once left -- once right and then left down to the bulk of the property. Staff believes that while the access strip, being some 400 feet long before it dog legs around Lot 2, would be a more suitable access for Lot 2, in a flag lot configuration, than the easement proposed. The 15 feet access would be suitable for frontage for Lot 2, approximately 80 feet shorter than the access proposed and would be a straight run to the bulk of the lot from the street. Moreover, the cemetery access skirts along the wetland system. You can just barely make it out in the air photo, but there is a wetland system in here, and this access runs along the edge of the wetland. So staff believes that continual residential traffic, including fuel oil delivery trucks, service vehicles, passenger cars, that would have the potential to impact the wetland beyond the occasional cemetery traffic that occurs.

Now, the subject parcel is located within Hydrogeologic Zone IV. Potable water to the lots is intended via private well. Sanitary waste is to be collected and disposed of on site with individual systems. The property itself can be characterized as being generally level, unimproved woodland. Soils on the subject property are not considered prime agricultural soils. And as noted, a small wetland is located in the northeast corner. Issues related to the proposed subdivision stem from the Commission's policy on the creation of subdivisions with landlocked lots, that being Lot 2. Issues related -- I'm sorry. Staff is recommending then approval subject to the following conditions deemed necessary for good planning and land use, Lot 2 shall be reconfigured to provide frontage on a public right of way, and the obvious way to do that would just be to widen Lot 2

another 15 feet in both directions and use this as a flag lot access to Lot 2. Lot 1 would then take the access as it is shown. Lot 3 would have 50 feet of frontage on Neck Path. And Lot 1 would also front on Neck Path. And that is the comment, basically a reiteration of Paragraph 4 in the staff report. So staff is recommended approval with that condition.

CHAIRMAN EVERSOLL:
Do we have a motion?

MR. MARTIN:
Move to staff report.

CHAIRMAN EVERSOLL:
Do we have a second?

MS. PETERSEN:
Second.

CHAIRMAN EVERSOLL:
Is there any discussion?

MR. THORSEN:
I'd like to, that 15 feet of access back there in the bigger lot is intended for a trail connection because the Town is anticipating having a trail system throughout this parcel. The other thing that wasn't mentioned was that this is captured in the moratorium on the 10 acres or more of subdivision. And it was released by the Town Board because of the fact that the land would be dedicated to the Town. So this seems to be a very -- to release it from the moratorium. They're expecting 10 acres of open space. So I don't think there's going to be a subdivision on the bigger piece. The other thing is that when you have several lots fronting on a road such as {Old Stone Highway Road} there. It's -- it's -- it has been preferable to us, I think, to have a single access way in serving lots than having numerous curb cuts on the road. So instead of using the 15 foot, if there was some way to utilize that easement area to get access to 2. That's a concern of mine. I don't know if you got some kind of an answer for that.

MR. FRELENG:
Notwithstanding the wetlands (inaudible) the frontage of the public road. The Commission's standard is not to create landlocked parcels, that's what we're working on. So the easiest way -- we weren't aware that this was proposed to be a trail -- that the easiest way would have been just to open this up as the access. You could, even though there is a bend here, create frontage for this lot up here by creating a flag lot.

MR. THORSEN:
Why didn't they create a flag situation?

MR. FRELENG:
East Hampton doesn't -- they have no problem with landlocked parcels. So they create landlocked parcels and then grant easement (inaudible) adjacent properties to road. That's -- that's what they do. We've

been working with them for a long time on that. So the compromises, if you recall, the Commission would require a right-of-way be created and they can put whatever access they want within that right-of-way as long as it's suitable for dedication in the future. So the issue really is the creation of the landlocked lot and then notwithstanding the wetland, this cemetery gets very little use. We drove up, the access road is a gravel road, there's no drainage, there's no curbing, there's nothing there. It's a narrow road. So this access then would have to be improved to some standard I would think so you can get emergency and service vehicles in and out. If you want this amended with the Commission's approval, but that's the rationale of the staff.

MR. THORSEN:

Well, the Town is going to override this, I'm quite sure. But I don't want to step in the way of your policies. I'm going to abstain on this one, I think.

MR. FRELENG:

It's Commission policy.

CHAIRMAN EVERSOLL:

Is there any other discussion? All those in favor? Any opposition? Any abstentions?

MR. THORSEN:

Abstain.

CHAIRMAN EVERSOLL:

I just wanted to state a quote from a great sage, Yogi Berra, who said I always go to funerals otherwise they -- otherwise they won't go to yours.

MR. MARTIN:

Any second yet?

CHAIRMAN EVERSOLL:

Ed seconded it.

MR. MARTIN:

Ed seconded it

MS. PETERSEN:

No. I seconded it.

CHAIRMAN EVERSOLL:

Linda seconded it.

MR. ROSAVITCH:

Martin made the motion, Linda seconded it.

APPROVED (VOTE:9-1-0-0) (Abstention;Thorsen)

S-SD-01-04 Subdivision of Ghassemi Property

MR. FRELENG:

The next map is the map of Ghassemi. This is being referred to us

from the Town of Southold. The jurisdiction to the Commission is that the subject property is adjacent to Long Island Sound and State Route 25. The applicant are proposing the subdivision of approximately 33 acres of land into two lots of the already Resident Zoning District in the Hamlet of East Marion. The minimum lot size in the two zoning categories is 80,000 square feet. The proposed map is being processed pursuant to 278 Cluster Provisions of Town Law, and therefore, Lot 1 is 1.9 acres in size, and lot -- the other lot is 31.8 acres in size. No open space is proposed on the map because they've used the Cluster provision to shift down the size of the lot, Lot 1. Lot 2, the 31 acre lot -- parcel is indicated on the map as PDR land.

Southold staff reports indicate though that no contract of sale has been entered into with Suffolk County by the owner of this property. We understand that the Suffolk County Department of Real Estate did make an offer on the property, but that was rejected. However, that's still listed as currently an active negotiation. So again, for the purposes of this review, Lot 2 is potentially subdividable since they haven't closed the deal yet. The subject parcel is bound on the north by Long Island Sound.

To the east the property abuts agricultural residentially zoned land. To the west a subdivision known as Pebble Beach Farms is adjacent to the site. And the site is bound by Main Road, State Route 5, to the south. The character of the area surrounding can be described as medium lot residential development, agricultural, golf recreation and vacant woodland, golf course. Access to the proposed subdivision is intended via the existing state highway. Lot 1 will front on Main Road. Lot 2 is proposed to take access over a 25 foot easement over Lot 1. Just to -- in the staff report, and if you can't see it right here, there's a 25 foot easement that runs right along the eastern edge of Lot 1 going to the bulk of the lot. An alternate access point exists to Lot 2 in the form of a street known as Long Way. There was no indication on the tax maps that this was a private street. And when we did our field inspection, we drove all the way up this way and there was no indication to us that it looked like a private street.

However, we have learned since the writing of the report that, indeed, it is a private road. So this road, Long Way, is a private road, which may or not grant access to this long strip back here. Okay. So it was the staff's rational -- it still is the staff's rational that if Lot 2 is to be further subdivided that this would be the appropriate access for any lots that are created in here, notwithstanding that they provided a 25 foot easement in the front. Now, the subject property is located within Hydrogeologic Zone 4. Potable water to the lots is intended via private well, sanitary waste is to be collected and disposed of on-site with individual systems. Now, the property can be characterized as gently rolling with a mix of agricultural -- agricultural crop and woodland cover. And soils on the subject property are not considered prime agricultural soils. Therefore, issues related to the proposed subdivision stem from the Commission's policy on the creation of subdivisions with really just poor access. Lot 2 would not have been considered landlocked since there is that other access here. However, the only intended access is this 25 foot strip. So again, moving on the presumption that Lot 2

may be further subdivided if negotiations fall through, staff is recommending approval with the following ten conditions.

And condition number one is that prior to final approval, a covenant indicating the amount of open space and/or yield that is to be accounted for due to the Town Law Section 281 Cluster should be placed on Lot 2. In other words, this is a cluster map. They have accounted for some of the land area to be preserved, in perpetuity because Lot 1 is substandard. So in that way Lot 2 is going to have to take into account that other area, that's another 40,000 square feet really of open space if that's a cluster map.

Condition two, the most appropriate access for Lot 2 is from Long Way. And that in the event that Lot 2 is further subdivided, Long Way shall serve as the primary access and the 20 foot easement over Lot 1 shall be used for alternate emergency purposes only. Like I said, we learned that this is a private road, Long Way, however, if this goes into public ownership or if the development rights are stripped off, this condition would be moot. If that falls through and this lot is to be further subdivided, you can probably yield -- it's 30 acres -- you could probably yield about 14 lots or so on a two acres-zone over. And a 25 foot easement over the front of this lot would not be suitable for that kind of access. It would be interesting how they would subdivide this considering it's long and narrow, you could probably get flag lots coming into the back. So that's condition number two.

Condition number three is that the coastal erosion hazard line be flagged in the field. Condition number four is that the top of bluff be flagged in the field. Condition number five is that no new structure or sanitary facility be constructed within the hundred feet of the top of bluff. Again, presuming that Lot 2 is developed. Condition number six is that within 50 feet there be is a conservation easement -- within 50 feet of the top edge of the bluff. Condition number seven is that no stormwater as a result of any subdivision run down the slope into the water. Okay.

Condition number eight is a requirement that the subdivider acknowledge in writing to the Planning Board that creation of the subdivision in no way commits the County of Suffolk or the Town to any kind of shoreline stabilization. Condition number nine is that all stormwater runoff resulting from the subdivision be kept off the State road down at the bottom. And condition number ten is a standard condition policy as is all of these with the exception of the first two, that is buffer be created along the front of Main Road here in order to preserve any amenities that the road may still have. That's the staff report.

CHAIRMAN EVERSOLL:
Do we have a motion?

MR. MARTIN:
I got a question. If Long Way is a private road, now shouldn't we then have an easement of 50 feet just in case it's (inaudible)? Suppose they can't use Long Way. They don't have -- that easement isn't wide enough to make a road out of it.

MR. FRELENG:

If they can't use Long Way, they don't have Lot 1.

MR. MARTIN:

No. No. You're saying they can't have it. I'm saying suppose they do get the right to subdivide the rest of that land, shouldn't the easement be a 50 foot easement they if they have to use that, they can.

MR. FRELENG:

I would agree with you.

MR. MARTIN:

So what do we do then? And what do we lose by saying that should be a 50 foot easement?

MR. FRELENG:

They'll lose Lot 1 here and they'll probably have to reconfigure somewhere in there. But you're right, I could reword that condition to have it.

MR. MARTIN:

That's right. I think that's very important. That will force that Long Way -- maybe to say, okay, we'll open the road. If you tell them that they can't use the road, then they got no access to it. And we're creating -- not us but the Town -- there's no harm asking for easement.

MS. PETERSEN:

Could you word it in such a manner that if they did -- or if it is given to the Town, that then it's not important that that 50 foot be preserved? Once it's out of our hands, once it's locked up, then revert back so they have full use of Lot 1.

MR. MARTIN:

Well, they could do what they want. They don't -- the reason I say 50 feet is because if you ever want to get state aid for the road, it has to be 50 foot road. You don't have to -- as long as it's 50 feet there for the future.

MS. PETERSEN:

That's a good point.

MR. FRELENG:

I'll reword condition number two to be a 50 foot right of way.

CHAIRMAN EVERSOLL:

50 foot right of way. That's being the amended resolution, is there a motion?

MR. ROSAVITCH:

I make a motion.

MR. LONDON:

Second.

CHAIRMAN EVERSOLL:

Any other discussion? All those in favor? Any opposition? Any abstentions?

MR. CREMERS:

Abstain.

CHAIRMAN EVERSOLL:

One abstention.

APPROVED (VOTE:9-0-1-0) (Abstention, Cremers)

S-SD-01-05 Niamonitakis

MR. FRELENG:

The next one also comes to us from the Town of Southold. This seems to be our week for landlocked lots. This application is referred to as Niamonitakis. Can you say that? Where's Bill? Is that right? Niamonitakas. Okay. Coming from the Town of Southold as indicated, jurisdiction for the Commission is that the subject property is adjacent to Main Road, State Route 25. The applicants are proposing the subdivision of approximately 19 acres of land into three lots in the R-40 Residential Zoning District in the Hamlet of East Marion. Just for informational purposes, the subdivision that we just looked at was up here, right across the street. Okay. Minimum lot size in the zoning category is 40,000 square feet. The map is not being processed pursuant to 278 cluster provisions. The intended lots range in size from 1.3 to 13 acres. Nowhere open space is proposed on the map. Lot 1, however, is indicated on the map as PDR land, Purchase and Development Right Land, so the bulk of the lot, this large parcel here is being proposed for Purchase and Development Rights.

And an existing dwelling is found on the subject parcel roughly in the southeast part of the lot. Here. Okay. The subject parcel is bound on the north by State Route 25. To the east and west and south, the property abuts developed residential land. Okay. The character of the area is basically the same as the previous one; medium lot residential development, agriculture, golf recreation, and vacant wooded land. Access to the proposed subdivision is intended via an existing State highway. Lot 1 will front on Main Road, that's the large lot. Lot 2 and 3 are proposed to take access over a 25 foot easement over Lot 1 from Main Road. I'm not sure if it's clear in the staff report, but there's a 25 foot access easement that runs like this down the property. It dog legs -- dog legs left and then right down the edge of the property to Lot 2 here and this is Lot 3. I should just point out that originally this lot here was a single and separate lot, and what they've done by subdividing off from the parent lot, they're adding land area -- transferring land area to make this lot much larger. Okay.

Take access from a 25 foot easement. Lot 2 and 3 by Commission definition are landlocked. Lot 3 existed prior to the pending application as I noted. The current proposal does not correct the situation of being landlocked, so Lot 3 still remains landlocked. There's an existing easement that grants access across the larger parcel to the house in the back. Okay. An alternate point exists to

Lot 1 in the form of a -- what we thought at the time -- a town street known as Dog Wood Lane. Again, there was no indication that Dog Wood Lane, right here, was a private road. We did our field investigation. It did not appear to be a private road. There was no indication that it was. So Dog Wood Lane abuts the subject property in the southeast corner. And it would appear that a more appropriate design of the subdivision would be to move Lot 2 to the southeast corner of the property and construct a small country lane within a public right-of-way from Dog Wood Lane to Lot 3 and then Lot 2 and Lot 3 could share access to the country lane. So not knowing any of the local circumstances, it would appear that Lot 2 which was created here backing up on these houses -- it would appear that it would have been better to create Lot 2 down here and provide access off of Dog Wood Lane to this lot as well as Lot 2. That would have left this parcel here contiguous and uninterrupted, and this could have been eliminated, this dirt access road here.

You could have created this in a 50 foot right-of-way that could be dedicatable in the future and then you could construct a narrow country lane of whatever specifications the Town wanted. The subject parcel is located within Hydrogeologic Zone 4. Potable water to the lot is intended via private well, sanitary waste is to be collected and disposed of on-site within the individual systems. The subject property can be characterized as being generally level with a mix of agricultural -- agricultural crop and woodland cover. Soils on the subject property are considered prime agricultural soils, which again might be another reason to leave this as a contiguous block and not allow this access to really continue, particularly if it's going into the County program. Staff then is recommending disapproval. And essentially the reasons for the disapproval is Paragraph 4 of the staff report, but that is the creation of this awkward access easement to this lot back here. Again, we don't like these because emergency and service vehicles need to negotiate these angles and this distance. You know, a couple of seconds can matter in a life or death situation. So staff is recommending disapproval. We feel there is a much better design by coming in off of Dog Wood Lane. At the time, again, we did not know that this was a private road. I don't know what the alternative would be if we have had two landlocked parcels on Commission policy.

MR. MARTIN:

What is a small country lane? Describe it.

MR. FRELENG:

The town -- well, the Town of Southampton would define a county lane --

MR. MARTIN:

But what is it? That's what I mean.

MR. FRELENG:

It's basically a narrow road, 18 feet of pavement, it doesn't have curbs and it may have a swell on either side for drainage. But it's a -- it looks like a common driveway except it's a public road within a wider right-of-way.

MR. MARTIN:

In other words, it's the same thing as a flag lot.

MR. FRELENG:

Except it's in a 50 foot right-of-way. It's a street within a 50 foot right-of-way, except the street itself is only 18 feet.

MR. MARTIN:

I just wanted to get the definition of it.

MR. THORSEN:

Andy?

MR. FRELENG:

Yes.

MR. THORSEN:

Is there any difference between the agricultural soils up where they want to build that lot as opposed to where you would like to place it because the soil is better?

MR. FRELENG:

I can't respond offhand. You have the soil map, you could take a look at it. But I think the whole lot -- the whole property, probably with the exception of this piece is not falling as prime agricultural soil.

MR. THORSEN:

It's sort of modeled down there in the corner. So is that a drainage problem down in the -- where you want to put a house?

MR. FRELENG:

I don't know. I can see what your saying down here. This looks like it was road crop.

MR. THORSEN:

Because if that's -- maybe it's draining that way. I don't know.

MS. PETERSEN:

Andy, that white line across, is that where you're --

MR. FRELENG:

This is currently an easement that's going across. They're proposing to -- believe it or not -- to shift the easement over a little bit and perpetuate the easement across the property.

MS. PETERSEN:

Could that be turned into a road to access those two lots?

MR. FRELENG:

This -- Cedar Lane here is a private road. I suppose they could. The issue really is here -- is to create this as a public right-of-way, but that -- that cuts the --

MS. PETERSEN:

Open space.

MR. FRELENG:
-- open space into pieces.

CHAIRMAN EVERSOLL:
Andy, given that Cedar Lane and Dog Wood Lane are private roads and we can't get access from them or at least we don't know that we can get access, is the alternative to put a cul-de-sac coming in from 25?

MR. FRELENG:
Well, you could -- you could bring a curbed-type road in somehow to these lots, that's one option. Lot 2 is probably being put back here for no other reason than to bring it back from the highway. But you could create Lot 2 as a flag lot right here with 20 feet of frontage here. You know, this lot here is a preexisting circumstance. I don't know how you could get public access to it other than creating a street, and that would be the only way to do it is bring in a 50 foot right-of-way somehow into the property.

CHAIRMAN EVERSOLL:
But presumably the lot to the south -- southwest, I guess, that lot or southeast has access to Cedar Lane, right?

MR. FRELENG:
Yes. It's an easement. It's an easement across.

CHAIRMAN EVERSOLL:
So I think a search of that easement would be appropriate to see if for other -- future owners would also have that easement whether or not it runs to that specific parcel. Counsel, could help us on that. Wouldn't that be the case?

MS. BRADDISH:
Yeah.

MR. MARTIN:
Why would we have to do that? Let them do it.

CHAIRMAN EVERSOLL:
No. No. I'm not -- I was just asking. I'm not suggesting.

MR. MARTIN:
Just make that a note on the map.

CHAIRMAN EVERSOLL:
That if, in fact, even though Cedar Lane -- Cedar Lane is a -- Cedar Lane is a private road, it seems to have a preexisting easement that affects this parcel and that access should be taken off of that. I think we're trying to swim up stream with Dog Wood because Dog Wood Lane in that it's not apparent that they have any right to that.

MR. FRELENG:
So you're not going with the staff's recommendation for disapproval?

CHAIRMAN EVERSOLL:
I think we can go with the staff's recommendation for disapproval. However, the recommendation would be that we look at Cedar Lane as the

access point as opposed to Dog Wood. Is that -- I'm speaking for myself. It appears -- I'm a laymen, not an attorney, but it seems to me that there's some access issues that inure to the benefit of -- of the parcel from Cedar Lane.

MR. FRELENG:

So then Lot 2 which is being created would also -- would extend right to Lot 2. The lot being created up here would extend right so they both have access (inaudible)?

CHAIRMAN EVERSOLL:

Yes.

MR. FRELENG:

That cleans it up and still creates two land locked lots and easements.

CHAIRMAN EVERSOLL:

I think we can go ahead, but we can make as a recommendation to him or her, to the applicant, to look at Cedar Lane as a more appropriate point of access.

MR. FRELENG:

Okay.

MR. THORSEN:

Probably what -- probably what they're trying to do here is position Lot 2, all the attributes of the agricultural land, around two sides on it. And it looks like there's more open qualities there than if it were backed up on the -- up on the front there somewhere. But you can get some big buildings up there and maybe that's not the right neighborhood for that.

MR. FRELENG:

This is located here for marketability purposes.

MR. THORSEN:

Pardon?

MR. FRELENG:

I think that this is located here for marketability purposes.

MR. THORSEN:

Right.

CHAIRMAN EVERSOLL:

Is there a motion? Well, there's discussion, you must have a motion.

MR. THORSEN:

I move to motion.

CHAIRMAN EVERSOLL:

Do we have a second?

MR. ROSAVITCH:

I'll second.

CHAIRMAN EVERSOLL:

To approve the staff report, which is a denial -- which is a denial with some recommendation as to how it could be corrected. Is there any other discussion? All those in favor? Any opposition? Any abstentions?

MR. CREMERS:

Abstain.

CHAIRMAN EVERSOLL:

One abstention. So it's unanimous except for one abstention, which doesn't make it unanimous.

DISAPPROVED (VOTE:9-0-1-0) (Abstention, Cremers)

BR-01-77

MR. NEWMAN:

Today we have a few applications on the agenda. The first is in the Town of Brookhaven. This is an application on the Town Board's own motion to rezone an 85.4 acre parcel of land from a single-family one acre category to a multi-family category for the purpose of erecting 282 bedroom units at an overall density of 3.3 units to the acre affecting lands situated at the northwest corner of Granny Road and Overton Road at Coram in the Longwood School District. As a component of this project, there'll be significant preservation of lands throughout the east central portion of the property and this area here where there's significant wetland habitats.

The petitioner will be providing 500 foot nondisturbed buffers throughout these wetland habitats, which are the alleged breeding grounds of the tiger salamander. And in conjunction with this request, those lands will also be dedicated to the Town of Brookhaven. Also, in conjunction with this as related to this wetland area in accordance with State DEC regulations, there will be a 50% -- 50% of the area within a thousand feet of those ponds will be preserved in its open space. That is consistent with DEC regulations. This project will connect to the -- an off-site sewage treatment plant. It's my understanding through discussion with Brookhaven officials that this would be the Bretton Wood Sewage Treatment Plant, which affects lands situated southwest of the subject property.

The land is situated in a compatible growth area. And under existing zoning, this property could accommodate 85 single family residences. A previous application to rezone these lands to an MF-2 for the purpose of erecting 475 senior citizens units at a density of 5.5 to the acre was disapproved in 1999 by the Planning Commission. And in conjunction with this request, the petitioner -- or the applicant in this particular case is under contract to purchase the Tall Tree on the Rolling Oaks Golf Course that comprises 53.7 acres of land. It's situated on the north side of Rocky Point -- of Route 25A, west of Rocky Point Road. The Town will obtain ownership of this and use it for public purposes. A small portion of the property is used for clubhouse and restaurants purposes. The Town will be leasing that out for restaurant purposes and use the clubhouse portion for golf purposes.

That small portion of the property situated in the southwest corner has a small component to the zone for business purposes. The rest is zoned for single-family 1/2 acre purposes. Pending on this property is a 75 unit residential subdivision. I believe the Town officials had significant concerns addressed to them by civic members, and the Town is making an attempt to preserve this as one of the few open areas in golf course areas along the main roadway. The Town plan designates this area for park and open space purposes, so obviously, this would be consistent with that recommendation. It is the belief of the staff that this proposal appears conditionally appropriate in providing public benefits to the preservation of the existing golf course, and also, the substantial wetland habitats on the environmentally sensitive parcel, while preserving considerably more open space for public and private ownership. This is for both parcels with less bedrooms, less school-age children than permitted under existing zoning. And that would also provide a connection to and an upgrade of an existing nearby sewage treatment plant. The staff is recommending approval subject to eight conditions.

First, that there be a limitation on the number of units as proposed, preferably less. If you take the yield under the subject -- the two parcel, there is a yield under existing zone of 160 units. He's proposing 280. So we're talk about 120 unit increase. However, of that -- of that portion the staff is going to be recommending in a subsequent condition that almost half of those be for affordable purposes. So we're talking about -- about a 50 unit increase over and above existing zoning. However, the public benefits associated with this golf course are certainly an overriding condition. Number two, that there will be approval of the State DEC regarding the issuance of fresh water wetlands permits because of the ponds and the wetland habitats of the east central portion of the property. Number three, that there will be an alternate point of emergency vehicular ingress and egress to the property. Number four, that the lands to be -- will be dedicated to the Town of Brookhaven as set forth in the petition, 23.2 acres. Number five, the Rolling Oaks Golf Course will be dedicated to the Town for golf course open space purposes and restaurant purposes. There will be a condition that will be consistent, number six, with the Pine Barrens criteria, in this case that the total on-site clearing and fertilizer dependant vegetation shall not exceed 57 and 15%. Those are Pine Barrens criteria the Commission is required to address. However, this parcel is significantly in compliance with that. Number seven, that 20% of the unit shall be for affordable purposes, that is in accordance with Commission criteria. It is my understanding that -- through preliminary discussion with the Town that the Town intend to provide 28 affordable units or about 10% of the total number. And number eight, that the affordable units shall be appropriately encumbered to ensure long-term affordability. So we're recommending approval subject to eight conditions.

MS. PETERSEN:

I would make a motion.

CHAIRMAN EVERSOLL:

Why don't we have a motion -- let's do this by Robert's Rules. We should have a motion and a second.

MS. PETERSEN:

I would make a motion to approve the staff.

CHAIRMAN EVERSOLL:

Thank you.

MR. ROSAVITCH:

Second.

CHAIRMAN EVERSOLL:

We have a second. Discussion.

MS. PETERSEN:

I think that overall that it's a good plan. The amount of open space we're getting in Rocky Point which has been primarily totally developed at this point. This allows that open space to remain and provide a good public golf course, which we don't have at the moment. I think it's a good plan, and by limiting the development to two-bedroom units, that will limit the number of school children that will be generated from the subdivision and multi-family project. So I think it's a good idea, and I think it's going to work. If everyone agrees.

CHAIRMAN EVERSOLL:

Is there any other --

MR. THORSEN:

Comment, yeah. Jerry, where is the closest commercial?

MR. NEWMAN:

I'll go back to the other area.

MS. PETERSEN:

Any commercial for this being generated? Up in Coram if you follow Mill Road up about a half a mile --

MR. NEWMAN:

112 is over in this area here, right off the --

MR. ROSAVITCH:

Just to the left of that is (inaudible).

MS. PETERSEN:

There's Home Depot there. There is discussion with a food store going into the Home Depot Shopping Center, that was a Pathmark. I'm not sure which one is going in.

MR. THORSEN:

I'm just wondering if you can tie it into the Smart Growth any way?

MS. PETERSEN:

Well, if they brought a bus, they could -- if it were elderly people, they could get a bus up in the center to shop. There is a church, there's three churches in the area. The Town Complex isn't too far, and the Suffolk County Board of Health Services has a huge complex on 112 that I believe they're going to build a new one next door to.

Right? That services some people. I don't know now what was planned. Maybe with the new budget, it isn't planned. But there is a health facility there. I'd say there are a number of -- let's say -- there are a number of services, there's a lot of fast food places up there.

MR. THORSEN:

No -- any walking? Any pedestrians?

MS. PETERSEN:

There is nothing much to walk to. We do have a bike route that's planned that's going from where the Home Depot is now situated, all along Mill Road, down to Smith Point Park. That will pass next year. That will give us a wider shoulder so there -- although there aren't any sidewalks on Mill Road, there will be a wide enough shoulder for them to walk on.

MR. NEWMAN:

There is a bus route on Route 112.

CHAIRMAN EVERSOLL:

Is there any other -- any other discussion?

MR. ROSAVITCH:

I'm just wondering if we could add a comment, not a recommendation, a comment about using Best Management Practice for pesticide use on the golf course since we've adopted that as part of the Planning Commission Policy on all --

CHAIRMAN EVERSOLL:

If you could recommend that to the Town, I think that is appropriate. Is there any other discussion? All those in favor? Any opposed? Any abstentions? Unanimous.

APPROVED (VOTE:10-0-0-0)

SD-01-05

MR. NEWMAN:

Application number two is from the Town of Southhold. This is an application to rezone an unimproved parcel of land comprised of 3.7 acres. The intent is to rezone it from a single-family one acre category as well as a hamlet business category to an entire LB, which a limited business category on 80,000 square foot lots. The type of uses that are allowed in the LB include restaurants, repair shops, hotels, things of that nature. This affects land situated on the south side of Middle Road west of Peconic Lane at Peconic.

In this particular case, the entire frontage of the property to a depth of 380 feet is zoned for R-40 purposes. The remaining southerly portion of the property -- the southerly portion of the property in that area is zoned for HB purposes. We have no information as to what the applicant intends to erect on the subject property. It's the belief of the staff that this proposal appears inappropriate as it constitutes the unwarranted further perpetuation of strip business development along the County Road. It would establish a precedent for further such downzoning along the County Road. The property can be

reasonably developed in accordance to existing zonings. It contravenes past actions of the Town Board in diminishing strip commercial zoning throughout the Route 48 corridor and is inconsistent with the Town of Southold Route 48 corridor studies, which calls for the preservation and enhancement of rural and scenic vistas throughout the roadway. The staff recommendation is for disapproval and this application is also recommended for disapproval by the Town Planning Board.

MR. THORSEN:
I move to staff recommendation.

MR. LONDON:
Second.

CHAIRMAN EVERSOLL:
Any discussion? All those in favor? Opposed? Abstain? Unanimous.

DISAPPROVED (VOTE:10-0-0-0)

SM-01-07

MR. NEWMAN:
Application number three is from the Town of Smithtown. This is a repeal of one that we considered back in 1996. This is a proposal to the -- appeal to the Zoning Board of Appeals for variances to diminish parking from 366 spaces to 215, as well as to maintain the existing office building height of 50 feet whereas the code requires 35 feet. This affects land situated on a three point -- 3 acre parcel of land at the northeast corner of Motor Parkway and Marcus Boulevard in the light industrial district at Hauppauge.

The petitioner is currently providing approximately 100 spaces on about a one acres piece. To the east of the subject property the intent of this application is to sever this off, and as you can see in the staff report, there were a couple of requests on that adjoining piece to the east for fast food purposes. And the Commission has denied both of those. And as I mentioned previously, this is the exact same application that was considered by the Planning Commission in May of '96. At that time it was the diminishment from 384 to the 215, so it was just a slight modification. We're recommending denial for the same reason.

CHAIRMAN EVERSOLL:
Do we have a motion?

MR. ROSAVITCH:
I motive to staff.

MR. TANTONE:
Second.

CHAIRMAN EVERSOLL:
Any discussion? All those in favor? Any opposition? Any abstentions?

MR. MARTIN:
I abstain.

CHAIRMAN EVERSOLL:
One abstention.

DISAPPROVED (VOTE:9-0-1-0) (Abstention; Martin)

CHAIRMAN EVERSOLL:
There being no other business, do we have any old business? Any new business?

MR. ROSAVITCH:
I was wondering if the staff could put together a list or do some research and provide a list to the members of all the proposed generating plants that are being proposed in Suffolk County so that we know where they're going, because we read in the papers that there's one going here, one going there. I don't know whether you -- whether Tom has an idea of where they all are right now. But just to let the staff put something together and send it out to the members so that we know where all these proposed power plants are going.

MR. ISLES:
We could provide a list of the ones we're aware of, which I think are most the them, but we'll provide that for you.

CHAIRMAN EVERSOLL:
Any other items?

MR. ROSAVITCH:
It would be nice if we could bring it back to our Towns and let them know what's going on around them.

CHAIRMAN EVERSOLL:
There being no other business, I entertain a motion to adjourn.

MR. LONDON:
Motion.

MR. ROSAVITCH:
Second.

CHAIRMAN EVERSOLL:
Any abstentions? Thank you, and we'll see everyone after the Christmas holidays. Have a nice Thanksgiving. And young lady, you're fingers must be tired.

(*THE MEETING WAS ADJOURNED AT 1:30 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY