

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 6, 2002.

PRESENT:

Donald Eversoll (At Large) Chairman
Carl Berkowitz (Brookhaven)
Thomas Thorsen (East Hampton)
Linda Petersen (At Large)
Richard London (Village 5000 & Under)
Richard O'Dea (Riverhead)
William Cremers (Southold)
Nancy Graboski (Southampton)
Laure Nolan (Village 5000 & Over)
Louis Dietz (Babylon)
Thomas Isles - Director
Basia Braddish - Counsel

ALSO PRESENT:

Gerald Newman - Chief Planner
Andy Freleng - Principal Planner
Claire Chorny - Planning Commission

MINUTES TAKEN AND TRANSCRIBED BY:

Donna Catalano and Lucia Braaten - Court Stenographers

(*THE MEETING WAS CALLED TO ORDER AT 12:10 P.M.*)

CHAIRMAN EVERSOLL:

We'll get you ladies to work. I'd like to call the meeting to order and ask approval of the minutes of the previous two meetings

MR. BERKOWITZ:

Mr. Chairman, the section that I'm quoted in there was -- they weren't clear on what I was talking about, and there were some question marks. I didn't a chance to correct it for them. If I can send them the corrected copy for that.

CHAIRMAN EVERSOLL:

And this was for September or October?

MR. BERKOWITZ:

The last set of minutes.

CHAIRMAN EVERSOLL:

The October minutes. With that proviso, we'll have a motion on the September minutes. We'll do them one at a time. September minutes.

MR. THORSEN: No, October minutes.

MS. GRABOSKI:

I had a couple of corrections on the minutes too, if I could just submit those also.

CHAIRMAN EVERSOLL:

For September or October?

MS. GRABOSKI:

I think for both. But anyway, for September which we're working on now.

CHAIRMAN EVERSOLL:

Yeah, why don't we take September first. I have a motion to approve the September minutes as amended by Nancy Graboski. Any -- MR.

DIETZ:

I make a motion.

MR. O'DEA:

Second.

CHAIRMAN EVERSOLL:

Any discussion? All in favor? Opposed? Unanimous. As to the October minutes. Do we have some suggestions? Nancy, you will submit yours to them? Okay.

MR. THORSEN:

I just have one little thing here page 17, the one, two, third, Thorsen down, the last word the footage that should be frontage relating to the building program in Water Mill. And we're talking about protecting the frontage. So the word frontage inside of

footage.

CHAIRMAN EVERSOLL:

Okay. Carl.

MR. BERKOWITZ:

I brought the September minutes, but I forget to bring the October. I could just mail in that paragraph about MAG-LEV, because I saw they had some questions in the minutes.

CHAIRPERSON EVERSOLL:

Fine. With that proviso, is that acceptable? We can do that. Thank you. Do we have a motion on that. Motion.

MR. O'DEA:

Second.

CHAIRMAN EVERSOLL:

All in favor? Opposed? Unanimous. Thank you.

MR. ISLES:

Okay. We have one piece of correspondence that I'd like to bring to your attention this month. I received a letter from the owners of the Bellport Factory Outlet location in Brookhaven Town. And what they've requested is the ability to clear a part of the right-of-way of Sunrise Highway owned by the State of New York in order to improve the visibility to the outlet center. Specifically this would apply to the north side of Sunrise Highway where currently there is a vegetated area or buffer. They need the permission from the State of New York in order to do the clearing. I've asked for a copy of their plan. They asked me to send a letter of support to the Commissioner of DOT in Albany. I've asked for a copy of the plan so we can actually look at it, but I did want to bring to your attention. At this point we haven't taken any action on it. It will obviously or may have to involve some review I would assume by the Town of Brookhaven. But I think it does trigger a little bit of a policy question in terms of where there are publically owned, in this case, State of New York owned, wooded areas and so forth that do provide somewhat of a buffer and screen along the highways. This is, I think, is somewhat significant in terms of allowing private property owners to clear them and may have a detrimental effect. Brookhaven -- pardon me, the Bellport Outlet Center does have a sign to identify the properties. We appreciate their interest in renovating an reoccupying the buildings and so forth. We think that is very positive. This to me is one that causes a pause though. And I just wanted to bring that to your attention, I'll let you know when I do receive the plan and what the outcome is of that one. The Planning Commission as far as I could determine at this time does not have a formal role in this matter. The jurisdiction is strictly with the State of New York.

Just a couple of other things to bring to your attention from this month. The Suffolk County Planning Federation held a training seminar last week on October 30th. It had an outstanding response, where typically we get around 75 attendees at these conferences, we had in excess of 200 people attending the conference. We had a nice mix of town and village and County members who attended the meeting. New

York State Department of State and New York State DEC provided much of the training that was presented at the session. And we supplemented with that with local staff as well. So it was a smashing success, bigger than we have ever had before. We will be doing another one next October that will be similarly as being training for primarily oriented for Planning and Zoning Board members so north.

Secondly, I will also note that the New York Department of State was, as I indicated, at this conference, but they used that as an opportunity to reannounce what they had announced up in Albany the week before, and that is that Suffolk County was awarded one of four awards in New York State for 2002 under the Quality Communities Program. The banner that's hanging by our kitchen back there was given by the Lieutenant Governor. And the Assistant Secretary of State was there with County Executive Gaffney last week. And this is specifically for the County's Affordable Housing Program. This was done as part of a program to recognize innovative smart growth type ideas. So we're very pleased with the award, and here again, another aspect of what happened at the Federation meeting.

I just want to give you a little bit of an update too on the Suffolk County Smart Growth Committee. The Smart Growth Policy Plan was completed by Steve Jones about two years ago. The Legislature then received that plan, and following that, the County Executive and the Legislature came up with a committee for the purpose of actually going through each of the recommendations of the Smart Growth plan and then prioritizing those and providing guidance back to both the Executive and Legislative Branch on how to proceed with -- in terms of the Counties role in implementing Smart Growth. The committee has been meeting basically on a biweekly schedule at this time. We understand fully the powers of home rule and fully respect that in terms of town and village authority, but I think we also understand that there are matters where the town -- the County has a very direct role in land development practices including with the Suffolk County Health Department, for example, transfer of development rights, thing like that are discussed. So that committee is progressing, and probably by early next year we'll have a report from that committee.

I'll just make note too that we have -- as far as the Planning Department's concerned, we have a number of projects ongoing, but in terms of municipal assistance, we have provided assistance recently to the Town of Babylon with a project in Wyandanch. The Supervisor asked us to assist on it to some extent. Also, with the Town of Southampton, I'll just note that they are embarking on a plan for the Gabreski Airport Facility site. It's a facility owned by the County. We're working cooperatively with the Town of Southampton on the development of the plan. And the idea is that the County still has the right to develop the property and utilize it and so forth, but we want to do it as -- as in a manner cooperative with the Town of Southampton. What they're seeking to do is to ensure that it's not inconsistent with their goals, with their planned development district. They have approved the funding for that, so hopefully that will progress in the next new months. We've also attended a meeting with the Town of East hampton on a management plan for the Shadmore property. So those are just some of the examples of municipal assistance.

I've provided to you today a copy some statistics provided by Peter Lambert, our Senior Planner for economic and demographic research. And this is something we -- Peter pulls together quarterly. And just to give you a little update on current overall statistics in terms of economic employment activity in Suffolk County and Nassau County as well. I'll make the point too that the Planning Department has appeared before both the Executive Budget Committee as well as the Legislative Budget Committee. I'm pleased that the County Executive has put in a budget that keeps intact the planning programs we now have in place as well as with the Real Estate Division. The Legislature generally concurred the Budget Review Office. And so we're pleased with the process thus far, understanding the seriousness of the budget situation at the time.

And just the last thing I wanted to note is that we have provided to you a copy of a scholarship announcement, and this is under the Arthur Kuntz Memorial Scholarship. This is one that's done by the American Planning Association. We've been doing it now for eight or nine years. The scholarship is in the amount of one thousand dollars to a student of planning, environmental science, engineering, architecture. We unfortunately don't get a large response to this. So any way that you know that this can be communicated to residents of your town, that would certainly be appreciated. The deadline is, I believe, December 13th, and the scholarship award is done sometime in February or March. That's it.

CHAIRMAN EVERSOLL:

Thank you, Tom. So with that, we'll go to the Commissioners' Roundtable. Tom, you had happy Halloween out in East Hampton.

MR. ISLES:

Very quite on my street. No one showed up, except my own grandson.

CHAIRMAN EVERSOLL:

Congratulations.

MS. GRABOSKI:

I hope you had some candy for him, Tom.

CHAIRMAN EVERSOLL:

Nancy.

MR. THORSEN:

The adults started eating it up. Nancy.

MS. GRABOSKI:

I know just what you mean. Just a comment. One of the items that was on the ballot yesterday was the community preservation fund, which I understand today, although maybe it's not official, appears as though it was approved in all of the five eastern towns. So that's kinds of a relief on the one hand, and it's very encouraging on the other because, I think, I'm understanding that that will extend that transfer tax now through the Year 2020, is it?

MR. ISLES:

Yes. And really what it does do is it enables the town to bond against those future revenues to accelerate purchases and probably use the environmental facilities corporation for the bonding which provides a discounted interest rate. The interest rate presently is about 2%, so borrowing the money and paying 2% will be a better deal than gambling with the real estate market and the appreciation that's been much greater than 2%.

MS. GRABOSKI:

Absolutely. The only tricky thing about that is that the EFC money is open space money for purchase of open space, but not necessarily for the purchase of development rights off of farmland.

MR. ISLES:

It can be used for that, although it's -- we have an application that's been approved for that. Whether -- the implementation of it is yet to be determined, whether the conditions that are placed on it by the EFC are acceptable for the property owners will be -- it's a good point, yeah.

MS. GRABOSKI:

I hope -- I hope it will be. I just had a question for you, Tom. I'm not sure if this is the time to bring it up. I was just curious, on that scholarship application, do you happen to know if that's sent to the local high schools in the County or on the Island or?

MR. ISLES:

Well, it's certainly sent to all of the colleges.

MS. GRABOSKI:

To the colleges, okay. So it would somebody who's already in college then conceivably who's --

MR. ISLES:

Right. I don't know if Andy -

MR. FRELENG:

They need to complete the first semester of college.

CHAIRMAN EVERSOLL:

Tom -- Bill, I'm sorry.

MR. CREMERS:

I wasn't around, I was in Spain for the months, but anything that happened I, you know, have to read in the local papers and everything has to do with the budget. So there's not much to report on that. But there's a battle going on between the Supervisor and the Town Board as far as the budget is going on.

CHAIRMAN EVERSOLL:

Anything from Riverhead?

MR. O'DEA:

Master plan is moving along. The Planning Board starting tomorrow night has reached the Planning Board hearing level. And it's about

the main topic.

MR. BERKOWITZ:

Nothing to report directly related to planning, but I became a grandfather of twins last week.

CHAIRMAN EVERSOLL:

Congratulations. You'll learn all about 529 programs.

MR. BERKOWITZ:

Yes, I will.

MS. PETERSEN:

The town of Brookhaven yesterday passed its environmental bond that was for \$20 million which will allow us to purchase open space and environmentally sensitive parcels and use it to leverage -- get other monies as matches. So we're very very pleased. We think this will go along way to preserving open purchase space in our township.

MR. LONDON:

One issue that came up with the Village of the Branch, a letter went out to all the residents mentioning there was going to be an open discussion about the desire of the village to erect a communications tower for wireless. So I spoke to our Director Tom Isles and got in writing some information that was pertinent to the laws and requirements for that. Then I showed up at the meeting, about 150 residents, about 140 of them were screaming, quite angry. I mean, it was like out of a movie with Norman Rockwell, you know, standing there. Bottom line, one the people in the group was Patrick Halpin, our last County Executive, and I pull out my letter, and I identified myself as being on the Commission for the Planning Commission of Suffolk County, where upon he makes notice loud so that everyone could hear stating that he didn't know there was a representative for the Villages. And I said, well, yes there is, and I have been here for nine years, so it's been that long. And then I said, by the way, do you know Laure Nolan? And he said, oh, of course, I know her, she's wonderful. I said, well, she's the representative for Over 5000 in the villages. So that was the end of it. But he sort of took the wind out of my sail, because then when I went on to talk about things like alienation of parkland, they didn't seem to get it, you know? So I just suggested to them before they do anything they communicate with the Suffolk County Planning Department to find out what they can and cannot do. Basically, they had three representatives there; AT&T, that other one that works by voice --

MR. O'DEA:

Nextel.

MR. LONDON:

What's it called?

MS. PETERSEN:

Nextel.

MS. GRABOSKI:

What about Verizon?

MR. LONDON:

And Verizon was another one that was there. So then they were more concerned with how much they're going to charge each person to be on this 120 foot tower. And the tower was supposed to be right adjacent to state land, state highway, Route 111. And that's a no-no also. I mean, you just can't, according to the information I had, do that. Well they just didn't seem to get it or what have you. But it was only left in the talking stage. A lot of people were complaining. It really ended up coming down to how much money the village would reap in rentals from hanging their dishes and antennas on these towers. They didn't care about anything else. That's all I really have to tell you about today.

MS. NOLAN:

Well interesting, both the Town of Huntington and the Village of Asharoken are also dealing with the cell tower issue. I think that's something that everyone is dealing with in trying to find ways of putting them public property to keep them out of residential areas or whatever. But if there is a package like that, I'd like to see it also. And there's really nothing new -- there was one other thing you said that I wanted to react to. I don't know. I had a thought and I lost it so.

CHAIRMAN EVERSOLL:

That happens more frequently with me.

MR. DIETZ:

Nothing on Babylon, but I missed the last meeting because I was at the New York State Planning Federation Conference. It was very worth while. I brought the brochure of how they break it down in three days. And next year it's going to be in Lake Placid. So if anybody wants to -- hasn't been there and just wants to see how they schedule the three days, I'll leave this up here. That's all I have, Mr. Chairman.

CHAIRMAN EVERSOLL:

I spent the last -- I missed the last meeting, I spent it with the County Executive touring open space on Fishers Island, Tees and Greens, it's a spectacular golf course, and I was very happy to be invited to play this year. Unlike Tom -- unlike Tom's East Hampton, in Amityville, things always get excited -- exciting around Halloween. So we had an active -- active Halloween. The town -- or the Village has acquired some -- approximately an area along Merrick Road, Montauk Highway, on the south side next to one of the canals for a waterfront park. They demolished some buildings that were multiple use occupancy, legal or otherwise. So it's now open space. And they're doing some plans to further enhance it to have a public presence -- public presence there. So.

MR. ISLES:

I think that was done with the County funds.

CHAIRMAN EVERSOLL:

Yeah, it was done with the County funds. I forgot to mention that, Tom. But thanks to the Greenways Program and -- that it was active recreation. So I guess, Andy, you're up.

MR. O'DEA:

In the cell tower situation, and Tom probably knows, the Department of State has a very interesting booklet, and they'll give you a CD with it as far as zoning regulations and everything else on that subject. Smithtown has one. And the technology that's out in the field now is getting away from these cone type of situations where possible. I read a week or two ago there's a -- there's a church that's going to have one in the steeple.

MS. NOLAN:

There are a couple of them. There's one in Northport that's being considered, but it's meeting with tremendous community opposition, because there's a nursery school in the church. And no matter what you tell people, they won't believe that --

MR. O'DEA:

Microwave effect and stuff like that.

MS. NOLAN:

And yet you can't really consider health under the FCC guidelines, you're not allowed to consider health.

MR. O'DEA:

The other one that they're using is now a flagpole set up that exists in Baldwin today and Riverhead, and we at least have one application that involves that type of technology. That's it.

MS. GRABOSKI:

I just wanted to chime in on that too. It's interesting how around this table periodically there are issues that come up that really every town is grappling with. And to the extent that, you know, these developers or people go from one town to the other to the extent that we all have good tough standards, I think it's -- you know, I think it's really important with regard to the most -- to the ones that were brought up today, the two people across the way were speaking about, Southampton too has had applications coming in for cell towers. We did put in a site plan special exception component in the zoning code for review. And, you know, there are lots of impacts; you know, the visual impact not being the least of them. And then there's an issue with the fall zone. The most recent application in Southampton was located near the railroad station. I believe it was the railroad who wanted to put the tower up, and it was directly across the street from a school. So there was concern about the fall zone. And there are also issues with the public, you know, with a public utility or, you know, with a company like that, and are they subject to the rules of the municipality.

So, you know, I mean, they are tricky issues. You know, we hear arguments from, you know, from the communication companies about how vital these are to -- you know, to provide communication links, you know, for emergency people; Fire and Police Departments and so forth, and how they have to be located within a certain proximity to each other in order to relay the signals adequately. And some of that information may be true, but sometimes it's difficult for planning staff who are not really technical people in those areas to know how legitimate those -- you know, those sorts of -- sorts of assertions

are. And while we certainly want to meet the needs, you know, we want to be doing that smartly. So if there's information out there at the County -- if there's any ability --

MR. ISLES:

Well, I will point out that the Town of Smithtown did do a pretty good report on that. They're probable the ones that have done the most recent report on it that I can recall. And then from that, they changed the code. I can certainly -- we have contacts with DOS in terms of some of the -- the CD that Dick referred to and some of their information. We can get copies of that. We'll do a search in the towns too.

MR. LONDON:

I might just add that this company that came to the Village of the Branch first was denied by Smithtown, so that's why they came to us, all right? So, I mean -- and they're pretty savvy these people, they have a polished performance. They come, in they know who's going to answer what question, they know all the street names, elevations, they know more about your community than God, I mean, literally. They can tell you how thick the paving is in your street. And I mentioned to them that from where the site was they exactly wanted to place this, and it was only going to take up a 60 by 60 square foot area. Three tenths of a mile north right on 25A is this gigantic, what looks like a cement water tower. And I said, well, what about that, then everybody, you know, starts applauding. Well, then the fellow who's moderating mentions that this was a considered point, but it's about 200 and some odd feet beyond the radius that they need to do something -- to do something else. So it's like, you know, you have to be exactly in the cross hands of where they want, you know, this tower. And they also mentioned, and this goes back to Richard O'Dea, what he mention before, they claim now they are new one foot tall antennas that clip on vertically right on to the side of these towers so you don't even see them as a projectile coming off, no big dishes or anything of that nature. But it still, you know, from what they explained, for each company they needed three of these one foot rubber whips, towers, whatever you want to call them, antennas. And you know, three companies times three is nine right there, then you have every 20 feet you have to have the aviation red lights, you know, blinking all the time. So before you know it, you do have quite an eyesore. And yes, we were told you can't even question the question of health. That's not even allowed. So you have to just presume that's all been taken care of. But the bottom line is there has to be some kind of, you know, restrictions on this stuff, otherwise you might as well just throw one up on everybody's chimney.

MR. ISLES:

In fact, one of the sessions we had last week on -- was SEQRA community character issues. And one of the Albany staff members of DEC came down, because a lot of times that could be very difficult on something aesthetic something intangible as to how do you assess the impact on the community character, what role does that have in the town or village in terms of doing their SEQRA review? And that was very heavily attended, that session. So it was pretty helpful. We have copies of that material too that I can send out to the members as

well.

MR. O'DEA:

In that regard, Riverhead, let's say about two years ago, had a application in the Baiting Hollow Boy Scout Camp, which they pos decked, and it went to the courts. They were up held, and upheld in the appeal process. So it's like shot out of the network. On another issue, which is, I guess, the largest tower we have is sitting on the KeySpan property, which how it got there, mysteriously, but it used to be just a navigational tower, and it became a guide very tall tower. That paperwork is kind of hard to find in Town Hall. In the KeySpan property, that's probably the biggest news, which I neglected to mention, there's a deal just prior to Election Day of \$18 million purchase by the state or whoever in 300 acres retained is farmland bidding process, how that's worked out with the farms, and 200 acres of some sort of parkland. So it happens to be in the receiving area of the master plan. So it's 500 acres less in receiving, which comes in. We'll have to work on that. It's a good piece of land.

MS. GRABOSKI:

Just to add -- add to what you said too, in Southampton, KeySpan also put up a large tower in front of the smaller one that they had that was more to the rear of the property. The residents who are in very close proximity went to the Town, and they evidently went through no application process. They just considered themselves with the ability to put this tower up in view of the fact that they're a public utility, I guess.

MR. ISLES:

Did the Town challenge it?

MS. GRABOSKI:

They did. And they've -- they've agreed to move it back further away from the road. I mean, right now it's -- it's -- if you know where their plant is on the Montauk Highway in Bridgehampton, it's, you know, fairly close to the road. It's very visible. I mean, you can see it -- I can see it from -- I live over on Mitchel Lane just about three miles across the way, but it's very flat land, and you can just look right across there. So here we are in the, you know, in Town Government with zoning standards holding, you know, holding people accountable who are going through the process, meanwhile, the railroad and LIPA, you know, these other -- other entities are coming forward. And it's -- it's a very difficult situation, bottom line. MR. O'DEA: Firehouses are a main -- firehouses like cell tower for the revenue. The one in Baldwin, in fact, is the flagpole type. I mean, this is big wide fire pole. And it's revenue for the fire -- it's right in front of the Fire Department.

MR. ISLES:

They often have towers in fire stations.

MR. O'DEA:

Yeah.

CHAIRMAN EVERSOLL:
Anything else?

MS. GRABOSKI:
They have other users who come in and you know --

CHAIRMAN EVERSOLL:
Okay. Andy.

(SUBSTITUTION OF STENOGRAPHER - LUCIA BRAATEN)

S-RH-02-04

MR. FRELENG:

First regulatory matter before the Commission is a subdivision referral of Glenwood Landing Section 2, this is referred to us from the Town of Riverhead. Jurisdiction for the Commission is that the subject property is adjacent to Old Country Road, otherwise known as County Road 58. The applicants are proposing the subdivision of approximately 47 acres of land into two lots in the Industrial A Zoning District in the Hamlet of Riverhead. The minimum lot size in the zoned category is 40,000 square feet. The map is not being processed to 278 cluster provisions, and the intended lots range in size from approximately thirteen acres to 34 acres, two lots, thirteen and 34 acres. No open space or recreation area is proposed on the map.

As indicate in the material submitted to Commission, lot two is intended to merge with the adjacent mobile home park. That is the intention of the subdivision as relayed to us from the Town. The property is bounded on the north by County Road 58 and some commercial properties. Also, to the west the subject property abuts the Riverhead Raceway property, otherwise known as World Life Entertainment Incorporated. To the south, the site abuts the Long Island Railroad right-of-way, and the subject property bounds a mobile home park, commercial and agricultural lands to the east, ag land down here at the bottom.

The character of the area surrounding the subject is a mix of commercial and industrial sites, high density mobile home parks and woodland. The subject parcel is located within Hydrogeologic Zone III, potable water to the lot is intended via, at this time, private supply, but I think Suffolk County has a main and they'll probably extend the water. It wasn't indicated in the application. Sanitary waste is to be collected and disposed of on site with individual systems. Soils on the site consist of Carver series soils which are not considered prime farm soils in Suffolk County. The subject parcel is bisected by the New York State Wild, Scenic and Recreational Rivers boundary. Roughly -- or exactly where the boundary bisects the property is where lot one and lot two is supposed to be created. As you can see on the tax map which is provided in the staff report, the river is way down here, but jurisdiction for the New York State DEC for Wild, Scenic and Recreational Rivers is a half a mile, so roughly -- a half a mile is roughly up here in the property. Okay.

The subject property contains state regulated freshwater wetlands.

This is a regulated freshwater wetland system as well as unregulated wetland which is a depression with wetland vegetation in it. We did not get a chance to run out here. This also looks like a depression. But it's not shown on the subdivision map as a wetland. The property is not locate in a Pine Barrens region or in a special groundwater protection area. The access for the proposed division is intended via frontage on County Road 58. Lot one is to provide a 30 foot wide 900 foot long access easement to lot two running right along the west side here.

So effectively by Commission standards, lot two is a landlocked parcel. And should lot two not be conveyed for whatever reason to the mobile home park, lot two would wind up being a landlocked parcel, which is contrary to Commission policy. This property below the Wild Scenic and Recreational Rivers boundary would still be subdividable under DEC regulations. So staff was concerned that if the lot was not conveyed that some other access should be provided. Staff is recommending to the Commission that pursuant to our policies, a 50 foot right-of-way be created along the western property line, that is in a form dedicatable to the town in the future should the need arise. So that is the last paragraph of the staff report.

Staff is recommending approval then subject to the following conditions: Condition number one relates to the creation of a 50 foot wide access right-of-way along the western boundary, it reiterates the staff discussion in the staff report; condition number two is that the most land would limit a freshwater wetland be flagged in the field, picked up by the appropriate regulatory agency shown on all plans and maps and drawings and sketches, they do indicate that this wetland is mapped by the DEC, but this wetland up here which they call out does not show a mapped wetland line. So they need to do that; then pursuant to Commission policy then, no sanitary waste system or structure, any structure, should be located within 100 feet of the land with limit of the wetland line, which creates a building envelope that would probably look something like this up in here and probably some up in here; and condition number four is that all stormwater runoff resulting from the development or improvements of the site be kept on site and not drained into the County right-of-way, standard Commission policy; a staff is also recommending a fifth recommendation, which is not on the staff report, that any access for lot one be restricted or shall be restricted to the created 50 foot right-of-way. There is 100 feet of frontage on the road, but that would create multiple access points right here. If this lot was to be developed, staff is recommending that lot one be restricted to the 50 foot right-of-way that's being created. That is the staff report.

CHAIRMAN EVERSOLL:

Are there any questions? We have a motion?

MR. THORSEN:

I move.

CHAIRMAN EVERSOLL:

Do we have a second?

MS. GRABOSKI:

Yes.

CHAIRMAN EVERSOLL:

Do we have any questions? Yes.

MS. PETERSEN:

In the mobile home park were to be extended, do they then have to hook up to sewage treatment or that all stays on the septic and can ultimately filter down to the river?

MR. FRELENG:

Well, that's a Health Department issue. I don't know what the ultimate density would be and how they dilute that or whether or not they're transferring in any kind of waste water credit or density credit. We don't have that information with the application at this time. We have a two lot subdivision that would certainly not require any kind of treatment system. That's what we have at this stage. Certainly if they were to get special exception or some sort of application, that sort of information should be provided.

CHAIRMAN EVERSOLL:

Any further questions?

MR. CREMERS:

Yes. Those homes are going to be right next to the race track, right? And as I recall reading a few years ago all of those other people were complaining about the noise in the race track, these people are going to be right on top of that race track.

MR. FRELENG:

Well, this is a two lot division, and we have 13 acres and 34 acres in an industrial zone. So we don't know what the intention is. If it's going to be residential, the Commission may want to make a comment related to the proper buffering or the inappropriateness of the site for residential use, staff could do that. But, at this time, it's an industrial subdivision and quite large.

MR. ISLES:

And if they are going to propose the residential, it is subject to, as I understand, Jerry, at least a special permit.

MR. NEWMAN:

Yes.

MR. ISLES:

That would be subject to further review.

MR. CREMERS:

Okay.

MR. DIETZ:

We would get that?

CHAIRMAN EVERSOLL:

Yes, we would get that later on.

MR. ISLES:

It would trigger, Jerry, with the wetlands as well as -- even if it's not adjacent to the --

MR. NEWMAN:

It would be considered a special exception to expand former use -- the proposal, as I understand it, I haven't received anything as yet, the request would be for a special permit, maybe Commissioner O'Dea could elaborate on this, to expand the trailer park onto the subject property, which is to the west of the trailer park. And on the west side of that trailer park would also be the raceway. What they want to do is apparently expand the trailer park into a portion of that property, I don't know, which would require a special permit from the town board to expand a nonconforming use. The staff hasn't received anything on that. We will evaluate that and will certainly will look at it from the standpoint of the noise impacts from the adjoining raceway.

CHAIRMAN EVERSOLL:

Okay.

MR. O'DEA:

That's correct.

MS. GRABOSKI:

Would there be any value to -- let's assume that the trailer park doesn't expand into that and it goes into some other -- you know, some other use, maybe a light industrial, one takes -- well, access issues yet to be resolved, would there be any value in maintaining, you know, some of the existing vegetation and the buffer, you know, particularly along the residential side that have property? I don't know, like, a 50 foot buffer?

MR. ISLES:

On the east side of the subject parcel?

MS. GRABOSKI:

On the east side of the property. I mean some of that -- it appears --

MR. FRELENG:

On this one?

MS. GRABOSKI:

Yeah. Is that -- is that currently wooded land?

MR. FRELENG:

Yes.

MS. GRABOSKI:

Andy, do we know?

MR. FRELENG:

Yes, that's all wooded.

MS. GRABOSKI:

I mean, it's occurring to me were that property to be clear-cut, so to speak, the noise issue is going to be, you know, greater as of that point then it -- then it currently is as well. And even on the race track site, you know, try to maintain something in the way of a buffer to screen that off as well.

MR. FRELENG:

For the purposes of industrial subdivision, we would couch buffering for the residential community from any future industrial uses. We could think about it. I don't know how -- for the purposes of an industrial subdivision why we would want to buffer it from the adjacent race track. Where we would be looking beyond the application if we start talking about buffering this site for possible residential using from the race track. But I understand your point, and certainly buffering the mobile home park from an industrial subdivision is warranted. And maybe we can extend that should there not be an industrial subdivision buffering to the west should be considered for -- in case there's residential uses.

MS. BRADDISH:

It would come back here first.

CHAIRMAN EVERSOLL:

Yeah, I think they have to come back. As the subdivision is proposed, it's acceptable under the industrial zoning laws of the Town of Riverhead, as I understand did. If they come back with another land use, then we can make a -- otherwise it's just conjecture.

MR. FRELENG:

And even so, if they further subject divide down, they would have to rerefer them out.

MR. ISLES:

Nancy, you felt that if this is industrial and developed industrial, it should have a buffer to residential -- I guess, is that a local requirement?

MR. O'DEA:

It would be.

MR. FRELENG:

Make that as a comment then, some buffering or should we leave it out?

CHAIRMAN EVERSOLL:

I think it's in the town order typically. The towns have a buffering particularly with residential. Any further questions? All those in favor? Any opposition? Any abstentions?

MR. O'DEA:

I'll abstain.

CHAIRMAN EVERSOLL:

One abstention. APPROVED (VOTE:9-0-1-4).

Thank you. Okay, Jerry. It's your show.

MR. NEWMAN:

Okay. We have four applications on the agenda. First is from the Town of Brookhaven. This is an -- first application is to rezone an unimproved parcel of land comprising 16.10 acres. It's currently zoned for light industrial category. The intent it is to rezone it to a planned retirement community for an unspecified number of units, the maximum that could be accommodated here is a 112. This affects land situated on the north side of County Road 98, 700 feet east of Gideon Boulevard at East Moriches. The property is bounded on the east in this area here by lands formerly owned by Long Island Compost, it was a composting operation. The town had litigation with the people, and they -- subsequently resolved that issue by a relocation and the rezoning of this property to a planned retirement community.

So what's going on on adjoining lands to the east is apartments under construction in an PRC district that was formerly in an LI category, and that took place on March 17th of 19 -- of 2001. The property is bounded on the south across the County roadway by -- all this is industrial zone you can see the zoning map. There's a small nursing home piece. The rest of it is unimproved industrial zoned land. To the west is unimproved industrial zoned land, and on the lands to the west, the Suffolk County Planning Commission previously considered a rezoning on that to a multi-family category, and that was disapproved by the Planning Commission on September 4, of 2002.

It is the belief of the staff that this proposal appears inappropriate as it appears incongruous with permitted development patterns on surrounding industrial zoned land, that is land to the west and to the south of the property will further fragment the prevailing industrial pattern of zoning in the surrounding area. The property can be reasonable developed in accordance with existing zoning. It will establish a precedence of encroachment of multi family senior development within industrial zoned land. And finally, it's inconsistent with the town plan which designates this area for industrial purposes. If the town has the intention of maybe modifying the zoning in the area, they should do a comprehensive zoning evaluation of all industrial zoned lands in that area before they do something on a piecemeal basis. So we feel that the current master plan recommendations plus the other reasons set forth in the staff report once again necessitated disapproval.

CHAIRMAN EVERSOLL:

Do we have a motion?

MS. PETERSEN:

I'll make a motion.

CHAIRMAN EVERSOLL:

We have a motion do we have a second?

MR. CREMERS:

Second.

CHAIRMAN EVERSOLL:

Do we have any discussion? All those in favor? Opposed? Any abstentions? It's unanimous. DISAPPROVED (VOTE:10-0-0-4).

I should be calling election results instead.

BR-02-74

MR. NEWMAN:

Application two is also from the Town of Brookhaven. This is an application to rezone a 0.85 acre unimproved parcel of land. Intent is to rezone it from single family one acre category to a general business category for the purpose of erecting a retail building comprising 5,000 square feet on land situated on the west side of Route 112 south of Colby Drive at Coram. As you can see on this zoning map here, the subject property is here, all of that white is all single family zoning, primarily single family development. It's the belief of this proposal appears inappropriate as it constitutes spot zoning mainly the reclassification of a parcel of land totally inconsistent with that and the surrounding area. It would establish a precedence for further down zoning along Route 112. It can be reasonably developed in accordance with existing zoning. It contravenes past efforts of the Town Board to limit the proliferation of perpetuation of strip commercial development along major arterial roadways. It's also inconsistent with the town plan which designates this area for residence purposes. We're recommending disapproval.

CHAIRMAN EVERSOLL:

We have a motion?

MR. LONDON:

Motion for staff.

CHAIRMAN EVERSOLL:

Do we have a second?

MR. THORSEN:

Second.

CHAIRMAN EVERSOLL:

Second. Is there any further discussion?

MS. DI COLA:

Who's the second?

CHAIRMAN EVERSOLL:

Tom Thorsen. Is there any other discussion? All those in favor? Any opposition? Any abstentions? It's unanimous. DISAPPROVED (VOTE:10-0-0-4)

SM-02-10

MR. NEWMAN:

Application number three is from the Town of Smith -- Smithtown. This is an application to rezone a 2.2 acre parcel of land. Believe it or not, from a one acre single family category to a heavy industrial

category for the purpose of maintaining existing uses on the property, which comprise a bus and landscape yard and a trucking station. If this rezoning were to be approved, there would be -- a special permit would be required from the ZBA because it would be in a heavy industrial category.

This affects land situated on the east side of Old Northport Road, 814 feet south of Greenwood Road at Kings Park. The surrounding area, as you can see on the aerial, is occupied primarily by industrial uses which have existed for many years in contravention of existing zoning requirements. And that was mentioned and born out in the settlement that was attached to the staff reports where the parties, the Town of Smithtown in this case, and the owner of the property, immediately to the north indicate that the Town of Smithtown has allowed or permitted a de facto change in the nature of the area where the subject property is located without enacting the necessary legislation to make the ongoing actions legal. So there's a number of heavy industrial uses in this area. They're all zoned for light as well as a small portion is zoned for single family one acre requirements.

The property is bound on the north by lands in the heavy industrial district, where on a change of zone to reclassify that area from an R-43 to that heavy was denied by the Planning Commission and subsequently by the Town Board. Litigation ensued, and subsequent to that, there was an agreement between the Town Board and the applicant to rezone the property subject to the conditions and stipulations attached to the staff report. The primary focus of those stipulations are that they be maintained a 50 foot buffer along Old Northport Road, and there be site plan requirements as well as additional set back requirements.

The property is bounded on the east by the right-of-way for William Floyd. There's a recharge basin here, there's a sand and gravel mining to the west, that's also nonconforming, that's a light industrial zone. It's the belief of the staff that this proposal appears conditionally appropriate considering the prevailing pattern of zoning and character of the surrounding area. However, we're recommending approval subject to two conditions; number one, that the conditions be attached to this grant very similar and almost mirror the ones that were attached by the Town Board to lands immediately to the north; and number two, we recommended this many times before, that the Town Board should undertake a comprehensive planning and zoning analysis of all the surrounding lands and maybe reclassify some or all of this area to heavy industrial category in accordance to the master plan. The problem with that, according to discussions I had with town officials are, once they rezone that, they would not be able to attach covenant and restrictions to each grant if it was rezoned for a heavy industrial category. And they feel they can get a closer handle on it if they handle each application separately. So we're recommend approval subject to those two conditions.

CHAIRMAN EVERSOLL:
Okay. We have a --

MS. GRABOSKI:
Motion.

CHAIRMAN EVERSOLL:
We have a second?

MR. DIETZ:
I second it.

CHAIRMAN EVERSOLL:
Second. Any discussion? All those in favor? Any opposition? Any abstention? It's unanimous as well. APPROVED (VOTE:10-0-0-4)

MR. THORSEN:
Just one question. It may come up in the minutes. You said William Floyd, you meant Sunken Meadow.

MR. NEWMAN:
Pardon me, did I say William Floyd? It's Sunken Meadow, you're right. It's one of those moments.

MS. GRABOSKI:
You're in good company actually.

HU-02-49

MR. NEWMAN:
The final application is from the Town of Huntington. This is an application to the Zoning Board of Appeals for a special permit to maintain an existing nursery with outdoor storage and display on a 4.5 acre parcel of land situated on the east side of Deer Park Avenue in a single family one acre category at Dix Hills. The proposal here is to maintain the multiple seven frame and metal buildings existing on the property, as you can see, it's almost all entirely cleared. There's storage and multiple buildings being used for administrative office, general sales, storage, and it has an extensive outdoor storage and display area comprising 106,000 -- 106,000 square feet. The primary purpose of this is to store landscape materials and landscape ties. In short, it's a landscape contractors yard. There will also be one point of vehicular ingress and egress via Deer Park Avenue with a small parking area and an outdoor display.

Now, in accordance with the town code in the Town of Huntington, a nursery is defined as something where you roll products on the property. There is absolutely nothing grown on this property. Also, there's a prohibition on outdoor storage and display in the front yard area, that is also in violation of the code. We're recommending disapproval as the contemplated site plan is not consistent with the definition of nursery, as there are no apparent agricultural products grown on the property. Also, it's in violation of the frontyard use of parking and storage purposes and the sections of the code is so as mentioned in the staff report. It would undermine the effectiveness of the zoning ordinance, establish a precedence for this and it also constitutes an apparent infringement upon legislative powers exclusively delegated to the town board. If they want to do it, they should pass a change of zone, or alternatively, they could have asked for a use variance, because this is, in fact, a landscape contractor's yard. We're recommending disapproval.

CHAIRMAN EVERSOLL:
Do we have a motion.

CHAIRMAN EVERSOLL:
Motion, Carl. Do we have a second?

MR. LONDON:
Second.

CHAIRMAN EVERSOLL:
Second, Dick London. Is there any discussion?

MS. PETERSEN:
I have a question.

CHAIRMAN EVERSOLL:
Yes.

MS. PETERSEN:
It's my understanding that Hewlyn Nursery has been there probably 20 years on that site operating that way. Why are they suddenly now coming in for special permit and improvements?

MS. NOLAN:
I think they received some kind of notice of violation from the town.

MS. PETERSEN:
That's the reason.

MS. NOLAN:
After 20 years.

MR. BERKOWITZ:
Took a while.

MR. NEWMAN:
It's possible there was something grown years ago on the property, and they were those products, but based on our review of the property, there's absolutely nothing grown on the property.

CHAIRMAN EVERSOLL: They put 12 cent stamp on the envelope. Yes, Nancy.

MS. GRABOSKI:
I had a question. Do we know if there's a CO on the property for anything?

MR. NEWMAN:
I'm not sure of that. I don't have any information on that.

MS. GRABOSKI:
In other words, was there at some point in time a legitimate use?

MS. PETERSEN:
A longtime ago, Nancy, a very longtime ago.

MS. GRABOSKI:

Yeah. And if so, what is -- you know, what was that? If it was a nursery at that point in time, and it was, you know, legitimate, those rights conceivably may have some merits.

MR. ISLES:

They can certainly assert those rights to the town who can then make a determination if they have nonconforming status or not. What's been referred to us as the special permit --

MS. GRABOSKI:

I understand that.

MR. NEWMAN:

Right. It's possible it's evolved into a full landscape contractor's yard.

MS. GRABOSKI:

It's a very interesting application in that regard, because one of the things that I know in Southampton that the Planning Board is -- things evolve, you know, out of an agricultural use or at least it appears to be agricultural under something that's essentially either a retail or a contractor's use, and the agriculture kind of withers away after time. And you're left with a considerable amount of development on a parcel where there's essentially a residential area. So the concern is legitimate.

CHAIRMAN EVERSOLL:

Any other discussion? All those in favor? Any opposition? Any abstentions? Unanimous as well. DISAPPROVED (VOTE:10-0-0-4)

Is there any other -- any old business? Any new business? Then everybody have a Happy Thanksgiving, and we will see you in December.

(* THE MEETING WAS ADJOURNED AT 1:05 P.M. *)

{ } DENOTES BEING SPELLED PHONETICALLY