

SUFFOLK COUNTY PLANNING COMMISSION

MINUTES

A regular meeting of the Suffolk County Planning Commission was held at the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, NY 11787 on March 2, 2005 in the Rose Y. Caracappa Auditorium at 12:00 P.M.

MEMBERS PRESENT:

Robert Martin (Smithtown) - Acting Chairman
Linda Petersen (At Large)
Richard O'Dea (Riverhead)
Richard London (Village 5000 & Under)
Charla Bolton (At Large)
John Caracciolo, (Huntington)
Linda Holmes (Shelter Island)
Frank Tantone (Islip)
Laure Nolan (Village 5000 & Over)

MEMBER ABSENT:

Louis Dietz (Babylon)

ALSO PRESENT:

Thomas Isles - Suffolk County Director of Planning
Andy Freleng - Suffolk County Principal Planner
Ted Klein - Suffolk County Planning
Claire Chorny - Suffolk County Planning Department
Chris Wrede - Suffolk County Planning Department
Peter Lambert - Suffolk County Planning Department
Basia Braddish - County Attorney's Office
Irving Like - Village of Islandia Counsel
Vincent Pizzilli - Attorney
Neil J. Munro - Resident
Allan Dorman - Resident
Deborah Cox – Parkway Associates
Kevin LaValle - Aide to Legislator Losquadro
Lisa Greci - Self

Minutes taken by:

Eileen Schmidt - Secretary

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

ACTING CHAIRMAN MARTIN:

Good afternoon ladies and gentlemen. The Suffolk County Planning Commission is now in session. Please rise and join us in the salute to the flag, John Caracciolo please.

SALUTATION

ACTING CHAIRMAN MARTIN:

We thank you.

MR. ISLES:

The first thing on the agenda is the minutes and then we go to the election.

ACTING CHAIRMAN MARTIN:

Members of the board have you received a copy of the minutes of January 5 and February 2 of '05? Have you noticed any errors or omissions?

MS. BOLTON:

Yes.

ACTING CHAIRMAN MARTIN:

Yes, Charla.

MS. BOLTON:

On the January 5th minutes page 12 there's two...I used the phase siting criteria. It's s-i-t-i-n-g not s-i-g-h-t-i-n-g.

MS. SCHMIDT:

Okay.

MS. BOLTON:

Okay.

ACTING CHAIRMAN MARTIN:

Any other comments?

MR. LONDON:

Mr. Chairman, I move that the minutes of both meetings submitted and read be approved as presented.

MS. HOLMES:

Second.

ACTING CHAIRMAN MARTIN:

All in favor signify by say aye. Contrary minded. Abstentions. So moved.
(Vote: 9-0-0-1 Absent: Dietz) Tom.

MR. ISLES:

Okay. The next item on the agenda would be a carryover from last month which is the election of officers. If there are no motions or if there is a motion we can then proceed on to the next item depending on the pleasure of the chair.

ACTING CHAIRMAN MARTIN:

Well, we understand that there's a message down here from the County Attorney and before we carry on with anything we'd like to read into the record.

MS. BRADDISH:

I've been requested to express the position of the County Attorney's Office that in the election of a new chairperson or any other officers of the committee it would only be appropriate that a current member be appointed or elected. And that it would be inappropriate to nominate and elect a member that is in a holdover capacity. If you look in the Charter section C4-5 it provides for terms for each of the members. Neither the minutes, I mean, neither the bylaws nor the Charter provide for holdover status although that is a practice that's been employed by the committee to insure that it continues to operate. However, it would be inappropriate for the officers.

ACTING CHAIRMAN MARTIN:

Frank.

MR. TANTONE:

The question that jumps out immediately is inappropriate based on what?

MS. BRADDISH:

Well, the fact that you're not or no you per se, but a holdover officer may not be here for the length of the term; the year that each chairperson holds office for.

MR. TANTONE:

That's an interesting position by the County Attorney seeing as how I've been a holdover for four years. So I could have been president four times if that were the case.

MS. BRADDISH:

Right, but you –

MR. TANTONE:

That kind of shoots that logic down doesn't it?

MS. BRADDISH:

Well, no, it doesn't eliminate the possibility that you could have been replaced.

MR. TANTONE:

Well, but it also doesn't eliminate the possibility that I wouldn't be around for the full year to serve as, and believe me I should premise my remarks for saying, I have never been and have no interest in being an officer. I'm just a little confused by the basis for the opinion and that's all I'm trying to get an explanation for.

MS. HOLMES:

I think I need an explanation of what you mean by holdover versus member. What...I don't get that.

MS. BRADDISH:

The Charter provides for members to be appointed by the County Executive and approved by the Legislature to four year terms. The membership is also staggered supposedly so that not everybody is due for a new term appointment at any one particular time. Currently, and for a long time actually since I can remember there has not been a fully appointed Commission; that members continue to serve in a holdover status without the approval of both the County Executive and the Legislature. And often as in the case of Tom Thorsen as a courtesy to the Commission to ensure that the Commission continued to operate with a quorum.

MS. HOLMES:

I see, so holdover is somebody whose term is up.

MS. BRADDISH:

Has expired.

MS. HOLMES:

Has expired and no new person has been appointed in their place.

MS. BRADDISH:

That's correct.

MS. HOLMES:

Is that what that means? In the case of Tom Thorsen he had indicated he wished to retire, but there was some difficulty with appointing a new person, but that was actually in the works. It was just it had not happened.

MS. BRADDISH:

Right.

MS. HOLMES:

And so, but what about a person whose technically a holdover because the town has not designated a new appointee?

MS. BRADDISH:

This Commission has recognized holdover status although not formally in its bylaws, however, it has recognized participation and as I indicated it assists in the operation of the committee to make sure that we can continue to operate and have a quorum present.

MR. TANTONE:

Just so we're clear, it's the position of the County Attorney and the County Executive that when it's convenient to hold us over and have us attend meeting and come and make decisions and do the County business then it's appropriate. However, when its time for somebody like Mr. Martin who has served this Commission for twenty-five years?

ACTING CHAIRMAN MARTIN:

Thirty.

MR. TANTONE:

Thirty years to be reappointed or at least given the opportunity to be voted on then it's no long convenient and he's somehow mysteriously disqualified from holding office. Is that the position?

MS. BRADDISH:

In those word, no.

ACTING CHAIRMAN MARTIN:

I want to ask you one thing.

MR. TANTONE:

But what is the position?

ACTING CHAIRMAN MARTIN:

Just let me say one thing.

MR. TANTONE:

Why is he being disqualified from holding office other than we feel that's the thing to do?

ACTING CHAIRMAN MARTIN:

I just have one comment is that I served thirty years. Okay. I've been reappointed by every Legislator except a Democrat; Halpin did not reappoint me or I would have had 35 years. Never had a problem. My town, not only did they reappoint me this year as the Chairman of the Planning Board in the Town of

Smithtown and also made me chairman they did both this year, right. Supervisor called not only the Legislature, but he called Mr. Levy. He called Mr. Paul Sabatino requesting back in January that I be reappointed. So the town has acted. It seems that it's whoever does the actual appointment whether it's Mr. Levy or Paul Sabatino or Legislature they've ignored his request and I take exception to that after putting thirty years here. I think if you don't want me here or the County Legislature has a thing they should come out and tell me, Mr. Martin, step down. I'd have no problem doing that, but I want my two Legislators to tell me that and my town supervisor because that's how we always did it here. It was always the town supervisor's recommendation. As far as me, I'm still looking to run for the office. I'm also Mr. Dietz will too. Mr. Dietz was upset and I don't blame him. I think this is no way to conduct this thing. If he can't replace us then he should appoint us that's only fair to me and to everyone else. And don't forget for people in the audience we're volunteers; we don't get paid for this and we put in hours and hours and hours. In thirty years if I missed two meeting in thirty years that's a lot. Once I had open heart surgery I missed one and once I had pneumonia. I don't ever remember missing a meeting except those two in thirty years. Mr. Levy misses more meetings than me, okay, and I'm here all the time and to be treated like this I think is very unfair.

MS. NOLAN:
Mr. Chairman.

ACTING CHAIRMAN MARTIN:
Yes.

MS. NOLAN:
This is something new to me. I have not heard of this until I just walked into the room. I don't know if we have anybody else had, but it seems to me that we are entitled to a written opinion and I'd like to see the section of the Charter that was cited. So I would request that the town attorney's office give us a written opinion and that we table the election of Commissioners until we have that opinion.

MS. HOLMES:
Mr. Chairman, I would like to add that I feel the consensus here that's been expressed is that the problem is more with the Legislature than it is with committee procedure. I was appointed, I was recommended by my town board to the Legislature and it took seven months for the Legislature to act on my appointment. Meanwhile, Shelter Island had no representative for this Commission for all that amount of time and so people in my town were not well served by the Legislature's delay.

ACTING CHAIRMAN MARTIN:
John, do you have anything to say on this matter?

MR. CARACCIOLO:

I'd like to second Laure's motion, Commissioner Nolan's motion.

ACTING CHAIRMAN MARTIN:

I'm going to ask everybody first before we do that.

MR. CARACCIOLO:

Okay.

MR. TANTONE:

I'd just like to go on record as also saying, I think it's an excellent idea by Commission Nolan. It is my position and I think the board's position I think if you talk to everyone here there's no desire not to follow the letter of the law. If it's the way that the rules are and that's the way things are suppose to be done we have every intention of abiding by those rules. There was a situation a year, year and a half ago where there was some question as to whether town representatives should be voting on measures that came before this board in front from their own town. We did receive correspondence in writing from the County Attorney's Office indicating to us that if it were from your own town you should abstain on the record. That was a policy, by the way, which we had always carried on, but the County Attorney was kind enough to put it in writing. I don't know of any instances where we have disobeyed that or disregarded that written instruction and all we're looking for here, I believe, is what Commission Nolan is saying is to have the courtesy of the same written guideline by which we can follow and make an accurate decision.

ACTING CHAIRMAN MARTIN:

Thank you.

MS. HOLMES:

And I think if we ask for a written opinion we should point out that there have been these very lengthy delays in carrying out the request of the town for appointments of new members and I think that is very much a part of the problem. And we would like a pledge from the Legislature that they would be more a part of the solutions in the future.

MS. NOLAN:

I don't think the County Attorney's Office can give that.

MS. HOLMES:

No, no. I just wanted to say it for the record.

ACTING CHAIRMAN MARTIN:

Thank you. Linda.

MS. PETERSEN:

How many of our commissioners are actually, currently able members are currently able to even be considered.

ACTING CHAIRMAN MARTIN:

Let's start from that end and its Charla, okay. Then it goes to Laure and then to John Caracciolo that's all.

MR. ISLES:

And Linda (Holmes).

ACTING CHAIRMAN MARTIN:

And Linda, too, I'm sorry.

MR. ISLES:

So there are four members to answer your question.

ACTING CHAIRMAN MARTIN:

We have two Linda's here. Those would be the only ones eligible to hold the office; all three officers. So three people that have been on for, what a year.

MS. BOLTON:

I think it's important to get an opinion from the County Attorney on the questions regarding the Charter, but I think it's equally important to communicate with the Legislature in a separate memorandum from this Commission saying that we are being handicapped to the point where we can barely do business and clearly we have a conflict in electing new officers. And the message really should go to the Legislature because they do have at least four, I believe, recommendations for new appointments before them at this point.

MR. ISLES:

I think right now it might be two. They've had a couple that have lapsed; there's a six month rule in the Legislature.

MS. BOLTON:

We're to the point where we barely have a quorum and God bless people like Mr. Martin who has hardly ever missed a meeting, but this is an untenable position to be put in. We have a chartered responsibility here and I believe the message should be sent to the Legislature.

MR. CARACCILOLO:

I agree. I think if we can take a vote on doing the letter from this board to the Legislature. I think that's an excellent suggestion and we should do that because if they don't value our work and our effort as Mr. Martin's effort here enough to appoint a board, a full board and give the County property representation then maybe they just don't value the opinion of this board.

MS. HOLMES:

May I ask Mr. Isles, if you just said there were two because a six month time period had lapsed is that because the Legislature failed to act on those other two for six months?

MR. ISLES:

I'm not going to use the word failed to act. The resolutions are put forward they're considered by the Legislature and then through a committee process the full Legislature they make a decision on whether to approve or disapprove a resolution. If it's not acted upon not necessarily failing, but if it's not acted upon it does expire after that period of time. That's the answer to the question.

ACTING CHAIRMAN MARTIN:

Well, if there's a holdover and the Legislature decides that they don't want to change him wouldn't that be holding it up? In other words, maybe it's not the Legislature's fault, in other words, if another name came in from Smithtown for me it wasn't coming from my supervisor, okay, because I was there when my supervisor called and put my name in the beginning of the year. That means somebody else is holding it up. I don't think the Legislators have the final say. I think the Legislators usually agree to the people in their district or in their town or whatever it comes out to. And I don't think my two Legislators would say no to my reappointment. I'm not saying they didn't say no, I don't know. My supervisor didn't.

MR. ISLES:

And perhaps it's not the intent to point the finger of blame at this point, but to convey the message that it's become rather critical at this time and that the Legislature should be aware of that.

ACTING CHAIRMAN MARTIN:

I don't want to blame the Legislature because I don't feel that that's where it's being held up. It might be being help up because they might want to change somebody. I'm not saying that's not fact. I mean, I don't know if they'll go along with the name, but I think if the supervisor of the town, that's all you ever needed before, I don't see why now it's a different situation.

MS. HOLMES:

Well, I remember when so many months went by and I called Jerry Newman and asked why the Legislature had not acted on the Shelter Island appointment he said, they had made a decision in the middle of last year to holdover all reappointments until there was a new County Executive elected. And they did that so that the County Executive or perhaps new Legislators elected from certain districts would have the privilege of perhaps substituting another name. In other words, it was an entirely political courtesy if you will that held up my particular appointment for a long time simply because they were waiting for until

after the November elections. And then of course there had to be the committee meeting for me to appear and what not so –

ACTING CHAIRMAN MARTIN:

That's more than a year ago.

MR. TANTONE:

Commissioner Martin's points are well taken. If I may use him for an example; if that's the way it's going to be and another name is going to be put forth to replace Commissioner Martin or Commission Tantone or whoever the other holdover is then put forth the name. Let Mr. Martin retire gracefully or myself and that will be that. We respect the decision, we know the process and if we're not going to be members of the board anymore so be it. As much as we want to do it we understand that there's changing times, but to keep us lingering in limbo like this I believe is unfair and it's tremendously unfair if you're going to disqualify him from holding office at this point.

MR. ISLES:

Okay, so Mr. Chairman, the Commission is then requesting an opinion from the County Attorney. I'll point out that Basia Braddish is here as the agent or the messenger on this and so I think that's been affirmed now that there will be a request for that opinion and the Charter provision relating to that. And then secondly, is there also then a request from the Department to bring note to the Legislature on the issue of the current status of the Commission we're a total Commission of fifteen members. One thing I was going to tell you about is Mr. Thorsen has formally resigned at this point so we're at five vacancies at the moment and transmit that message to the officials.

ACTING CHAIRMAN MARTIN:

Any correspondence between the County Attorney and the Legislature I'd like to have a copy. I think all the board members should have a copy. I'd like to see what's sent to them and what comes back.

MR. ISLES:

Sure.

ACTING CHAIRMAN MARTIN:

Because if we're getting opinions, but we're not getting any case law that I see.

MR. O'DEA:

Mr. Chairman.

ACTING CHAIRMAN MARTIN:

Yes, Richard.

MR. O'DEA:

Riverhead's situation is the same; I've got about nine years on this Commission. I'm a holdover since January 1st of '04 I believe and it's the same bantering back and forth. I have spoken to both the supervisor in the town and a prominent Legislator on the committee that oversees this Commission and it's in a limbo state. It's actually a horrible way to treat people. This Commission came on and still was as a very good functional body under Steve Jones, Tom Isles as I knew it and it fits the if it's not broke scenario perfect because they've done a nice job of breaking it and making it very dysfunctional meaning the people that are not acting on it. I also question the legality of us making decisions with people according to the Charter and not even officially members of this body. So anybody that had a bone to pick with a decision if it was me and it was serious enough I certainly would take advantage of it. That's about it.

ACTING CHAIRMAN MARTIN:

Thank you, Richard. So we're all one that we want to send out the letters, right? Everybody that wants to send out the letters and contact everybody and wait for another decision please raise your hand so we have an exact count. Everybody, that's unanimous. Mr. Isles we'll do that and then any correspondence he does get will be sent to us too. We'll have two sides of the story.

MR. ISLES:

Okay.

ACTING CHAIRMAN MARTIN:

And at that time we'll hold the officer's election if there's any to be held at that next month, but until we get the answers I think we're going to have to wait. Right, Laure?

MS. NOLAN:

Yes.

ACTING CHAIRMAN MARTIN:

Right, we'll do that. Frank, right Frank? Till we get all the mail back and forth we'll have no more election of officers.

MR. TANTONE:

Yeah, I think Laure's motion was to table it until we got a written opinion on how we should proceed.

ACTING CHAIRMAN MARTIN:

Just so everybody's in agreement.

MR. TANTONE:

Absolutely.

ACTING CHAIRMAN MARTIN:

Let's go on to the next one. Public Portion. Is there anybody here that wants to speak on a matter that's on today. I have a card from Mr. Like, Irving Like.

MR. LIKE:

Good afternoon. I'm counsel for the Village of Islandia and thank you for the opportunity to appear before you. The item on your agenda our proposed zonings amendments that the Village would like to adopt. I'm here to express the Village's request that you remand the amendments to them for local determination. The points I want to make can be summarized as follows: the proposed zoning amendments are the result of a comprehensive plan update. The update was done by a reputable planning firm, the same one who did the Village's original comprehensive plan. The purpose of the zoning amendments is to give developers an additional option in an MF18a district to build luxury residential condo units instead of office buildings. The Village has an ample amount of office building space. It lacks upscale housing for which there is a market demand.

The Village benefited from the concerns that you expressed in comments on the proposed comprehensive plan update and also the comments of its residents at public meetings and hearings. You can see from the changes in the amendments that the Village has carefully considered your comments. The proposed zoning amendments give the Village significant power to oppose protective conditions through SEQRA review, the site plan approval and special permit processes to ensure that a project is environmentally sound and attractive and that the developer is financially responsible. Public hearings will be held at the each step to maximize citizen input.

The Village will control the maximum height of any structure including the mitigation of any excessive shadow impact. It will control the maximum density of units. The Village has the authority to require a developer to prove the minimum density that he must have in order to receive a reasonable return of his investment. This can serve as a restraint on developers who come forth and say they must have the sky in order to make a reasonable return. The Village will also control landscaping and buffering. The units are required to be owner occupied as residential condominiums. Fair market value of the units as evidence by their estimated purchase prices will be at luxury levels upper six figures probably mostly occupants will be older residents with grownup children.

All right, it's anticipated that a project will generate significant tax revenue. The economic benefits would be greater than office development because you would have a group of affluent new residents who will be spending money in the community. I want to call your attention to a novel zoning requirement in the proposed amendments. It imposes on a developer the obligation to demonstrate as a condition to obtaining the approvals that he is financially capable to complete the project and that his condo offering plan has been approved by and

registered with the Attorney General. This provides a significant measure of protection to the Village and prospective purchasers who will be assured that the project is viable; that the developer is financially responsible because as you know the Attorney General will not approve an offering plan unless the project complies with and fully discloses its zoning, construction, engineering and financial elements. And the condo documents will include a contract of purchase, the estimated taxes, the capital operating budgets, the declaration of providence restrictions and bylaws.

In short, if the AG doesn't approve the project the Village can reject it. That concludes my statement. I hope that the Commission will agree with the Village that the proposed zoning amendments are in the interest of the Village as well as the broader community and that you will remand the amendments for local determination. Thank you.

ACTING CHAIRMAN MARTIN:

Thank you Mr. Like for your comments. They're appreciated. Anybody else wish to be heard? Is there anybody else in the audience that wishes to be heard? Hearing no others lets move on to the agenda. The Director Report, okay.

MR. ISLES:

Okay. Very briefly, today Mr. Chairman as I mentioned earlier and regretfully Mr. Martin has received a letter from Tom Thorsen the representative from the Town of East Hampton indicating his resignation from the Commission. Mr. Thorsen did serve the Commission for a number of years and more recently has come in despite the fact that he wanted to retire last year. So certainly from the staff's standpoint we appreciate that he put the extra time in. At that point then East Hampton's seat is now vacant of course.

The second item of correspondence I want to bring to your attention is that one of the items on the agenda is scheduled for today was a referral from the Town of Babylon for property or an application known as Deer Park Associates which is otherwise known as the Tanger Outlet Center in Deer Park. This was an item we had prepared for your consideration today. I did receive a letter yesterday from the Planning Commissioner of the Town of Babylon basically consenting to an adjournment of the application at this point. So, therefore, it is on your agenda if you want information on it; Andy Freleng from the Planning Department is prepared to provide that information, however, we would respect -- request your formal consideration probably at the next meeting on April 6th.

Third item of correspondence is the Chairman of the Commission has received notification from New York State regarding an application for a Brownfield's clean up on the Kings Park site, actually. So this is just a formal notification and they are going through a public comment period at this point in time. Just in terms of other reporting items we have provided to you postcards rather attractive of a farm site right here. What this is announcing and you're all certainly invited to

attend this is a agricultural forum that the County is holding with a number of other entities, Peconic Land Trust, the Long Island Farm Bureau, First Pioneer Farm Credit and Cornell Cooperative Extension. The purpose of this is to number one, provide a forum to explain and give information regarding the County's purchasing and development rights program. And then most importantly about 75% of the agenda for that day is to provide property owners, farm property owners with information on estate planning and other considerations in terms of how to continue farming given some of those situations that have in terms of tax impacts and how to deal with those.

So it's at no charge to anyone in the farm community or any member of the public and certainly any member of the Commission is welcomed to attend. It will be held in Riverhead. Two other items, the Planning Department is involved in a review right now of ATV sites in the County. The Legislature has created an ATV Committee; the Planning Department will be serving as staff to that as well as sitting on the committee. This is something where we may very well be dealing with the towns in certain parts of this review. This process will continue from now until the end of the year on that.

And another item that's now gearing up further is the proposed disposition of some of the County properties in Yaphank. The County Planning Department has received an executive order and there is legislation pending in the Legislature right now to direct a process of public input to get ideas for the redevelopment of part of the Yaphank properties. We will obviously be working with the Town of Brookhaven since it's located within that town, but it's potentially a 400 acre redevelopment that could be of regional significance certainly. That is also on a time frame to be completed by the end of this year and we'll keep you posted as that progresses. Thank you.

ACTING CHAIRMAN MARTIN:

Thank you, Tom. Andy's up.

MR. ISLES:

Yeah, we have a fairly big agenda today so at this point we'd like to start with the subdivision agenda with Ted he has one item on.

ACTING CHAIRMAN MARTIN:

Oh, the Commissioner's Roundtable, I'm sorry. We talked so much I thought we went around. We'll start at the end. Richard.

MR. O'DEA:

Thank you. Riverhead, the town board about two weeks ago we issued a Sense Resolution in the negative on the Broadwater gas floating barge situation that's around a hot item now. They completed most of the master plan process and zoning and probably the Transfer Development Rights portion is just about I think finished. They're just tweaking the language a little bit. The purchase of

development in the town is active and I must say the County is been very active and prices are very inline with what they should be. I was thinking probably Tom and your department are pretty involved in that. So thank you.

MR. ISLES:

(inaudible)

MR. O'DEA:

Right. Suffolk Theater has a live buyer; they closed on that property I believe about a week ago. The town board signed off on it and it looks like it's the one that will move it right along into about a year and a half process of opening live theater. That's about it.

ACTING CHAIRMAN MARTIN:

Thank you, Richard. Charla.

MS. BOLTON:

I don't have anything today, thank you.

ACTING CHAIRMAN MARTIN:

Thank you. Linda.

MS. PETERSEN:

Nothing.

ACTING CHAIRMAN MARTIN:

Thank you. Dick.

MR. LONDON:

Nothing.

ACTING CHAIRMAN MARTIN:

Laure.

MS. PETERSEN:

Nothing.

ACTING CHAIRMAN MARTIN:

Thank you. Laure.

MS. NOLAN:

Nothing.

ACTING CHAIRMAN MARTIN:

Linda.

MS. HOLMES:

I do have something that should make Jay Schneiderman happy. We had a situation going back many months where an individual Mr. Telford on Shelter Island had purchased property and wanted to develop some of it, but wanted to donate a significant portion of it for Open Space. And the local planning board chairman threw a wrench into it by trying to extend his purview to talk about pesticide use and restriction of it and the whole thing fell through for awhile, but it's back on track. And the Peconic Land Trust has engineered an agreement which is now awaiting the Legislature's approval and we are, you know, very optimistic that this will occur and that we will have a significant preservation of some Open Space area right in the center of our town. Also the town board is pondering whether or not to follow our recommendations for lot clearing requirements. So we're pleased about that too.

ACTING CHAIRMAN MARTIN:

Thank you, Linda. Frank.

MR. TANTONE:

I have nothing.

MR. CARACCIOLO:

Nothing to report Mr. Chairman.

ACTING CHAIRMAN MARTIN:

We'll go on to Andy, oh I mean, Ted.

MR. KLEIN:

Good afternoon. The only application today is a subdivision by the name of Tall Grass referred to the Commission by the Town of Brookhaven. Commission's jurisdiction for review is SR 25A and the Suffolk County Central Pine Barrens. The subject is located in the Hamlet of Shoreham along the easterly side of Randall Road and the southerly side of 25A. Also if you note Cooper Street bisects it and will provide access to the proposed subdivision.

Subject parcel, stay with the aerial Chris, but for a small patch of woods is completely cleared of any trees. The only remaining wooded area is right up here. It's presently used as an active sod farm which is in the northerly portion and a golf course that includes a banquet facility and a pro shop. The topography of the land is virtually flat on the sod farm which is the northerly portion and a mixture of rolling and flat topography low in the golf course portion. There's a water feature in the golf course portion which is a man-made pond. I'd like to point out the character of the area surrounding the subject is predominately residential except for the local Middle School which you can see here and a row of strip stores which forms the local shopping center. There's also a post office over here; also note there's a Leisure Glen Senior Housing Development runs along here.

Shoreham is currently experiencing a significant amount of growth. Some of the large parcels in the vicinity of subject including Country Manor to the west, this parcel, and the Greens at Shoreham, this parcel is in the final phase of development. The applicants proposing to subdivide 320.2 acres into 283 lots. The property is zoned A1-Residence which allows single family dwellings and lots with a minimum area of 40,000 sq. ft. The subdivision application is being processed as a cluster. The applicants proposing 283 lots that will range in size from 20,783 sq. ft. to 207,241 sq. ft. All storm water runoff will be collected and stored in either a recharge basin or recharge pond within the subdivision. Here's the recharge basin and here's the pond.

The applicants proposing to set aside several areas of Open Space totaling 30.57 acres roughly 9.5% of the total parcel. Note that the proposed Open Space is not intended for the purpose of preserving plant species or animals in their habitat since the subject for the most part is completely disturbed. In addition, the Open Space the applicant's proposing there's also a 5.7 acre parcel, portion of the parcel as designated as recreation area on the map. That's this piece right here which is currently the location of the pro shop and the banquet facility. Just to reiterate the areas that won't occupy homes or homes sites are streets for drainage improvements will account for approximately 11.4% of the entire 320 acres. All of this is seemingly far from acceptable since the subject is already completely disturbed.

The Central Pine Barrens Clearance Standard really don't apply to this site, however, there are several aspects of this map that do concern the staff and I would like the Commission to address. For one, there's a creation of two cross streets, intersections, one up here and the other one down here. These the staff considers unsatisfactory because of the possible traffic conflicts and the need for the municipality to install traffic control devices. Another concern is the significant number of double frontage lots with insufficient depth to separate the roads from the traffic and those double frontage lots along here; this is Cooper Street and the proposed road inside. The depth is pretty shallow less than 200 ft. and, you know, 280 ft. is more acceptable for double frontage lot. Also they're creating several oversized lots which could lead to the future unauthorized attempt to further subdivide the parcel. And finally, the staff feels that the application meets criteria for affordable housing.

So staff recommendations is for approval of this subdivision subject to the following conditions deemed necessary for good planning and land use. One, the map shall be redrawn to eliminate the creation of the cross-street intersection where an offset intersection is required, the distance between the center lines of the two intersections must be at least 125 ft.

The map shall be redrawn to preserve more Open Space. The size of this parcel is conducive to a denser cluster layout. A tighter layout will allow for the

placement of housing units further away from 25A and Cooper Street. This would provide a scenic Open Space and preserve the rural character of the area while eliminating the creation of those double frontage lots and the oversize lots, as well as create a contiguous pattern of Open Space with the adjacent parcel to the east. This Open Space created over here from a previous subdivision. A denser cluster layout will also reduce the amount of roads required and the amount of associated runoff.

The third condition, the applicant shall require, be required to file a covenant and restriction prohibiting the future subdivision of any oversized lots and the Open Space and Recreational Areas shall be dedicated to a governmental agency and/or be controlled by a homeowners association and/or transferred to a bona fide conservation organization.

And condition four, 20% of the total number of units in the subdivision shall be set aside for affordable housing. In addition to these conditions we offer the following comments pertaining to the proposed subdivision which would be offered to the Planning Board for their consideration.

The applicant and the town my wish to consider reducing the on-site yield in order to provide a tighter cluster and still remain with sizable lots. The difference in platted yield and as-of-right yield could be offset by the creation of Development Rights from the site for sale to the town or the open market. And also giving the size and location of the subject parcel the applicant may wish to consider integrating some Smart Growth principles into the design. To create a subdivision that would promote a sense of place, walk ability, a variety of housing choices, affordability and the ability to choose transportation options could be combined to form an exceptional subdivision design. That's it, thank you.

MS. BOLTON:

Mr. Chairman, I have a question.

ACTING CHAIRMAN MARTIN:

A question from Charla.

MS. BOLTON:

Okay. Ted, your staff report says that the proposed subdivision meets the criteria for affordable housing and then one of your provisions in the approval section, one of the conditions is 20% of the total number of units in the subdivision shall be set aside for affordable housing. So I'm kind of confused actually; like is it affordable housing or is it not affordable housing and if it is how much?

MR. KLEIN:

It meets the -- given the size of the subdivision we are approving it with the condition that 20% would be set aside for affordable housing.

MS. BOLTON:

Okay, I understand the conditions --

MR. KLEIN:

Do you want the number of units?

MS. BOLTON:

No, no. It's within the staff report it says that the subdivision meets the requirement for affordable housing. So that means --

MR. KLEIN:

So that meets the criteria.

MS. BOLTON:

Criteria, sorry.

MR. FRELENG:

And that criteria is that is an exceptionally large subdivision with an exceptional large number of lots; that's the criteria.

MS. BOLTON:

Oh, okay, that's what you meant. Okay, I'm sorry it wasn't clear to me. Thank you.

ACTING CHAIRMAN MARTIN:

Linda.

MS. PETERSEN:

In your report you mentioned there's a banquet hall and that's apparently going to stay; it's presently with the golf course? Is that going to be rezoned to a commercial use or is it going to be a homeowners association where they'll be using it for recreational amenity. It says recreation and the recreation should be turned over to the town. I'm just wondering what the disposition of that facility would be or what you were thinking it might be.

MR. KLEIN:

Frankly, I don't know what the future use of that recreational area will be

MS. PETERSEN:

Okay.

MR. ISLES:

But it's supposed to be transferred to the town?

MR. KLEIN:

No.

MR. ISLES:

No. It's going to remain - -

MR. KLEIN:

We are suggesting, you know, that these area are dedicated transferred to homeowners, you know, government agency, homeowners associations or bona fide conservation, you know, association or agency. So I really quite frankly, I don't know. I know they just put it up within the last two years, I think.

MS. PETERSEN:

I'm wondering if it would become a community place for people, you know, actually hold meetings or would it be part of that community? Would it be part of a say a town recreational facility?

MR. KLEIN:

I haven't been provided with any information of future use of the recreation area other than that the 5.8 acres is going to be designated as a recreational area.

MS. PETERSEN:

Thank you.

MS. HOLMES:

Would it be a good idea to ask - -

ACTING CHAIRMAN MARTIN:

Linda, one second, let's go around so everybody has a chance. Laure.

MS. NOLAN:

I have a question on the added criteria that is not numbered here about the town considering a reduction in on-site yield. I really don't understand the comment I guess. What are you suggesting?

MR. KLEIN:

That to create more Open Space, but preserve the sizable lots; that they would Transfer Development Rights into another location.

MS. NOLAN:

Within the Town of Brookhaven?

MR. KLEIN:

Yes. I wasn't specific in that regard, but yes.

MS. NOLAN:

We're talking Development Rights not density rights?

MR. ISLES:

Not sanitary credits - -

MR. KLEIN:

Wastewater credit you mean? They're kind of synonymous.

MS. NOLAN:

No, they're not.

MR. KLEIN:

There not?

MR. ISLES:

There's a zoning entitlement on this property that they believe they have because the comment relates - -

MR. KLEIN:

40,000 its 40,000 which is also I guess I might be incorrect, but I assume that was the amount of area, you know, designated as a unit in the Pine Barrens.

MR. ISLES:

But they are two different animals in terms of the zoning credit and the wastewater credit. And I guess from the comment that we have for staff it's the thought of a density reduction with something happen with the extra density so the developer isn't losing that and whether that be it's transferred to another location presumably within the town if it's a town zoning transfer. Or possibly a purchaser Development Rights on the sod farm under a town or County program perhaps, but something to perhaps knock down the density in an equitable manner to the property owner as well. But I don't think the intension certainly we have nothing in our recommendations that would suggest the transfer of wastewater credits across town boundaries.

MS. NOLAN:

Okay, I just wanted to confirm that we're talking about Development Rights and not density rights.

MR. ISLES:

Right.

MR. KLEIN:

Okay, Transfer Development Rights, TDR's. We use that comment several times; I don't think it's changed very much really.

MR. FRELENG:

Can staff ask a question? Commission Nolan when you talk about a wastewater, I'm sorry, you made a distinction between development right and wastewater are you talking about Suffolk County Department of Health Services using those Development Rights.

MS. NOLAN:

Yes.

MR. FRELENG:

All right, then staff is not recommending that; staff is recommending town program.

MS. NOLAN:

Okay, fine. That's what I wanted to clarify.

MS. BOLTON:

Tom, I have another question.

ACTING CHAIRMAN MARTIN:

Charla wait. We have to all around first and then come back to you.

MS. BOLTON:

Okay, okay.

ACTING CHAIRMAN MARTIN:

Go ahead Linda.

MS. HOLMES:

I agree with Linda that it is probably a very good idea. I think we should request for them to let us know about that banquet hall and whether or not that's going to be a commercial activity because if we are recommending that the recreation area become part of a homeowners association I think we need to get clarified what the intended use of that banquet hall is and whether it would be eligible to be part of a homeowners association recreation area or the other uses that we suggested. I think we need ask for that clarification perhaps.

MS. PETERSEN:

I was concerned that it would ultimately be a banquet hall that is situated within a new community and is it something where people are going to come in and rent it and have liquor and people coming in at all times of the day and night and whatever. Just so there's a clarification of the ultimate use that they're planning for and if they're going to give it to the community or give it to the town for recreation a building where residents, senior citizens or whatever could come in that's different. But if it's an actual commercial establishment that would require

a change of zone for a commercial use I think we should know that up front due to its location within the proposed development.

MS. HOLMES:

I agree with that and I think we should get that clarified before we take a vote on this application.

MR. ISLES:

Then that would require that you deem this referral to be incomplete and send it back to the town because we don't have –

ACTING CHAIRMAN MARTIN:

On what basis, let's go back on this.

MR. ISLES:

Well, that would your determination. It's not something we would typically do. What staff is making the point on is that this parcel is just sitting there with, as Commissioner Petersen indicates, with a building on it that's been used for a banquet hall purpose. We feel that it needs to be address it just can't be left there. We provided a couple of alternatives and we can certainly convey that too that they should focus further on the actual use of that.

ACTING CHAIRMAN MARTIN:

Okay. I have no problem with that. Anybody else? So we're going to send it back that it was incomplete, right?

MS. BOLTON:

Okay, that works for me. My other question was isn't it usual that the SEQRA information is concluded before we make any decision, I mean, is a SEQRA information pending here? My understanding that generally you want completed SEQRA information.

MR. ISLES:

We are an interested agency we're not an involved agency in terms of SEQRA. We are the control for you as the Planning Commission is that the referral from the town. So once they referred to us we have 45 days, you have 45 days to act upon it to either approve, disapprove or deem it incomplete and send it back.

MR. BOLTON:

Okay.

MR. ISLES:

So we do not have the option of waiting a SEQRA determination on this one at the end of the process. We do like to be in the process with you; we do get notification. We do get any draft documents and so forth that are circulated with that, but this one is too. This is pretty early in the process it was just filed with

the town in January; this is obviously a very big and complex application. They proposed a Smart Growth Development in this site which is rather interesting, but this is what they've actually submitted at this time and this is what you are being asked to rule on at this time. So I hope that answers your question.

ACTING CHAIRMAN MARTIN:

Why don't we send it back like we usually do making the recommendation that they resolve that? That's actually a town matter not our matter; the town has got to be aware they're surely aware the building, that's the old Tall Pines?

MR. ISLES:

Yes.

ACTING CHAIRMAN MARTIN:

Tall Pines golf course, that thing has gone through a million things in the town. We'll send it back and recommend that they clear that up and everything because like you said we don't have that lead way to hold it till the next meeting. We don't have the days.

MS. BOLTON:

Sounds good.

ACTING CHAIRMAN MARTIN:

So why don't we make that recommendation this way the town, I'm sure the town's aware of it, but I think that should be cleared. Send us a letter that they cleared it anyway so we know it's been cleared. If everybody's in accord with that that's why we should send it back I think. Okay. Everybody good with that?

MR. O'DEA:

So we'll make that number five?

ACTING CHAIRMAN MARTIN:

What's that?

MR. O'DEA:

Do you want to add that as a recommendation?

ACTING CHAIRMAN MARTIN:

Yeah.

MR. O'DEA:

Okay. So you want to put a Smart Growth comment in it also?

ACTING CHAIRMAN MARTIN:

Let Tom reword it.

MR. ISLES:

Yeah, well, I think with the Smart Growth we had, you know, in the comment that was suggested by Ted which is to have a tighter cluster that was part of the direction of moving in that. If you would like us to be a little more explicit and perhaps talk about Smart Growth mixed use we could certainly do that, and then maybe with condition number three which talks about the recreation area we could add a sentence to that to talk about further specifying the use and avoiding conflicts of land use with the current banquet operation in future residential use of the property. We'll work up language on that if that's okay.

ACTING CHAIRMAN MARTIN:

And the ownership of the outdoor areas too, right?

MR. ISLES:

Absolutely.

ACTING CHAIRMAN MARTIN:

Ownership is more important than anything else right now.

MR. ISLES:

Well, we do have that in here with the areas to be either dedicated to a government agency such as the town or some how controlled by an HOA or a conservation organization. We just don't want it retained by the developer kept as a separate lot that's going –

ACTING CHAIRMAN MARTIN:

And later on put something else on it.

MR. ISLES:

Right.

ACTING CHAIRMAN MARTIN:

Okay. So is everybody in accord with that? Okay, now a motion is in order. Who'd like to make a motion? It's Laure.

MS. HOLMES:

Second, moving the staff report as amended.

ACTING CHAIRMAN MARTIN:

Okay, thank you Linda. All in favor signify by saying aye. Contrary minded. Abstentions. So carried. **(Vote: 9-0-0-1 Absent: Dietz)** Andy I think you're up and at him, right?

MR. FRELENG:

Okay. The first municipal zoning action referral for the Commission to consider comes to us from the Incorporated Village of Islandia. This is from the Board of

Trustees on their own motion for an amendment to the Village zoning code for the addition of a new district entitled Multi-family Owner Occupied Condominium Overlay District or MF-18. This allows via special permit and hearing high-rise multi-family condominium residential development with restaurant catering facilities and retail services ancillary to residential units. We've attached the code to the staff report so I hope you've had a chance to take a look at that.

Subject property is, I'm sorry; this amendment is applicable to certain zoned, certain sites zoned office within the Incorporated Village. However, focus has been directed to a vacant property approximately 12.7 acres on Motor Parkway and Veterans Memorial Highway and this is currently zoned for office use. Up on the screen is the zoning map you can see in I believe it's pink I'm color blind, but I believe that's pink there office zoned properties throughout the Village. There is office zoned properties up here, I'm sorry, the "O" stands for office, the pink stands for the land use which is developed. You can see the vacant 12.7 acre piece right here on Motor Parkway and Vets Highway.

On July 7, 2004 the Suffolk County Planning Commission reviewed and disapproved a section of the proposed Comprehensive Plan Update for the Incorporated Village of Islandia on the grounds that establishment of an MF-18 Overlay District and its particular applicability to that 12.7 acre site.

The Commission's disapproval focused on particularly three things that one, the Overlay District and its application on that site would significantly alter the visual environment at the gateway to the Incorporated Village of Islandia; that the Overlay on that site would significantly alter the character of development in the surrounding area. And thirdly, that establishment of the Overlay District on that site would establish a precedent for further such development patterns in the Village of Islandia.

In addition, the Commission determined that the premises could be reasonably developed in accordance with the existing Office District zoning. The MF-18 proposal would currently allow on the subject premises, that 12.7 acre site referenced above, via the special permit process including a public hearing the construction of a 14 story residential tower with approximately 225 condominium units and a roof top restaurant and accessory retail and service uses. There are other office zoned parcels within the Village as I pointed. However, these sites are currently developed and at this time there's been no discussion with this office regarding modifying any of the existing developments on those sites to achieve the MF-18 bulk requirements.

Subsequent to the review of the Suffolk County Planning Commission on the Comprehensive Plan Update, the Incorporated Village of Islandia processed and adopted a draft environmental, final environmental impact statement and findings pursuant to the State Environmental Quality Review Act. There are copies of that finding in the staff report. Throughout that review they took into

consideration the comments of the Planning Commission and in the response to those concerns of the Commission and others who spoke at their hearings the proposed overlay zone has been revised to include the following protective conditions and mitigations.

- 1) Any project will go through a site plan and special permit process. It should also be noted that any site plan or special permit application will require referral to this board pursuant to the Administrative Code of the County as well as Village law.
- 2) That the Village may condition site plan approval on the owner's acceptance of development restrictions and that is further discussed in the Section of the ordinance 140-03.
- 3) Height and shadow impact restrictions can be imposed by the Village board when they consider site plan.
- 4) That the Village has reserved the power to control and reduce the maximum height of any structure and the density of units in any structure and that's Sections 177-59 D and E and their residents table.

Moreover there are additional dimensional regulations requiring setbacks as related to height and parking requirements that may act to be limiting factors in the development of any MF-18 site.

As noted application for the MF-18 zone requires special permit approval. Special Permit uses are governed by several Village ordinances. They included however, 17 general criteria that must be met by the applicant. So in order to construct a condominium tower they need to go through the special permit process and there are 17 specific criteria that the applicant must meet in order to get that special permit. Moreover, enumerated special permit requirements include a requirement that the site shall be at least 500 ft. from the nearest residentially zone district in the Village of Islandia. Staff considered that and felt that that should be amended to read that, it should read 500 ft. from any residential zoning district. There were some comments from adjacent municipalities on concerns of the impacts of the tower on residential neighborhoods and we believe that the Village should consider areas outside their own boundaries of within 500 ft. This would address to some degree inter-municipal concerns on the location of such use and the impact to neighboring municipalities which are residentially zoned, the areas which are residentially zoned.

Section 177-79 of the proposed amendment allows for development bonuses in the form or relaxation of bulk requirements. While the evolution of the proposed ordinance to-date has resulted in the consideration of mitigation and special permit criteria that would assure the compatibility of proposed development with local and area land uses, this section in the staff's opinion practically condones the relaxation of all those considerations for additional amenities specified in a proposed site plan. It is the belief of the staff that such a section is unwarranted

and that every applicant is entitled to appear before the Zoning Board of Appeals for relief of any zoning requirement. It's the belief of the staff that this would be the most appropriate mechanism for variances from the proposed law. Any specific section referring to bonuses by waiving dimensional requirement would encourage an over intensification of the subject parcel. Staff believes that this clause in the ordinance should be dropped.

An analysis of the character of the area indicates that while there are no 14 story buildings currently in the Village or in the vicinity. Other tall buildings in the area exist and are as follows: the Computer Associates building which I'm sure you're all aware of and familiar with is 7 stories. The Marriot Hotel is 10 stories and the Windham Wind Watch Hotel is also 10 stories. So just forsake of scale that's the size of those buildings; they're 10 stories and 7 stories. The surrounding area particularly related to the vacant 12.7 acre office zone parcel is generally two and three story office and bank uses in the office district.

So staff is recommending then approval of the ordinance subject to the following conditions:

Number one, that Section 177-59B be revised in that it should read 500 ft. from any residential zoning district period and not within the Village of Islandia.

Condition two, is that Section 177-79 should be removed from the proposed Local Law and that is the section that allows for development bonuses in the form or the relaxation of the bulk requirements. And again, staff believes that every applicant is entitled to go before the local Zoning Board of Appeals for relaxation of dimensional requirements.

I

And condition number three, is that a section shall be added shall be added to the proposed ordinance addressing the affordable/workforce housing needs of the Village and the requirements to address the ability of the project to provide 20% of the total units if it's a residential condominium as affordable for each application in the MF-18 overlay district. So while we have a high rise condominium residential tower for 225 units there is no indication from the Village that they have addressed any kind of affordable or workforce housing if you will need in the Village. So that is the three conditions staff is recommending.

ACTING CHAIRMAN MARTIN:

You're not going to read the legal notices at all?

MR. FRELENG:

No. Those are just attachments for your information.

ACTING CHAIRMAN MARTIN:

I wanted to ask you; on a job that's projected to sell in the high six figures you're talking 600 and over, right?

MR. FRELENG:

Yes.

ACTING CHAIRMAN MARTIN:

What do you consider affordable in that building?

MR. FRELENG:

What do I?

ACTING CHAIRMAN MARTIN:

Not you personally, I mean, what's the law if we're saying 20% of what price? What are we going to take this Section 8 law or what are we going to take?

MR. FRELENG:

The affordability is based on 80 % or 120% of the median income in the area. So in the Village of Islandia if they have a high median income then affordability would certainly would be a higher priced unit than if it was let's say in Mastic.

ACTING CHAIRMAN MARTIN:

So you're talking if the building sells for 600 most units you're talking 3 or \$400,000 a unit.

MR. FRELENG:

That would be affordable for that specific locality, yes.

MR. ISLES:

It could be less than that though.

ACTING CHAIRMAN MARTIN:

Is that what our intent is? See my intent when I say I want affordable housing I want it where the average working man that goes to work everyday can afford it. A guy that's going pay 400 or \$500,000 a month rent we're not reaching a person can't buy a house or buy a resale. I always thought I'd like to reach the guy that can't afford the house. Their \$50,000 off the house could make a difference, but in here I don't understand.

MR. ISLES:

It would probably be closer like to 230 or 250 for the sale price of the unit.

ACTING CHAIRMAN MARTIN:

Oh. See that's what I don't - - are we talking about this for years and years. We said we should set a figure somewhere, but we never have and I think that's one of the reasons why we don't get as much as we should because nobody knows what they should ask for. You know, houses today are selling, newer houses I'm talking about 600, 700 I mean, all over the place in Smithtown especially.

MR. FRELENG:

Well, the condition that staff is recommending is that the Village look at the need for affordable housing and address that with the MF-18 because the MF-18 allows densities higher than any other zone in the Village.

MR. ISLES:

Let me just make the point too Mr. Chairman, that the way the condition is currently written that we usually use it's typically up to the locality to fine what affordability is and the County does have an affordability description and definition and so forth. But we don't typically mandate that on the town; we just say you should consider this, however you define affordable.

ACTING CHAIRMAN MARTIN:

Yeah, that's what we've always been doing, but I realize a lot of jobs are built and I never hear the affordable by anybody getting an affordable house there, you know. It seems that the houses that sell are all basically the same house. The only way you can make it affordable the lot prices there the style of the house it could be a smaller house, you know, but now they're building houses 4,000 sq. ft. Years ago they made houses 2,000, 1500 even.

MR. FRELENG:

The staff and the Commissioners is generally are not pre –

ACTING CHAIRMAN MARTIN:

This is an ideal thing; you know it can't be affordable. I don't think I could afford it and I worked all my life.

MR. FRELENG:

Well, staff and the Commissioners generally are not privy to the sale prices of units or dwellings that towns approve, however when you talk about economies of scale and you're starting to put 300 units on one site it would seem to me that due to the economies of scale you can bring down the cost of certain units.

ACTING CHAIRMAN MARTIN:

I just wanted know what we could do; I'm not questioning your theme I was questioning that what we can do to set a standard that there's got to be a certain price house. I mean, what we're saying here that if the houses start to sell for a million dollars that means the affordable goes up too because we're taking a percentage of the price and, you know, that can be fooled around with.

MR. FRELENG:

Right.

ACTING CHAIRMAN MARTIN:

They can sell it for anything if they give a concession. You take a three month concession they can raise the rent for the following two years and the poor guy that's coming into the affordable unit doesn't have that advantage. That's what I mean; there's so much they can play with that when you don't have a number set, you know, and I just wondered what we could do about that. Nothing, huh?

MR. ISLES:

More and more the towns I think are getting pretty good and pretty sophisticated dealing with. Huntington, Islip in particular that I can think of quickly in terms of established programs where a portion of the development is affordable and they manage it well.

MS. NOLAN:

There covenants and restrictions in the deed which keeps certain houses affordable forever so that when they're sold a person can't make any kind of a profit on it.

ACTING CHAIRMAN MARTIN:

I've read those offers, but I've never seen one.

MS. NOLAN:

It's been done in several places both and it's been done both with rental units in Huntington and with for sale units.

ACTING CHAIRMAN MARTIN:

Well, we have some senior housing in Smithtown that is like that. I think the affordable part runs for about 700,000, but again there they're only rentals and they got to keep a certain amount in the lower bracket. There I get apartment I can see how it could be handled, you know, but once you own the land and the ownership that's what I was concerned with.

MR. FRELENG:

Mr. Chairman, just so you know so the Commissioners are aware the staff is in the process of revising the Commission Guidelines for subdivisions and municipal zoning actions where we're putting together guidelines for municipal zoning actions for the first time for the Commission to consider. We've asked the Department of Economic Development and the Director of Affordable Housing to take a hard look at that section of our guidelines and to make recommendations. And we can speak to them and see if they can differentiate - -

ACTING CHAIRMAN MARTIN:

Yeah, just so you have a number that maybe the town could enforce it because I think a lot of it is just ignored. I really do; I hate to say that, but I think a lot of it, a lot of those recommendations are ignored and it's a shame it shouldn't be.

MS. NOLAN:

I know, it depends on how it's structured legally, but if you have it as a covenant and restriction in the deed or if you have some kind of an agreement with the rental unit so that, you know, a lot of times there are state subsidies that go into these projects and they can't just ignore it.

ACTING CHAIRMAN MARTIN:

The apartments I understand because I've seen that happen.

MS. NOLAN:

Oh, but I'm talking about, you know, for sale houses with covenants and restrictions in the deed so they cannot be sold and so there's notice to the new owner and it can be and is being done.

ACTING CHAIRMAN MARTIN:

Yeah, well, I've never seen it.

MS. HOLMES:

We even accomplished it on little Shelter Island; there were five lots that were put aside for affordable housing and what we did was work out with a builder and with a local bank to give a very reasonable mortgage to the winners of lottery. They all had to be people, young people who worked on Shelter Island and there was a restriction put in that they could not sell the property for a specified number, I think it was at least 10 years and the profitability is restricted, but I mean, it was accomplished a lot of it was accomplished through very low rate mortgage. They were under 200,000 at that time.

ACTING CHAIRMAN MARTIN:

That's affordable.

MS. HOLMES:

Yea, that's affordable; I mean, by our standards.

ACTING CHAIRMAN MARTIN:

It's a lot of money, but its affordable today.

MS. HOLMES:

Right, because right now and that's the trouble with trying to set a price range. These things vary so maybe we could suggest a range because right now on Shelter Island the cheapest house, the littlest bungalow cottage is \$500,000. So it's wild and, you know, it's possible we could suggest a range for affordable housing that could be flexible.

MR. ISLES:

Typically, localities know that better than we do.

MS. HOLMES:

Yes, they do.

ACTING CHAIRMAN MARTIN:

Lot prices are unbelievable.

MR. CARACCIOLO:

Commission Nolan maybe you could help me with the facts on this one, but we just did this in Huntington with the lottery for the co-op units in Melville.

MS. NOLAN:

That's correct.

MR. CARACCIOLO:

And it worked very –

MS. NOLAN:

Well, some of them are homeownership and some of them are rentals and they all have restrictions –

MS. BRADDISH:

Millennium Hills.

MS. NOLAN:

Millennium Hills which we work with the County on.

MR. CARACCIOLO:

Yes, Millennium Hills and it worked very successfully.

ACTING CHAIRMAN MARTIN:

Did it?

MR. CARACCIOLO:

Yes.

ACTING CHAIRMAN MARTIN:

Okay, good. Yes, Linda.

MS. PETERSEN:

It did not sound from Mr. Like's presentation as if he was intending to do any affordable units on this site.

MR. CARACCIOLO:

No, it did not. I think the restaurant was going to be affordable.

MS. PETERSEN:

Perhaps.

MR. ISLES:

Let me just make one clarification too is that what you have before you today is the text amendment to the zoning code. You will see this again when there's an actual map change; so you're suggesting if you consider this that they include in the zoning text change. The specific language on the affordability; if they then move forward with an application you'll see the actual site plan and so forth.

ACTING CHAIRMAN MARTIN:

At that time we could probably ask for the numbers, better numbers.

MR. ISLES:

Correct.

ACTING CHAIRMAN MARTIN:

Okay.

MS. PETERSEN:

I even feel strongly that the height of the building changes the character of that community dramatically.

MR. ISLES:

Well, that's the biggest part of this proposal is the 14 stories.

MS. PETERSEN:

That really I think is somewhat excessive for Long Island and I think perhaps because of the cost he was projecting on the units it's going to give someone a penthouse view of Long Island, but I think it is not in keeping with the character of Long Island when we get two buildings that are that height. It's just my own personal opinion.

ACTING CHAIRMAN MARTIN:

A motion is in order.

MR. ISLES:

Charla had a question.

MS. BOLTON:

No, I didn't have a question. I just wanted to say that if we're going to change what essentially is land use on Long Island typically to-date residential land use there has to be more reason for it than even 80% luxury and 20% affordable. I just find the density is very high here; obviously, the height is very high and if those things are going to be considered as a future land use there has to be more that is given back in terms of workforce housing. I mean, this is a high

employment area right around this site. It just seems ridiculous not to have more and I'm wondering whether we should even approve it at this point.

MR. FRELENG:

I staff could just make two comments before Commissioner O'Dea speaks before I lose the train of thought. With regard to condition number three, in order for Islandia not to consider the needs of workforce housing in the Village they would need to override this condition, and in overriding this condition they would need to discuss why they don't believe workforce housing needs to be provided in the Village. In other words, in order for them not to adopt this condition they need to discuss the issue and put that on the record and their rationale for not providing workforce housing would then be part of the record.

ACTING CHAIRMAN MARTIN:

One thing that I'm concern with, you have a five man board; is that a five man Village board? They voted unanimously to approve this and they said in there that they would control the height and come back to us. I think a certain amount of credibility has to be given to those five people that they know what the area wants and what the area wants to support and to say that we don't want it because we live on a 50 acre piece or something I think it's unfair to the five elected officials.

MR. FRELENG:

The second - -

ACTING CHAIRMAN MARTIN:

I think we have two alternatives; we can approve it the way you wrote it or send it back and make it look local determination and put it right in their lap to do the best job. We will see it again, and if we don't think at that point it's a good job then we can turn it down, but why have five people that got elected now and say no, they did the wrong thing. I think we should wait and see what the maps look like. We can still deny it we don't lose that, but we can't approve it anymore.

MR. FRELENG:

Well, that leads to my second comment is I don't know of anybody is, anybody meaning the design team or the Village's actually done a design on the site, but there are a lot of design constraints, parking.

ACTING CHAIRMAN MARTIN:

That's what I'm saying.

MR. FRELENG:

In the ordinance if you've read it for every foot above 50 ft. I think or 70 ft. they have to step back the setback a foot so the higher up they go the further back the setback is until you wind up with a pencil shape building that'll fall over.

MS. HOLMES:

Yeah, the wedding cake thing.

MR. FRELENG:

So I don't know if they've brought in any of the design constraints to the site, but we will get a change to see the site plan when a site plan application is filed.

ACTING CHAIRMAN MARTIN:

Okay, now a motion's in order.

MR. O'DEA:

There are 17 criteria comes at you with a special permit process, right?

MR. FRELENG:

Yes. In order for an applicant to achieve a special permit they must make testimony how they address the special permit criteria. If you go through in the Village ordinance the train of special permit criteria it totals 17 statements they have to make on how they meet the special permit criteria. If they don't meet any one of those 17 criteria they're not entitled to the special permit.

MR. O'DEA:

So we turned this down once and now when they went through the environmental study and everything and they've got the unanimous decision so now we're going to change our position accordingly.

MR. FRELENG:

Essentially, they looked at the comments of the Commission and adopted mitigations in their ordinance to address some of the concerns of the Commission. So to answer your question, yes.

ACTING CHAIRMAN MARTIN:

Anything else, Richard?

MR. O'DEA:

What did they change that this Commission was concern about?

MR. FRELENG:

Well, specifically, the Commission was concerned about the height of the building or its impact in the area there's shadow impacts. So if the height of the building cast shadows and causes a negative impact they would have to reduce the size of the building. Again, for every foot above 50 ft. they go up they have to pull back the setback so that lessens the impact to the road corridor. It also could decrease the height of the building when it starts to be impractical for the building footprint; a special permit criteria as well. So they did establish a number of things and the staff report on the second page, one, two three, four

there's about five that I itemized and then there are more if you go through the ordinance.

MR. O'DEA:

That's it, thank you.

ACTING CHAIRMAN MARTIN:

A motion's in order. Well, somebody wanted to make a motion.

MS. NOLAN:

I'll move the staff report.

MR. LONDON:

Second.

MS. HOLMES:

Is the staff report going to be amended to say that we'd like to see specific language on affordability? No?

MS. NOLAN:

I think that language is there.

MS. HOLMES:

It's there?

MS. NOLAN:

Item number three.

ACTING CHAIRMAN MARTIN:

She's moving the staff report if you want to add anything Linda you can and then we'll see if we go along with it. Don't question her, I mean, she's moving the staff report. I got a second. All in favor signify by saying aye. Raise your hands so we know what's what. We have one, two, three, four, five.

MR. TANTONE:

I abstain.

ACTING CHAIRMAN MARTIN:

Frank, you're not voting. You're abstaining, okay. So that is five. Now how far down. One, two, three, so it's five yeses, right?

MR. ISLES:

Let's go through that again who's voting.

ACTING CHAIRMAN MARTIN:

John for it, Linda for it, me is three, Laure, Richard and that's five and we got three, no, - -

MR. ISLES:

Opposed is three and one abstention.

ACTING CHAIRMAN MARTIN:

Right.

MR. ISLES:

Did you get that Claire?

ACTING CHAIRMAN MARTIN:

Okay, it's five, three and one. The motion didn't carry means it goes back.

MR. ISLES:

Okay, and I'm just going to clarify the vote again. So it's Mr. Caracciolo, Mrs. Holmes, Martin, Nolan, London in favor. Opposed, O'Dea, Bolton, Petersen. Abstention, Tantone. Motion does not carry.

ACTING CHAIRMAN MARTIN:

Okay, now explain what that means.

MR. ISLES:

The motion does not carry.

ACTING CHAIRMAN MARTIN:

But it goes back.

MR. ISLES:

Oh yeah, it goes back.

ACTING CHAIRMAN MARTIN:

It goes back and it's under local determination again.

MR. ISLES:

As a no action; no, as a no action by the Commission.

MR. FRELENG:

A letter goes back to the municipality stating that the Commission was unable to pass a resolution on this action and that it goes back with no determination. Staff would like to point out then all the comments of the staff report also is not privy to the Village.

ACTING CHAIRMAN MARTIN:

That's right.

MR. CARACCIOLO:

So they're not going to have the smart growth or a workforce housing.

MR. FRELENG:

They don't have the benefit of the comment of the affordable housing or removal of those sections of the ordinance or any of those comments that were provided.

ACTING CHAIRMAN MARTIN:

I think we should send it anyway even though it doesn't carry. I don't feel that the town is trying to do something that we would approve later because they don't have to come back. I think the three people that want to vote - -

MS. NOLAN:

Mr. Chairman, I think that the staff's point is that we can tell them that we thought these things, but if we just send it back they don't need a super majority and they don't have to consider any of these issues.

ACTING CHAIRMAN MARTIN:

Right.

MR. FRELENG:

That's correct.

ACTING CHAIRMAN MARTIN:

They don't have to override us they just do what they want. I mean, and that's the only reason why I said if you want to send it back local determination that's one thing, but just to vote no without something else to add to it. Why are you voting no, you know, you've got to have something to standby your no if you really want to vote no, but it's okay that's the way it voted and I think we should let it go like that.

MR. O'DEA:

It brings us that we should have different categories of voting; it puts you in a different, you know, you can disapprove. It gives you about four options.

MR. FRELENG:

Well, the Commission does have the privilege to pass a resolution sending it back for local determination with comments; you can do that.

ACTING CHAIRMAN MARTIN:

That's what I said that's what we should do.

MR. FRELENG:

But that would require another motion.

MS. HOLMES:

I mean, I think the staff's recommendation should be included in what we send back to them.

MR. CARACCIOLO:

Please clarify this for me. If we do that and we send it back with local determination with comments there's no reason they have to live up to those comments.

MR. FRELENG:

That's correct.

ACTING CHAIRMAN MARTIN:

Yes, they do; with local determination they do. We can change it; we've made a motion so far. Here's the two motions we made; we made one for denial, right.

MR. FRELENG:

That's correct.

ACTING CHAIRMAN MARTIN:

We made one for approval; we can make another motion now for local determination.

MR. CARACCIOLO:

I didn't understand the answer to the question.

MR. ISLES:

Local determination basically, there's no recommendation by the County Planning Commission or decision. Its then their determination to make whatever way they feel there's no requirement for overriding the Commission or any condition - -

ACTING CHAIRMAN MARTIN:

Yeah, but you can still send it back

MR. ISLES:

But you can put advisory comments.

MR. CARACCIOLO:

Only advisory comments, I understand.

MS. HOLMES:

So we're going to send it back with advisory comments.

MR. ISLES:

No, well, we have a motion to approve staff report and that motion failed. That's the only thing we've had thus far. If there are any other motions they could be entertained.

ACTING CHAIRMAN MARTIN:

Or you know what, if the five board members sent it to us and they voted on it already I don't think you're going need majority plus one. So we can let it go back just the way it is. It isn't like they had a 3-2 vote before. Then you'd say well they need that; they had a 5-0 vote.

MR. ISLES:

On the comprehensive plan originally.

ACTING CHAIRMAN MARTIN:

Well, I'm saying well, it's in there.

MR. ISLES:

Well, we can speculate as to what the board may do, the trustees might do. We can't assume they it's going to be a 5-0 vote again.

ACTING CHAIRMAN MARTIN:

We can't assume we're going to be here either. So it's up to them I don't care. We can do it anyway we want.

MS. PETERSEN:

I'll make a new motion to move staff with - -

ACTING CHAIRMAN MARTIN:

I couldn't hear Linda; you have to talk into the mike so everybody hears you.

MS. PETERSEN:

I'll make another motion to move staff with the recommendations, Basia?

MS. BRADDISH:

That would be a motion to reconsider.

MS. NOLAN:

And only somebody who was on the prevailing side can make that motion.

MS. BRADDISH:

On the prevailing side.

MS. NOLAN:

So we made the same motion.

MS. HOLMES:

And is the motion to send it back for local determination with comments? No?

MS. BRADDISH:

No. To reconsider the original motion.

MS. HOLMES:

Oh, I see.

MR. ISLES:

The motion was made by Commissioner Nolan.

MR. CARACCIOLO:

And I'm going to second it.

MR. ISLES:

And seconded by Mr. Caracciolo. Now a vote on the motion to reconsider.

ACTING CHAIRMAN MARTIN:

Mr. Caracciolo, okay.

MR. ISLES:

Now vote on the motion to reconsider it.

ACTING CHAIRMAN MARTIN:

Reconsider now; raise you if you're for or - -

MR. O'DEA:

Reconsider.

ACTING CHAIRMAN MARTIN:

Okay. That's one, two, three, four, okay. The majority wants to reconsider it.
(Vote:9-0-0-1 Dietz)

MR. ISLES:

It's unanimous.

ACTING CHAIRMAN MARTIN:

Now give us the motion you want to reconsider.

MS. PETERSEN:

The same one because this way we'll be sending the message.

MS. NOLAN:

The motion is to approve the staff report.

MR. CARACCILO:
I'll second that motion.

ACTING CHAIRMAN MARTIN:
Okay. John seconded it. All in favor signify by - - raise your hand. Linda where are you?

MS. HOLMES:
Approving, I'm confused. I guess I'm still confused. It's the same motion.

MR. ISLES:
Yes.

MS. HOLMES:
And we're approving the staff report.

ACTING CHAIRMAN MARTIN:
You voted for the same thing before.

MS. HOLMES:
Yes.

ACTING CHAIRMAN MARTIN:
Now there's one abstention, okay. Eight yeses.

MR. ISLES:
No, it's seven isn't it?

ACTING CHAIRMAN MARTIN:
Seven yeses, one, two, three, four, five, six, seven, eight, and one abstention; there are nine people present. **(Vote: 8-0-1-1 Abstention: Tantone, Absent: Dietz)**

MR. ISLES:
Okay, it's done.

ACTING CHAIRMAN MARTIN:
That's it.

MR. FRELENG:
Okay. The next matter before the Commission comes to us from the Town of Brookhaven. This is a jurisdiction for the Commission is that the subject property is in Pine Barren Zone. This is an application on the town boards own motion for a change of zone on approximately 58 acres of an existing 187 acre golf course from Residence A to PRC Residence which is Planned Retirement Community

on two parcels of land in the Hamlet of Yaphank. Parcel A of the subject property fronts on Coram Yaphank Road otherwise known as Mill Road; this is a town road and that's to the north. It also fronts on Country Road which is a town road to the south. That's parcel A; this being parcel A fronts up here and fronts down here. Parcel B fronts on Country Road to the north in residentially zoned land which is improved and unimproved to the south. East and west of the subject parcel is a mix of land uses including recreational, the remaining golf course and agricultural which is horse farming right here and then some vacant land of various types.

The change of zone is to accommodate a proposal to erect 280 senior citizen housing units and associated amenities on the two parcels of land. The 280 senior citizen housing units would take up 58 acres. The resultant density would be approximately five units per acre. Twenty percent of the units are proposed for affordable housing purposes. The balance of the properties consisting of approximately 129 acres including an 18 hole golf course, club house, driving range, etc is proposed to be dedicated to the Town of Brookhaven for park purposes. Under the existing zoning it should be pointed out the overall property 187 acres can accommodate approximately 197 single family residences. The proposed 280 unit PRC would require the construction of a sewage treatment plant.

An analysis of the character of the area indicates that the pattern of zoning is predominately a mix of residential categories and as stated horse farming zoning exists just east of the subject site. The proposed PRC is in conformance with the recommendations of the 1996 Town of Brookhaven Comprehensive Land Use Plan in that plan the subject property is recommended for one acre or less residential uses. Of the overall 187 acre parcel the resultant density is approximately 1.5 units per acre. So it's in conformance with that statement.

It is the belief of the staff that the premises can be considered remotely situated in terms of off site commercial amenities desired for multi-residence purposes. However, a shuttle transportation system can be made available to those residents of the senior citizen complex and would address this concern for those residents without individual personal transportation.

The subject premises are situated within the Hydrogeologic Groundwater Management Zone that would be zone three. It's also situated within the Central Pine Barrens Compatible Growth Area and the Central Suffolk Special Groundwater Protection Area (SGPA). The SGPA plan designates this area for single family purposes. While there are water bodies situated on site as part of the golf course design, they are not mapped and they are not regulated wetlands by either the state, town or the federal government.

With respect to Pine Barren Zone Clearing restrictions, the entire subject parcel is cleared of natural vegetation as a result of the construction of the golf course.

Normally, the subject parcel would be required to maintain a range of 43 to 35% natural vegetation depending on the applied zoning category. However, since the site is cleared, it would be appropriate for the applicant to provide a landscaping plan for the Planned Retirement Community that attempts to provide a reasonable representation of the natural vegetation in a volume as close to the required percentages is as practical. If I could just turn that into regular language, they're required to provide a certain amount of open space on site if it was Pine Barren's vegetation however, the whole site is cleared. So staff believes they should at least have landscaping plan that tries to approach the clearing restriction.

Staff is recommending approval for this application subject to the following conditions. The first condition is that the premises shall be limited to no more than 280 residential units. Second being, that lands comprising 129 acres to the north and west of the premises which includes the 18 hole golf course should be dedicated to the Town of Brookhaven. Third condition, that no more than 15% of the subject parcel be placed in fertilizer dependent vegetation. That's a requirement pursuant to our Pine Barrens guidelines. 20% of the dwelling units shall be for affordable purposes. The applicant is already offered that. The next condition is that in accordance with smart growth policies of Suffolk County a shuttle transportation system shall be available to residents of the senior citizens complex. And the final condition is that the existing golf course shall be maintained consistent with environmental mitigation criteria and organic maintenance programs adopted by the County of Suffolk. And then there is a comment with respect to re-landscaping the site. That is the staff report.

ACTING CHAIRMAN MARTIN:

Members of the board.

MR. LONDON:

I move the staff's report.

MS. HOLMES:

I'll second it.

MR. O'DEA:

Question.

ACTING CHAIRMAN MARTIN:

All in favor signify by saying aye.

MR. ISLES:

There's a question.

ACTING CHAIRMAN MARTIN:

Oh, somebody has a question.

MR. O'DEA:

The golf course, should be, shall be is Brookhaven on board; this is going to Brookhaven?

MR. FRELENG:

Yes.

ACTING CHAIRMAN MARTIN:

Anybody else? No. Now a motion's in order.

MR. ISLES:

We have a motion and a second.

ACTING CHAIRMAN MARTIN:

Okay. All in favor signify say aye. Contrary minded. So recommended for approval.

MR. ISLES:

Abstention of Commissioner Petersen.

ACTING CHAIRMAN MARTIN:

Abstention from Commissioner Petersen, okay. So it's 8-1 again. **(Vote: 8-0-1-1 Abstention: Petersen, Absent: Dietz)**

MR. FRELENG:

Okay, moving right along. The next referral then is from the Town of Huntington; this is the application of CSC Holding Inc. Jurisdiction for the Commission is that it is adjacent to SR 25 locally known as Jericho Turnpike. Applicants request a Special Exception permit for the extension of business zoning and for variances related to parking requirements for an approximately half acre parcel of zoned C-6 and R-40 Residence in the Hamlet of Dix Hills. The subject property fronts on Jericho Turnpike to the north. Improved commercial property to the west abuts the site. A parking lot, currently leased by the applicant, is located adjacent and to the east. To the south vacant residentially zoned land is adjacent to the subject property. Pay particular attention to this parking lot right here.

The petitioner is requesting the said parking variance do to the claim that they no longer are leasing the easterly adjacent property as parking area. Subject use requires 41 stalls; the applicant is proposing to provide 20 stalls on site. Go to the site plan, please. So they're looking to eliminate this parking from their site plan and have a 51% decrease in the required parking for the subject use. It's the belief of the staff that such reduction in the required parking would constitute an unwarranted overintensification of the use of the premises. More over granting the parking variance may tend to necessitate use of NYS Rte. 25 for

parking purposes thereby diminishing the safety and traffic carrying capacity of the said road.

The subject parcel is improved with the 9,200 sq. ft. one-story masonry building and associated parking. There are no environmental constraints evident on the subject parcel. An analysis of the character of the area indicates that the pattern of zoning is predominately C-6 along SR 25 corridor. The requested depth extension Special Permit request would be consistent with the pattern of zoning and development in the area. So we have a two part application; they have a Special Permit request to extend the C-6 zoning to the remainder of this parcel as well as a parking variance to remove I guess from their parking calculation the adjacent parking lot.

Staff recommendation is disapproval for the following reasons; at such a reduction in the required parking will constitute a unwarranted overintensification of the use of the premises and then granting the parking variance may tend to necessitate the use of NYS Rte. 25 for parking purposes thereby diminishing the safety and traffic carrying capacity of said road. That is the staff report.

MR. LONDON:

Move staff.

MR. O'DEA:

Second.

ACTING CHAIRMAN MARTIN:

Before you make a motion does anybody want to be heard in this matter?

MS. BOLTON:

I just wanted to ask you, when you decided the subject use requires 41 spaces, what is the subject use?

MR. FRELENG:

Offices for Cablevision; so they would commercial office space and pursuant to the code that requires 41 spaces.

MS. BOLTON:

Okay.

ACTING CHAIRMAN MARTIN:

Any other questions? Okay, I need a second.

MR. ISLES:

There's a second by Commissioner O'Dea. All in favor signify by saying aye. Contrary minded. So disapproved according to the staff. **(Vote: 9-0-0-1 Absent: Dietz)**

MR. O'DEA:

Did Jerry leave these all in a draw or something?

MR. FRELENG:

I think he bounced a lot back and they all came back to me that's what I think.

MR. O'DEA:

He always had one page.

MR. FRELENG:

Okay. The fourth referral comes to us from the Town of Islip. This is the application of Angel and Elisa Feliciano. Jurisdiction for the Commission is that the subject property is adjacent to Suffolk Avenue and within 500 ft. of Fifth Avenue. The applicants request an area variance to subdivide a 14,890 sq. ft. into two lots in the Residence-A district in the Hamlet of Brentwood.

The property fronts on Suffolk Avenue to the south. To the north the subject property fronts on Yarnell St. To the west the subject property abuts improved residentially zoned land. Adjacent to the east of the subject site is partially improved Industrial-1 zoned land that would be a parking lot.

The petitioner is requesting said area variance in order to subdivide the subject lot into two substandard lots. Both lots are proposed to be less than the minimum lot area of 11,250 sq. ft. The property in question was the subject of the Planning Commission review on February 2, 2005 for a two lot subdivision. Said application was denied. It's the belief of the staff that creation of a subdivision with substandard lots, that is, lots whose areas are less than the minimum required by the zoning classification constitutes an overintensification of land use in the area that is already densely developed. Creation of this subdivision could result in the establishment of precedence, for subdivisions of other similar parcels in the area, overloading the road system, increasing onsite parking and the overburdening of other public facilities.

The subject parcel is improved with a detached single family dwelling. There are no environmental constraints evident on the subject parcel. An analysis of the character of the area indicates that the pattern of the zoning in the area is a mix to the south and east of the parcel. Adjacent and to the east is Industrial and Business zoning. To the west and north is residential zoning. To the south is a mix of residential, business and industrial zoning.

Staff is recommending disapproval. Both lots are proposed to be less than the minimum lot area of 11,250 sq. ft. Creation of subdivisions with substandard lots constitutes an overintensification of the land use in an area that is already densely developed. Creation of this subdivision could result in the establishment

of precedence for the subdivision of other similar parcels in the area. That is the staff report.

MR. LONDON:

Question. Mr. Chairman, this was brought up he said in February, was it exactly the same application then?

MR. FRELENG:

The Town of Islip forwarded to the Planning Commission a subdivision application last month which the Subdivision Review Unit looked at based on your subdivision criteria and recommended disapproval which you did. We have no information on whether they overrode that or not, however under a separate action they're sending the variance to this Commission.

MR. ISLES:

So it's a Board of Appeals referral at this point, right?

ACTING CHAIRMAN MARTIN:

That's what it might have been, right?

MR. FRELENG:

It's coming from the Board of Appeals, yes.

ACTING CHAIRMAN MARTIN:

Do you wish to make a motion?

MS. PETERSEN:

I move the staff report.

MS. BOLTON:

Second.

MR. ISLES:

Commissioner Petersen, second by Commissioner Bolton.

ACTING CHAIRMAN MARTIN:

All in favor signify by saying aye.

MR. TANTONE:

Abstain.

ACTING CHAIRMAN MARTIN:

8-1 abstention, right. **(Vote: 8-0-1-1 Abstention: Tantone, Absent: Dietz)**

MR. FRELENG:

The next referral comes to us from the Town of Babylon. This is the application of Salvatore Virzi. Jurisdiction for the Commission is that the subject parcel is within 500 ft. of Wellwood Avenue. The applicants request a change of zone for approximate one-half acre parcel of land from Industrial-G to Residence-B in the Hamlet of Lindenhurst.

Subject parcel is located at the southwest corner of Railroad Avenue which is a paper street and Fifth Avenue. The applicant proposes to rezone the subject parcel and re-divide three parcels into two for the purposes of erecting two single family dwellings. An analysis of the character of the area indicates that parcel to the north and west are zoned Industrial-G. Parcel to the south is zoned and improved for detached residential dwelling purposes in Residence-B. The Long Island Railroad right-of-way is located to the east of the subject site. Access to the proposed lots would be to Fifth Street. Significant vehicle storage situated directly across from the subject site and the industrial land uses along Fifth Street are potentially a source of land use conflicts to future occupants of the proposed dwellings. It is the opinion of the staff that the proposed change of zone would be incongruous with adjacent and nearby industrially zoned lands. Moreover, it's the opinion of the staff that the premises can reasonably be developed in accordance with existing Industrial-G district requirements.

The proposed action is construed by staff to not be in conformance with the recommendations of the 1998 Town of Babylon Comprehensive Land Use Plan Update in that the plan recommended no change in the zoning for this parcel.

Staff is recommending disapproval for the following reasons: the proposed change of use would be incongruous with adjacent and nearby industrially zoned lands. The paragraph which follows is an explanation from the staff report regarding an analysis of the area. The second reason for disapproval would be that the premises can reasonably be developed in accordance with existing Industrial-G district requirements. If I could just go to the air photo a second really quick. They're proposing to take three lots here subdivide them into two, extend Fifth Street and take access off of Fifth Street, this is the Long Island Railroad access. These are residentially developed homes here and this is all light industry. When we did our site inspection we came down and drove into here and this is a very far from a term blighted do to the industrial uses. We don't believe that two single family dwellings here would be appropriate. There is the possibility to abandon Railroad Avenue perhaps, buffer the back and take access this way and maybe create a lot or a house here with sufficient buffering, but that's not the application before us. So staff is recommending disapproval.

ACTING CHAIRMAN MARTIN:

Any questions? Charla.

MS. BOLTON:

I move the staff report.

MR. LONDON:

Second.

ACTING CHAIRMAN MARTIN:

All in favor signify by saying aye. Contrary minded. So carried 9-0. **(Vote: 9-0-0-1 Absent: Dietz)**

MS. CHORNY:

Could we have the vote again?

MR. ISLES:

What do you need Claire?

MR. FRELENG:

There's confusion on who made the motion.

MS. CHORNY:

Right.

MR. ISLES:

Motion by - -

MR. LONDON:

Second by me.

MS. BOLTON:

I made the motion.

MR. ISLES:

Okay. Commissioner Bolton, second by Commissioner London.

ACTING CHAIRMAN MARTIN:

It carried 9 and 0.

MR. FRELENG:

Okay. The sixth application referred to us under the municipal zoning action criteria is from the Town of Babylon. Again, this is the application of Deer Brook Estates. Jurisdiction for the Commission is that it is within 500 ft. of the Babylon/Islip town line.

The applicants request a change of zone for an approximately six acre parcel of land from Industrial-G to Senior Citizen Multiple Residence in the Hamlet of Deer Park. The location of the parcel is an assemblage of four parcels located east side of Brook Avenue which is a town road approximately 250 ft. north of DeKay

Place which is also a town road. Subject parcel is in an established industrial zone of the Town of Babylon. The site fronts on Brook Avenue to the west. To the north and south the subject site abuts improved industrially zoned land. To the east the parcel borders wetlands associated with Sampawams Creek.

The applicant proposes to rezone the subject parcel from Industrial-G to Senior Citizen Multiple Residence for the construction of 124 senior citizen multiple resident units including a manager's unit, a 3,220 sq. community center and associated site improvements.

An analysis of the character of the area indicates that parcels to the north and south are zoned Industrial-G. Subject properties are situated in a corridor of industrial zoning that remains consistent with the 1998 Town of Babylon Comprehensive Plan Update. Can we just take a look at the zoning for that site? Okay, so as you can see the Industrial-G corridor runs along, this is Sampawams Creek the Industrial-G corridor continues down. If we had more you would see that it bellows out a little bit here and a little bit goes continuing all the way up. And Residence-B is on the other side of the road.

Adjacent land uses and uses along Brook Avenue are potentially a source of land use conflicts to future occupants of the proposed senior citizen multiple residence dwellings. It is the opinion of the staff that the proposed change of zone would be incongruous with the adjacent and nearby industrially zoned lands. Subject application is inconsistent with the pattern of zoning in the surrounding area and therefore is considered a spot zoning. The proposed SCMR project is considered to be remotely situated and possesses limited local amenities desired for senior citizen multiple residence purposes. Moreover, it is the opinion of the staff that the premises can reasonably developed in accordance with the existing Industrial-G district requirements.

The subject premises are situated within Hydrogeologic Groundwater Management Zone VII. The site is not in Pine Barrens area or SGPA. The subject property does contain mapped regulated wetlands by the New York State Department of Environmental Conservation. It's referred to the BW-2 wetland system.

Staff is recommending disapproval for the following reasons: The proposed change of zone would be incongruous with the adjacent and nearby industrially zoned lands. The subject application is inconsistent with the pattern of zoning in the surrounding area and, therefore, considered a spot zoning. The proposed SCMR project is considered to be remotely situated and possesses limited local amenities desired for senior citizen multi-residence purposes. Moreover, the premises can be reasonably developed in accordance with the existing Industrial-G district requirements. One more comment, while staff discussed this further we noted that there's Industrial-G zoning along Creek corridor.

In today's day and age we would not likely see that; we would probably see less intense land uses being put along a wetland corridor. So staff would like to recommend to the Commission that the Commission provide a comment to the town that consideration be given to creating a corridor study or mini master plan for the Sampawams Creek corridor with the goal of accessing the appropriate land uses and zoning along the Creek and making appropriate zoning modifications. We believe if they did that if they change the zoning along the corridor this land use might be appropriate. Conditionally appropriate. So that's the staff report.

ACTING CHAIRMAN MARTIN:

Comments.

MR. O'DEA:

Would the Planning Department take on that task if requested?

MR. FRELENG:

If requested there are provisions in the Administrative Code where we could do that, yes.

MR. O'DEA:

Would that be appropriate to continue with without that statement?

MR. FRELENG:

That would be at the discretion of the Commission and the Director.

MR. ISLES:

Yeah, it would be a matter of timing and what services we would provide. So it's certainly something we'd be pleased to consider. If Babylon were to make that request and in fact if that were to happen we'd probably want Islip to have them involved as well. It's right across the line.

ACTING CHAIRMAN MARTIN:

Any other questions? A motion's in order.

MR. TANTONE:

I move the staff.

MS. PETERSEN:

Second.

ACTING CHAIRMAN MARTIN:

All in favor signify by saying aye. Contrary minded. 9 and 0. **(Vote: 9-0-0-1 Absent: Dietz)**

MR. FRELENG:

We're one minute over my self imposed deadline of 2 o'clock and Director Isles did mention that we did have another application slated, but we were granted an extension. The staff report was mailed out to you late so you do have it to digest; if you have any questions with regard to the staff report or any comments we will discuss it at the next meeting, but staff –

MS. HOLMES:

I don't have it.

MR. ISLES:

It was mailed they end of last week.

MR. FRELENG:

Thursday, we mailed it.

MS. CHORNY:

Yes, it was mailed in a separate white envelope.

MR. FRELENG:

It was mailed in a separate white envelope on Thursday so.

MR. ISLES:

So it's probably best that it got put off anyway.

MS. HOLMES:

Pony Express hasn't come to Shelter Island yet.

ACTING CHAIRMAN MARTIN:

I didn't get it either.

MR. ISLES:

If I could just make two points, Claire the next meeting is here or Riverhead?

MS. CHORNY:

Riverhead.

MR. ISLES:

Okay. So the next meeting is April 6th on a Wednesday at 12 o'clock not 10 o'clock as we did last year. So it's 12 o'clock. We will send out notices, of course, Riverhead at 12 o'clock. We'll bring lunch; we'll have lunch available for you. It's the full American plan here.

ACTING CHAIRMAN MARTIN:

No room and board?

MR. ISLES:

Just a second point, with the consent of the Commission, staff will prepare a proclamation for Commissioner Thorsen.

MS. HOLMES:

Oh yes, I'm so glad you mentioned that.

ACTING CHAIRMAN MARTIN:

I want to thank everyone for coming. I appreciate your support and I hope that everything is resolved by the next meeting anyway.

(*The meeting was adjourned at 2:03 P.M.*)

{ } Denotes Spelled Phonetically