

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 1, 2006 in the Rose Y. Caracappa Auditorium at 12:00 P.M.

PRESENT:

John Caracciolo, Chairman (Huntington)
Carrie Meek Gallagher (Smithtown)
Charla Bolton (At Large)
Louis Dietz (Babylon)
Adrienne Esposito (Village 5,000 & Under)
Jesse Goodale, III (Riverhead)
Linda Holmes (Shelter Island)
Donald Fiore (Islip)
Sarah Lansdale (At Large)
Edward Pruitt (Brookhaven)

ABSENT:

Mary Daum (At Large)
Constantine Kontokosta (Village 5000 & Under)

ALSO PRESENT:

Thomas Isles - Suffolk County Director of Planning
Andy Freleng - Suffolk County Chief Planner
Claire Chorny - Suffolk County Planning Department
Chris Wrede - Suffolk County Planning Department
Christina Farrell - Suffolk County Attorney
Peter Lambert - Suffolk County Planning Department
Ted Klein - Suffolk County Planning Department
Deborah Harris - Aide to Legislator Steven Stern
Timothy Bolger - Long Island Press
Jeffrey Gordon - Kaplan's Market, LLC
Jill Gordon - Kaplan's Market, LLC
Laura Mansi - 4 - Towns Civic Association, Inc.
Neal Mansi - 4 - Towns Civic Association, Inc.
James Ptucha - Town of Huntington Resident
Ryan Howell - Gersh Academy
Jack Edelson - Gersh Academy
Andrew Velez - Gersh Academy
Ron Brinkworth - Gersh Academy
Steven Walsh - Gersh Academy
Phil Lombardi - Gersh Academy
Sal Barbieri - Gersh Academy
Annemarie Sabatino - Self
David Jannuzzi - Law Office of D. Jannuzzi

Minutes taken by:

Eileen Schmidt – Secretary

(THE MEETING WAS CALLED TO ORDER AT 12:00 P.M.)

MR. DIETZ:

I'd like to call the Suffolk County Planning Commission to order. All please rise for the Pledge of Allegiance, John.

SALUTATION

MR. DIETZ:

Okay, the first thing the Acting Chairman Bob Martin was replaced; so I'm the only -- the last time there was an election I was voted the Secretary. So I'm the only officer still here from the last time we had an election. So we have to have a nomination for a new Chairman and at this time if I can I'd like to nominate John Caracciolo for Chairman. I don't know if we have any seconds.

MS. BOLTON:

I'll second.

MR. ISLES:

So we have multiple seconds.

MR. DIETZ:

All in favor?

UNANIMOUS AYES

MR. DIETZ:

So carried. **(Vote: 10-0-0-2 Absent: Daum, Kontokosta)** I'd like to introduce John and have him move up here and take over the meeting. Congratulations Mr. Chairman.

CHAIRMAN CARACCILO:

Thank you for the honor; I appreciate it and Lou thank you for sitting next to me. You're going to have to help me today. First thing we'd like to do is just we have some new members; lets just go around the table and just have us all introduce ourselves so the new members can get to know us.

MR. GOODALE:

Bobby Goodale, Riverhead.

MS. LANSDALE:

Sara Lansdale, I'm an At Large member.

MS. BOLTON:

Charla Bolton, At Large member.

MR. FIORE:

Donald Fiore, Town of Islip.

MR. ISLES:

I'm not going to introduce myself, but I would just ask the members we do not have a stenographer sitting here today. We do have the machine taping and we will have a stenographic record so please use your microphones as much as possible. Thank you.

MR. CARACCIOLO:
John Caracciolo, Huntington.

MR. DIETZ:
Lou Dietz, Babylon.

MR. PRUITT:
Edward Pruitt, Brookhaven.

MS. GALLAGHER:
Carrie Gallagher, Smithtown.

MS. ESPOSITO:
Adrienne Esposito, representing Villages over 5,000.

MS. HOLMES:
Linda Holmes, representing Shelter Island.

MS. FARRELL:
Christina Farrell, representing the County Attorney's Office.

CHAIRMAN CARACCIOLO:
Thank you. Next on the agenda we need a motion to accept the minutes of the February 1st meeting. Are there any corrections or changes to the minutes? Could I have a motion to accept those?

MS. BOLTON:
I'll make a motion.

CHAIRMAN CARACCIOLO:
Second.

MR. PRUITT:
Second.

CHAIRMAN CARACCIOLO:
All in favor? Motion carried minutes accepted. **(Vote: 10-0-0-2 Absent: Daum, Kontokosta)**

MR. FRELENG:
Mr. Chairman could you please repeat the seconds. We usually catch the first, if you could just repeat the second when the motions are made.

CHAIRMAN CARACCIOLO:
Okay, I'm sorry. Commissioner Pruitt second. Now going to the third, public portion do we have anyone who wants to speak?

MR. ISLES:
Yes, Mr. Chairman, we have several members of the public present today that have requested the opportunity to speak and I'll present those cards to you.

CHAIRMAN CARACCIOLO:
Okay. And if you could just -- Mr. Isles just go over the -- it's three minutes on each.

MR. ISLES:

Right. Under the rules of proceedings of the County Planning Commission speakers are permitted to speak in the public portion of the meeting. Speakers are limited to three minutes or approximately three minutes. Speakers may also however obtain three minutes by negotiations with other members public so they can a total of six minutes should they choose.

CHAIRMAN CARACCILO:

Okay. Thank you. First on the list is Mr. Ptucha, James.

MR. PTUCHA:

According to what you just said can I go second because I might want to donate some of my time to somebody else?

CHAIRMAN CARACCILO:

Sure.

MS. GALLAGHER:

Can Commissioners ask members of the public questions?

SPEAKER:

(inaudible)

CHAIRMAN CARACCILO:

So we'll go to Miss Laura Mansi. Did I say that right?

MS. MANSI:

Yes you did.

CHAIRMAN CARACCILO:

Thank you. Thanks for coming today.

MS. MANSI:

You're welcome. Before I begin my understanding was I had six minutes; as I told Tom Isles I timed this precisely. I did not know I was going to be limited to three minutes and that there would be a donation of time. And I would like to -- I'm representing a large community who can't be here today because most of them are working so I would appreciate the opportunity to finishing my remarks for the record.

CHAIRMAN CARACCILO:

I don't have a problem with that. Would that be okay if we --

MR. ISLES:

Okay.

MS. MANSI:

Thank you very much I really appreciate it.

CHAIRMAN CARACCILO:

No problem.

MS. MANSI:

Good afternoon. My name is Laura Mansi and I'm President of the 4-Towns Civic Association. The Planning Department remarks submitted to the Town of Babylon's Planning Board spelled out a number of serious planning concerns with regard to the Tanger project primary among them was the location of the site and the distance this discount mall would be located from the

main highway. I am not about to interpret these comments, but I will add and expand on these. Here are some facts you should know.

The proposed Tanger project is a discount shopping mall composed of more than 800,000 sq. ft. of retail shopping. The primary route to the discount mall is the LIE to Exit 52 onto Commack Road which is one lane in each direction for most of the distance to the proposed mall except in the immediate area of the project. To get to the proposed shopping center, you have to cross over a grade level railroad crossing that has been deemed the third most dangerous in New York State; other railroad crossings before and after the site will be affected as well.

Commack Road is insufficient for the traffic that currently exists. Ask anyone who lives near or drives along it. Anyone with a discernible IQ who observes it can tell you that; they need not be a traffic engineer. The tractor-trailer truck traffic over this road is horrific now. I daresay that there is not a worse site on Long Island for concentrated truck traffic most of which is generated in Deer Park, Babylon. The underpass at the LIE at Exit 52 is narrow and short so that when these trucks go under the underpass the traffic backs up on Commack Road north and south as well as on to the LIE service roads. Three years ago prior to this building assault proposed for the area we went to the Town of Huntington to request a truck tonnage restriction on Commack Road. While the town agreed to the need they ultimately indicated that a federal requirement and a state designation made Commack -- made that impossible. Right now the trucks that try to make the turns on to Commack Road from Long Island Avenue in Deer Park end up going over curbs and or forcing drivers to attempt to back up at the lights in order for the trucks to maneuver onto the roads.

Can you imagine what will happen when this mall is built as planned? There will be major impacts to all the side streets that run through the residential communities to Commack Road in Deer Park and Dix Hills. The health and safety of the residents in the area will be in constant jeopardy from the dangerous traffic impacts. We are concerned for the safety of the children in the area. There already have been school bus accidents. We know that if this is built it will be a matter of time for a major accident or accidents at the railroad crossings. In addition, we have no doubt that the ambient air and noise standards are already being exceeded. One of the mitigating measures the Town of Babylon Planning Board imposed was that at Christmas time the employees of Tanger should park at the Long Island Railroad that's on Long Island Avenue. I wonder how many Long Island Railroad commuters who pay hefty fares will feel when they can't find a parking spot.

We wonder why a dedicated road, as there is in Riverhead, was not one of the conditions imposed by the Planning Board. We wonder why there was no concern for the economic viability -- economic impacts on other malls nearby. We wonder why there was no concern for the economic viability of the Tanger mall in Riverhead if this is built. You should know that the Tanger Mall is just one of five major projects planned or in progress for this small geographic area and Commack Road as it stands now is the major conduit. While Tanger called the state environmental review generic, it was hardly that as evidenced by the scope of their review.

Allow me take you on a journey beginning about a half mile north of the Long Island Expressway Exit 52 underpass on Commack Road. The former Hazeltine facility which is now Forest Labs located on the east side of road -- I'm sorry I made a mistake here. You go about a half a mile north you have the former Hazeltine facility which is now Forest Labs located on the east side of Commack Road and it has been substantially expanded and has increased traffic on Commack Road. Traveling about three tenths of a mile south brings you to an area east of Commack Road where the Town of Smithtown over the objections of the Suffolk County Planning Commission has permitted the building of 400,000 sq. ft. of Big Box Stores, a Home Depot, a Super Wal-Mart and Kohl's. Construction is in progress. Already adjacent to this new retail there exist a Costco, Target, Expo and Home Goods. Continue about two tenths of a mile and we will try to successfully pass through the LIE underpass because in all likelihood there

are tractor trailer trucks, many 55 ft. or more, who are also trying to negotiate their way into this tight area.

As we head south on the single lane of Commack Road to the east you have a large tract of Pilgrim State property that has been sold to a developer. He plans on building a city called Heartland Square and it will consist of a million sq. ft. of retail space, three million sq. ft. office space, 9,000 residential units and 100,000 sq. ft. for public use. Also, on the grounds of Pilgrim, while it is too complex to describe and assess here, the state plans on building a truck intermodal.

When we reach Nichols Road, on the west side of Commack Road in Deer Park, we have another project under consideration that will extend to Long Island Avenue. It will add another 100,000 sq. ft. of retail development. Then it's a blink to the Long Island Railroad grade crossing that I mentioned earlier. Currently at rush hour the traffic backs up here substantially. When we cross over the tracks we are approaching the area to the east of Commack Road where the 800,000 sq. ft. plus Tanger Mall is planned. There is an adjoining shopping center in existence which consists of a ShopRite, a Home Depot and a Kohl's Department Store.

In sum, starting at the Big Box store area to the Tanger Outlet Center, approximately a distance of 3.5 miles along a stretch of Commack Road there is planned 5.3 million sq. ft. of new development, not including the 9,000 residential units or the 100,000 sq. ft. of public space. You may think this is an area that is commercial, but you would be dead wrong. There are many established beautiful housing developments right along or nearby Commack Road in Dix Hills, Commack and Deer Park that will be directly impacted.

Babylon is hell bent on building this mall, so much so, that if you do the right thing and vote against this project, they have even passed legislation that provides alternates, three alternates, to the Babylon Zoning Board of Appeals. This legislation ensures that there will be a super majority vote. I will hand up a copy of the legislation with my statement that I am referring to. All town board members voted to make this change.

Despite knowing this I urge you to vote against this application for the sake of the record. If all fails and one day this mall is built and the accident that is waiting to happen occurs or a scandal breaks loose as it will, at least this board will not be held responsible and your consciences will be clear. Thank you for your kind attention to this matter and I appreciate the extension of time.

CHAIRMAN CARACCILO:

Thank you Miss Mansi, thank you for coming.

MS. MANSI:

You're welcome.

CHAIRMAN CARACCILO:

Mr. Ptucha do you want to go next?

MR. PTUCHA:

Yes, I'll try to be quick. Thank you I appreciate it.

CHAIRMAN CARACCILO:

You have a minute now because she used your time.

MR. PTUCHA:

Well, first of all I'll echo all the sentiments that was tremendous. That's the first time I heard that. Laura is certainly a credit to her community. I am a resident in the Town of Huntington and I live

on the west side of Commack Road south of the Long Island Expressway and I'm actually very concerned about the imminent change of quality of life that's going to happen if all these developments or even if some of these developments take place. Basically, if you look at the traffic data that was presented by the developer Blumenfeld whose building Tanger they suggested something over 3100 trips, that's car trips, per peak hour. I can't imagine having a dozen more car trips per peak hour on Commack Road the way it stands right now let alone 3100; that's just one development. As Laura Mansi mentioned there's Unicorp, there's Heartland, there's all the Pilgrim State developments that we're talking about.

The Deer Park train station that my wife uses right now is over crowded; on a regular basis she struggles to find a parking spot. I don't see how they can use that for overflow parking. I can't get anybody from the MTA to talk to me about this; it seems that they just don't care. I've been trying to talk to people in Suffolk County for the past month now about this trying to generate or regenerate some level of interest and all I'm asking you is please I know it's a new board here, please make a statement. I think you all know what the consequences are and what the right thing to do is. I'm a typical young homeowner that you're trying to attract into the communities and you know what if this happens there's going to be a mass exodus of people and that's exactly what we all don't want to happen. So please consider not approving this and sending a message to the Town of Babylon. Thank you.

CHAIRMAN CARACCILO:

Thank you for coming I appreciate your time. Ms. Gordon, Jill Gordon.

MR. GORDON:

(inaudible)

CHAIRMAN CARACCILO:

Okay. Mr. Gordon you want to go first?

MR. GORDON:

Yes.

CHAIRMAN CARACCILO:

Okay.

MR. GORDON:

I'll use my wife's time if that's okay with the board.

CHAIRMAN CARACCILO:

Okay.

MR. GORDON:

My wife and I bought this building out in Greenport; it's a very small commercial building, it's 2,000 sq. ft. It has been used -- it was built as a market, Kaplan's Market.

CHAIRMAN CARACCILO:

Could you just speak into the microphone sir?

MR. GORDON:

Yes.

CHAIRMAN CARACCILO:

Thank you.

MR. GORDON:

It was used as a market; Kaplan's Market was built sometime in the 1920's. It was used as a delicatessen; it was used as an upholstery shop and when we bought the building it had some rooms in it and there were people living in it. So we bought the building with the intention that we would continue having some people living in the back and possibly fine a commercial use. We applied to the Village of Greenport for a mixed use, that was denied. They said it was too intensive. So we're coming now and saying they told us we had to get the people out which we did; and we want to now use it for a very light commercial use much lighter than it ever was used. It was used, as like I said a delicatessen; it was a high traffic area building on a residential street.

We're looking to have a commercial use for something like an art gallery or an antique store. We don't envision there would be any problem with parking; there's plenty of on-street parking. There is none with the building; there never has -- was any parking with the building. The building is non-conforming; it takes up virtually the entire lot. We expected if we had an antique store or some low impact thing it might be opened on the weekends and people would come. We were hoping to have, you know, artist come in. We might take it ourselves; we were hoping to live in the back and were going to have a little art gallery in the front ourselves.

We don't have a lot of money; this is our retirement investment. This is all we have and we're trying to use is just to use it for anything. For two years we've been going before the Village and the Village has not been decisive on any use of this building. They said well, first they said you got to make it into a residence. So they ordered us to put cold compliant windows in the building. So we put fire code compliant windows in the building. Now they're saying it can't be a residence because it's too close to the property next store. So we're saying okay, we'll make it a store and we're saying we want to have a store and somehow we ended up here. The cost to do this is just astronomical; we can't afford attorneys, we can't afford architects. I mean, we've spent maybe \$10,000 on architects and some attorneys; we're out of money. All we're asking for is just to be able to use this building for some use; the lowest impact commercial use we could come up with. I mean, it's a very unique building, there's none other like it in the Village of Greenport. It's a nice building it's in good repair. It's just a shame that's its sitting there and going to waste.

I imagine that this board has a copy of the building application that we put in?

CHAIRMAN CARACCILO:

Yes sir, we so.

MR. GORDON:

Okay. So that kind of sums it all up. I invite you to come and look at it and what I want to emphasize is we bought this building we didn't make any changes to it. We bought it just the way it is with the people in it. There was a Spanish lady living in one room and, you know, no problem and the Village came in and said you can't have people living there so they moved. And I really don't know let see, do you have any questions for me on this?

CHAIRMAN CARACCILO:

No, sir. We have everything in the application.

MR. GORDON:

Okay. So really we're just looking to use it for really, really low impact light commercial, no parking issues. No noise issues, so, you know, what could be quieter than say an art gallery or an antique store? I would be thrilled if people showed up more than two a day. I don't think it's going to happen. Thank you.

CHAIRMAN CARACCILO:

Thank you for your time; we appreciate your honesty and your passion for the property.

MR. GORDON:

Thank you.

CHAIRMAN CARACCILO:

Director's report, Mr. Isles.

MR. ISLES:

Okay. Mr. Chairman let me just add one point to the public portion.

CHAIRMAN CARACCILO:

Oh, I'm sorry. I think we have one more; oh, no, you wanted to --

MR. ISLES:

Legislator Steve Stern, County Legislator Steven Stern had indicated that he would like to speak to the Commission and address one of the applications on today, the Tanger Mall application. His Legislative Aide Debbie Harris is here. Unfortunately, he was involved in an accident this morning and is not able to attend; we hope he's okay. He has, however, requested the opportunity to provide a statement to the board and certainly that can be made part of the record and we hope as I said that he's okay. So with that Mr. Chairman the Director's Report is as follows. One item I'd just like to bring back for your consideration is the rules of the proceedings of the Commission. This had been amended last year or two years ago I should say and as required by the County Charter the Commission must on an annual basis adopt the rules of proceedings and basically this outlines to you the requirements for the meetings and conduct of business and quorums and so forth. So it's pretty straight forward; it includes the public portion as said that was added two years ago. With your consideration then of this we would request a motion to adopt the Rules of Proceedings.

CHAIRMAN CARACCILO:

Can I have a motion to adopt these?

MS. HOLMES:

I'll move the adoption.

CHAIRMAN CARACCILO:

Second.

MS. BOLTON:

Second.

MR. GOODALE:

If I might just -- it says that the meetings in Riverhead are at 10 o'clock, is that correct?

MR. ISLES:

That's a good point. We have conducted them at 10 o'clock --

MR. GOODALE:

Fine with me.

MR. ISLES:

-- when there was a conflict with the Environment Planning and Agricultural agenda. Quite honestly in the past few months we have been able to do it at 12 o'clock. So perhaps what we should do is just make it 12 and keep it uniform then.

CHAIRMAN CARACCILO:

Since the guy coming from the furthest west is, you know, now the Chairman I think we're going to do it at 12.

MR. ISLES:

Okay, so we'll do it at 12 that makes it uniform.

MS. HOLMES:

It's a good thing you noticed that Bobby.

MR. ISLES:

The next meeting in Riverhead is in June by the way.

CHAIRMAN CARACCILO:

So we have a motion and we have a second. All those in favor of the new rules governing the meetings?

MS. BOLTON:

Second.

CHAIRMAN CARACCILO:

I'm sorry.

MS. CHORNY:

If we could get the votes by using the persons name because it's going on the tape.

CHAIRMAN CARACCILO:

Okay. When we make the motions we'll say our names when we make the motions. Okay. So the first motion to accept was --

MR. ISLES:

Linda Homes.

CHAIRMAN CARACCILO:

And the second?

MS. BOLTON:

Charla Bolton seconded it.

CHAIRMAN CARACCILO:

All those in favor? Opposed? Okay, motion carries. **(Vote: 10-0-0-2 Absent: Daum, Kontokosta)**

MR. ISLES:

Thank you very much. A few other items members of the board, there have been some changes to the Planning Department that have been approved that were proposed by the County Executive and have been approved by the Legislature. Just to bring you up to date on that; the Department of Environment and Energy has been created and is going into effect on April 1st. In terms of the impact to the Planning Department functions the only changes that the Division of Real Estate that was under the Department of Planning is now being moved to the Department of Environment and Energy. All the other aspects of the County Planning Department, the environmental analysis unit, the planning unit, the staff functions for CEQ are all being done by County Planning so that will not change.

The next item is that Information Technology Department has been created so one Planning Department staff member will be going to that new department to oversee GIS coordination mapping, electronic mapping coordination in the County. We if all just pause it a moment to advise the Commission that we are joined by today by students from the Gersh Academy and I believe its Mr. Ron Howell is here on behalf and so we welcome you to the Commission and are here today to observe the Planning Commission.

Next item is just to advise you on two bills that have been considered by the Legislature. One I advised you at the last meeting which is known as Introductory Resolution 1065 directly impacting the County Planning Commission. This bill was approved and signed into law by the County Executive and what it does is it changes the requirements for membership on the County Planning Commission. We still have requirements that there be geographic representation from the ten towns and two slots for villages and three for at large positions, but they're requirements now that six occupations be represented on the Commission including real estate, environment, municipal planning, transportation, workforce housing. So in future appointments to the Commission the Legislature will need to consider and the County Executive will need to consider providing both geographic representation as well as occupational representation according to those requirements. Obviously, we do have diversification on the Commission presently; I think at this point we've got four of the six slots covered, but as vacancies occur they would have to be in accordance with that.

The other aspect is that new members to the Commission and actually after December 31st of this year existing members will not be able to hold appointed positions on land use boards in their respective towns or villages. Nor can they hold political positions as committee members and so forth. Certainly, if any members want copies of that we probably will distribute them anyway at this point since it's going to affect everybody. So just so we know where we stand with that.

The next bill I just want to bring to your attention is one that was just laid on the table recently which is Introductory Resolution 1177; this also affects the County Planning Commission. This bill as this board knows, if a municipality seeks to override a County Planning Commission recommendation it requires a super majority as the term that's used or state law refers to as extraordinary majority. So that a local board where they typically can grant in a change of zone application if they want to override the Commission, pardon me, on a simple zoning application would be a majority member of the village board or town board. If the Commission recommends disapproval for example or puts conditions on that the local board doesn't agree with they need the super majority which is majority plus one. The change that's now pending in the Legislature would allow an override by simple majority for affordable housing projects. So this is new legislation; it's going to committee next Wednesday and we'll see what happens there. Planning Department staff has expressed concern that this may not be consistent with state law which refers to the extraordinary majority. We're also concerned that it sets up a possibly confusing situation the municipalities where there's one set of rules for one situation and another set of rules for another situation. So we have some concerns about how well that's going to be administered.

Certainly, affordable housing is important however so are the other aspects of the Commission's jurisdiction such as environmental impacts, community impacts, transportation impacts and so forth. So we're a little bit concerned about having one having a different standard than all the rest.

Just to update you on a couple of projects that are some key points, we have presented to you the agriculture study that we are engaged in the Peconic Bay system based on state law approved last year. We are progressing with that and we have completed the RFP for that project and that will be going out to bid this month. We are also proceeding with the Yaphank development consideration of possible County property in Yaphank. We have been meeting

with community groups, civic groups and so forth and we are at a point now where developers will until May 1st to submit their proposals to the County and certainly at that time I would like to share that information with the County Planning Commission.

Two other quick items, the Department is heavily involved in the planning of Gabreski Airport at this time in two aspects. One, there's an update to the Gabreski master plan for the entire airport 1400 acres that is now being presented and considered. And secondly, within the airport there's the industrial park proposal known as the Airport Plan Development District. We are working with the Town of Southampton on that; that is also getting ready to be publicly presented and start the SEQRA process. And then finally, in terms of project updates we are giving a presentation actually Bobby, at Riverhead next week on a land seminar and Riverhead has asked that we participate in that land seminar. So it's an all day seminar to try to reach out to farmers and other open space property owners and advise them in the availability of County acquisition programs for open space and farmland protection as well as town programs.

Given the fact that we have a number of new members to the Commission the staff would like offer to the Commission the opportunity to have an orientation session if you would like to which we could schedule in either April or May probably right before a Commission meeting. So the Commission meets at 12 o'clock perhaps doing at 9:30 or 10 and having the opportunity to be a little bit more completely going to the role of the Commission and get to meet some of the staff members. We obviously have staff members at the meeting here, but there's another 20 people back in the office that you don't get to meet that often and so if the Commission would like to see that whatever your schedules allows. We could schedule that April or May and put together a program for the Commission members. Just let us know if you'd like us to proceed with that.

We do have for you today more proclamations for your consideration for former Commissioner Bobby Martin who served on the Commission for I don't know Lou, is it about 30 years or 40 years I think he served on the Commission. So obviously, it's with a lot of respect and admiration that we would ask you consideration of a proclamation for Bobby and also for Laure Nolan who served on the Commission serving on villages greater than 5,000. What we'd like to do as well is to we now have six Commissioners who have left the Commission is to invite them back perhaps for the April meeting and present the proclamations at that time.

CHAIRMAN CARACCILO:

That would be great.

MR. ISLES:

So I'd like to circulate this today actually for sig -- actually these are the new ones. We have the proclamations for some other signing members that were signed at the last meeting that maybe the new members would consider signing as well.

CHAIRMAN CARACCILO:

That would be wonderful.

MR. ISLES:

Okay. Then that completes my report.

CHAIRMAN CARACCILO:

The legislation you said is going to committee this week on the affordable housing change?

MR. ISLES:

It'll be March 8th, Wednesday, March 8th at 9 o'clock it goes before the Affordable Housing Committee.

CHAIRMAN CARACCILO:

Could you keep us updated on what that outcome of that is, please?

MR. ISLES:

I certainly will.

CHAIRMAN CARACCILO:

Thank you.

MR. ISLES:

Yes.

MS. HOLMES:

May I ask a question? You had mentioned the adjusted criteria which Southampton Town has voted to accept on having certain, certain types of projects which would not have to come before Commission. The Town of Shelter Island is very anxious to learn about that and to consider participating in that. Do you have an idea of when that proposal would be circulated to the other towns?

MR. ISLES:

Well, we could do that right away; we did enter into with the Commission's approval. The County has entered into an Inter-Municipal agreement with the Town of Southampton and what the agreement does and your point is well taken is it allows the town to do a simplified referral process for deminimis applications. So for something like a fence variance that doesn't have countywide significance; certainly minor changes to buildings as part of a site plan review. There's been a pre-approved list whereby those matters do not have to be referred to the Commission. There's an e-mail notification system that we set up; anything that's (inaudible) from an environmental standpoint would be exempt from that. So we're -- that is put together and we'd be happy to reach out to Shelter Island and actually put together an agreement with them as well subject to Commission approval.

MS. HOLMES:

Well, out planning board chairman very much would like to see it and so would the supervisor. So if that's something we need to approve doing I would like to --

MR. ISLES:

Well, would you like us to contact them and work out a draft IMA, Inter-Municipal Agreement --

MS. HOLMES:

Yes.

MR. ISLES:

We could do that.

MS. HOLMES:

Yes.

MR. ISLES:

Okay, and then bring it back to the Commission then.

MS. HOLMES:

Yes, thank you.

MR. ISLES:

Okay, we'll do that.

CHAIRMAN CARACCILO:

And Tom, if we could schedule them, I don't know how the other members feel about it; if we could schedule an orientation session before the meeting in April I think that would be great. Would everyone be okay with that?

Unanimous Yes

CHAIRMAN CARACCILO:

Okay. On to the Director's Report, oh no we did that; the Commission's Roundtable I'm sorry. Could you start us off in Riverhead please?

MR. GOODALE:

Yes, I would say the -- of anything that's happening is the advancement of the historic district which will take up most of downtown Riverhead. It would seem to be moving a pace and I only question it's without substantial opposition in its present form. Let me ask, would such a proposal like this ever come to this board for their consideration?

MR. ISLES:

This is actually creating a district, a law --

MR. GOODALE:

Yes, yes it would come at some point.

MR. ISLES:

Well, it would come to the County for referral.

MR. GOODALE:

Right.

MR. ISLES:

A lot of the code amendments are considered to be matters of local determination, but it does come to the Commission overall, yes.

MR. GOODALE:

We think this would, we're sure that this is going to have substantial impact upon the way these matters are handled in downtown Riverhead and we hope for the better. But it would have a substantial impact so I was just wondering whether or not it would come to the County from the County perhaps to us or not.

MR. ISLES:

Do you think it should come to the full Commission in your opinion?

MR. GOODALE:

I don't know.

MR. ISLES:

Okay.

MR. GOODALE:

I don't know. That's it.

MR. ISLES:

Open, yes.

MS. BOLTON:
Nothing to report.

MS. LANSDALE:
Nothing today.

MR. FIORE:
Nothing to report at this time.

CHAIRMAN CARACCILO:
Okay. Pass on Huntington. Babylon.

MR. DIETZ:
Nothing.

CHAIRMAN CARACCILO:
Ed.

MR. PRUITT:
Nothing with Brookhaven.

MS. GALLAGHER:
Nothing from Smithtown at this time.

MS. HOLMES:
Shelter Island our new supervisor is very, very anxious to get a consensus on affordable housing plans. Several different plans have been put before the town board and they're very anxious to come to a consensus and move on those because they feel the available land to for the town set up affordable or senior housing is getting smaller by the day. So they're very anxious to move and they do appreciate the input that staffs have given us and the other issue we just resolved with -- they want to see the amended proposal. Thank you.

CHAIRMAN CARACCILO:
Thank you Commissioner. We're on to business section A-14-14 to 23 of the Administrative Code. Andy are you going to start us off?

MR. FRELENG:
Yes.

CHAIRMAN CARACCILO:
Okay.

MR. FRELENG:
You can hear this right? Okay then, welcome new Commissioners and good afternoon members of the board. The first regulatory matter that's been referred to the Suffolk County Planning Commission is referred to us from the Town of Brookhaven. This is the application of Ryzuk, Tom Ryzuk. Jurisdiction for the Commission is that the subject application is adjacent to NYS Rte. 25 otherwise known as Middle Country Road. The applicants are seeking Town Board Change of Zone approval from B-1 residential and J-2 commercial to J-5 commercial in order to construct 32,056 sq. ft. of commercial space in four buildings. The proposed uses also require Town Board Special Permit approval. The subject property is located on the south side of Middle Country Road approximately 650 ft. west of Nicholls Road which is a County road CR 97. This is all situated in the hamlet of Centereach.

A review of the character of the land use and zoning pattern in the vicinity indicates that the subject parcel is in a corridor of commercial zoning. Properties to the west and east of the subject site are zoned and improved commercial lots. South of the subject site is improved residentially zoned land. So you can see from the air photo that we have the subject property in an L-shape. We have commercial uses to the west and commercial uses to the right in a corridor across the street. On Middle Country Road you have a string of commercial uses; south of the subject property is residential development. Chris can you go to the zoning map a second. The zoning map as you can see shows that the subject site is in a corridor of J-2 business and just below it is the residential B zone and you can see some light industrial furthest to the south.

As indicated the applicant seeks Town Board Changing Zone Approval from B-1 residential and J-2 commercial to all J-5 commercial for the construction of 32,056 sq. ft. of commercial space in four separate buildings. If you can see from the site plan, you can make out the four buildings. There's a small one on top; there's if I can point them out to you is this one here which is a gas service station and convenience store. There's a car wash here; there's this big block building and then a building back in here. The proposed uses would require Town Board Special Permit as follows: one 4,000 sq. ft. building to be used as a motor vehicle fueling station with a convenience store as an accessory use. 1,056 sq. ft. building to be used as motor vehicle wash. One 16,000 sq. ft. building to be used for motor vehicle repair and storage and one 10,400 sq. ft. building to be used as office and general industrial space. The proposal involves the partial demolition of existing buildings on site related to an existing gasoline service station. Access to the property would be from SR25 to the north. Accesses from one point and that would be right here from SR25.

A similar application on this site was received and reviewed by the staff of the Suffolk County Planning Commission in May of 2004; that application was also a Change of Zone and Special Permit for outdoor storage and motor vehicle repair. The property was somewhat smaller where an adjacent one acre lot was not included. There are only two buildings proposed on site at the time and circulation parking and impacts to the state roadway were determined to be minimal. Commission staff returned the application for local determination as there appeared to be no inter-community or regional issues. Staff did include a comment in the local determination letter which read "the intensity of use should be diminished with appropriate use, operational and developmental restrictions to adequately protect nearby residences. Alternatively, a J-2 Business District reclassification warrants consideration".

The current proposal before the Commission appears to be in direct opposition to the comment. While an additional acre is added to the total lot area the use is further intensified. It is the belief of the staff that the mix of uses proposed in this current application constitutes the unwarranted over-intensification of the use of the premises. The proposed site plan is approximately 10% shy of the required parking and may require an Area Variance from the Town Zoning Board of Appeals. Staff is concerned with the cueing arrangement for the car wash and the possibility of travel isles becoming congested or blocked. Moreover, the location of the proposed office/general industrial building is situated in the far rear of the lot making it an illogical location for office space. The placement of the industrial component on the lot is also problematic. The location of the building abuts a proposed 50 foot buffer. This buffer, while an expansion over the original buffer, is misleading as no building can operate without a minimum rear yard. The proposed 50 foot buffer is intended to reach the rear of the building exactly.

Finally, the orientation of the proposed motor vehicle storage and repair building is situated to have the open bay doors facing in such a way that noise such as engine, air guns, reverse alarms, etc. would seep towards the residentially zoned lands. In total the mix of uses and the deficiency in parking raise the concern that the motor vehicle congestion on the subject property may overflow onto the state roadway thereby diminishing the traffic safety and carrying capacity of said road.

Well, in total then the issues related to the subject application stem from the Commission's policies regarding the over-intensification of land use and good site planning. Just to quickly recap, if you can see the motor vehicle carwash has the cars cueing this way into this travel isle. If you were an office worker you would have to meander your way through the site in order to get to the proposed office building. The bay doors on this service garage, if you will, face east and the noise may travel south into that residential area which I showed you there.

Staff is recommending disapproval for the following reason. The proposal is in an unwarranted over-intensification of the use of the premises. The two paragraphs which followed is the rationale lifted from the staff report. That is the recommendation of staff.

CHAIRMAN CARACCILO:

Do we have a motion?

MR. FIORE:

I recommend we go along with the staff on that for disapproval.

MR. PRUITT:

Second.

CHAIRMAN CARACCILO:

All those in favor? Abstain?

MS. LANSDALE:

Yes.

CHAIRMAN CARACCILO:

One abstention?

MS. LANSDALE:

Yes.

CHAIRMAN CARACCILO:

Any no's? So we have 9-1 --

MR. ISLES:

9-0-1.

CHAIRMAN CARACCILO:

9-0-1, I'm thinking baseball. **(Vote: 9-0-1-2 Abstain: Lansdale, Absent: Daum, Kontokosta)**

MR. FRELENG:

The next matter that comes to us is referred to the Commission from the Incorporated Village of Greenport. This is the application of R.J. Carsten otherwise known as Kaplan's Market, LLC. Jurisdiction for the Commission is that the subject property is within 500 ft. of the municipal boundary of the Town of Southold.

The applicants are seeking Village Zoning Board of Appeals approval for a use variance to allow office and retail use in a residential zone. The subject property is located on the west side of Kaplan Avenue which is a village street approximately 127 ft. north of Madison Avenue which is also Village Street and this is in the Incorporated Village of Greenport. A review of the character of the land use and zoning pattern in the vicinity indicates that the subject parcel is an "L" shaped property of 3,349 sq. ft. in an area of small lot residential zoning. Properties to the north,

south and west are improved with dwellings. Across the street to the east is improved residentially zoned land; access to the subject property would be from Kaplan Avenue.

As indicated the applicants are seeking Zoning Board of Appeals approval for a use variance to allow office and retail use in an existing block and brick building of approximately 2500 sq. ft. in area. This is in the R-2 residential zoning district. The concrete block and brick building that exists on the subject property has a history of non-conforming uses to the R-2 zone including a market, delicatessen, upholstery shop, storage and residential. The existing building was designed for commercial use and has a shop front, display window and a large unconditioned storage area. The building is also non-complying to the zoning law in that it needs none of the dimensional or area requirements of the zone. The site in its current configuration provides no ability for off-street parking. Due to the lot geometry the only area on site available for parking is inaccessible except by easement across adjacent property. Convenient accessible parking for the existing building appears to have been made privately between this and adjacent property owners as there is a fenced off two car driveway on adjacent land to the south that functions to provide off street parking for the pre-existing use. The building is the only commercial building in the area and predates the zoning ordinance of the Village.

So quickly, we have the "L" shaped parcel laying on it side, if you will. This is the road that it fronts on that is Kaplan Avenue I believe and we have residential uses to the south and residential uses to the north and east and this is a predominately residential area. Okay, I want to show you it's hard to see here, but this would be the building, this area here is cleared. You can see that if you wanted to access the property from West Street you would come up across this property if you could arrange an easement. I believe at one time in the past when these two lots were together access to the back of this property was across this lot. There is no opportunity to come from Fifth Avenue indicated here to this back area.

In 1997 the subject property was part of a minor subdivision application referred to the Suffolk County Planning Commission. The matter before the Commission was the creation of a lot to the south for the separation of a residential dwelling from the commercial structure. That would be this lot here, Chris if you want to flip we can -- okay. This is the site plan submitted to the Commission; this would be the block building, this would be the remaining vacant area if you will of the subject property. As you can see there is no opportunity to get across the adjacent parcel here from Kaplan Avenue. There was an application before the Commission to subdivide off parcel one from the parent parcel creating two lots, parcel one and parcel two. The applicants at that time contended that the parcel in its current use which was at the time mixed residential and commercial was unproductive to the extent that mix use on the property restricted its use and marketability and that quote, "no lender will allow a refinance on a mixed use property." The applicant contended that the mixed use site was an economic drain and hardship and wished to create two deed able parcels. Commission staff returned the referral for Local Determination and as you can see the Village went ahead and approved the subdivision so now we have the remaining parcel.

The current matter before the Commission is the request to reestablish a non-conforming use that had been discontinued for over a year and further changed that previous non-conforming use to a similar, but different non-conforming use. The applicant contends that if the request is not permitted in order to convert the building into a single family or two-family use "the building would need major renovations, including, but not limited to, a fire sprinkler. The cost of these renovations would be prohibitive". The referral to the Planning Commission provided no information on the costs to bring the existing structure up to code regardless of the use. The building appears to be in disrepair and in need of some renovation in order to be serviceable. Furthermore, there is no information as to the resale value of a vacant residential lot in the area as compared to the demolition costs to remove the building and prepare the site for residential dwelling construction.

It is the belief of the staff that the “cost prohibitive” nature of the applicant’s argument with respect to realizing a reasonable return may not be fully explored. The applicant needs to submit to the Zoning Board of Appeals component financial evidence demonstrating a substantial economic hardship as to why the site cannot be brought into conformance with the residential zone including conformance with the building code, installation of fire sprinklers and demolition of the non-complying structures as compared to residential rental or resale of the property.

The proposed request to allow the retail/office use would appear to be a request to reestablish an over-intensification of the use of the site. The existing building occupies close to 60% of the lot area and provides no opportunity for off street parking. Retail use at the subject premises would anticipate a demand for parking where there is none that is on site, off site I should say. Notwithstanding the arrangement with the neighbors to the south providing two unofficial spaces, a 2,500 sq. ft. building at one space per 200 sq. ft. would require a total of approximately 13 spaces. So you can estimate the deficiency that is being generated by the use. A retail use on the subject site would necessitate the use of the surrounding village streets for parking purposes thereby diminishing the safety and traffic carrying capacity of the street and impacting the character of the neighborhood. Office use of a repaired and renovated building if encumbered by appropriate operational restrictions to adequately protect nearby residences may be an acceptable use for the premises.

Summarizing then the issues related to the subject application stem from the Commission’s policies regarding the over-intensification of land use and good site planning. The staff is recommending disapproval of the retail component for the following reasons and that would be that the proposal is an unwarranted over-intensification of the use of the premises. The paragraph which follows is a rationale lifted from the staff report which speaks to the deficiency in the parking. It speaks to the percent occupancy of the building and it speaks to some of the impacts of the overflow parking on the streets. So as indicated staff is recommending disapproval of the retail component. However, staff is recommending approval of the office component with the following conditions. The first condition being that the use being encumbered by appropriate limitations on occupancy and hours of operation. And these would help to preserve some of the impacts or lessen some of the impacts on the adjacent properties. In addition, the second condition for approval on the office use would be that parking for at least two of the off street -- parking for at least two off street parking spaces shall be made available to the premises by means of a written lease, an easement or contract with the adjacent landowner to the south or by some other appropriate means to provide off street parking to the requested office use.

The comment which follows is just lifted from the rationale in the staff report which speaks to the needs to submit additional economic hardship information. And the final comment speaks to the, let me just read that, furthermore, Commission files indicate that the subdivision process related to the creation of the subject lot and the current petitioner are not the same party. The applicant should submit written testimony as to why the alleged hardship is not self created as the nature of the non-conformity of the uses and the non-compliance of the building have been long documented. As you may know use variance criteria requires that you submit evidence that the hardship is not self created. So that was rather complicated referral and that is the recommendations of staff.

CHAIRMAN CARACCILO:

Thank you for a thorough report Andy. Any comments on this application for the Commission?

MS. BOLTON:

Mr. Chairman.

CHAIRMAN CARACCILO:

Yes, go ahead Charla.

MS. BOLTON:

I just have one question for Tom. Since use variances and area variances are two very different things and state law lays out a criteria for both of them. It might be useful for this board particularly for the people who are new to this to supply either a copy of state law or some digest thereof so that we can really evaluate these apart from the written report.

MR. ISLES:

Sure, we can do that. I mean, I think Andy has given at least a little bit of a thumbnail on that. Perhaps we could do is include that too in the orientation session and certainly providing some background information in the state law. Some areas you're pointing out we can certainly do that, but fundamentally, use variances are a pretty high test in the sense that it's a significant variance or modification of the land use under the zoning. The alternative for an applicant is often times to seek a zoning change, but a use variance is held to a pretty high test that you show financial reasons why you cannot use the property for the current zoning.

MS. BOLTON:

That was my second comment is that I'm not sure this rises to the level of the test in the sense that it appears that it's not unfeasible economically to develop it residentially which is the classification in which it's placed. So I'm not sure in a sense I'm not sure why this is here unless that information hasn't been evaluated by the Village.

MS. HOLMES:

That's what I wanted to ask; if staff had contacted the Village board to find out why they were telling the applicants you have to get the residents out and then -- I just -- I'm troubled by this because the current Mayor of the Village is a realtor who also runs an antique shop on his premises. And I just didn't know whether that colored some of the Village board's objections and also I'm troubled because I have been so happy to see the revitalization of Greenport which is a village of combined shops and residences on all of its streets and that is the history of the Village. And I do wonder also if the staff took into consideration the two fairly large municipal lots which are nearby or within walking distance, but they're certainly not adjacent in anyway to Fifth Street. But I just wondered if staff had been in conversation with the Village board to clarify why they made the objections that they did like kicking out the resident and then --

MR. FRELENG:

Staff was in touch with the Village; it was our understanding from the materials that they supplied to us and some of the questions that we asked of them was that the building was not safe for residential use because it did not comply with the fire code required sprinklers for residential use. That was my understanding and that why --

MS. HOLMES:

So it's been a pre-existing non-conforming, but now with the new owner they want it brought up to code which does often happen.

MR. FRELENG:

Well, that does often happen. What you had was a pre-existing non-conforming use that expired frankly. There was no occupancy of the building in pre-existing non-conforming uses by the Village's definition would expire after a year. They came in to reinstitute the pre-existing non-conforming use or change it slightly to a different use.

MS. HOLMES:

Oh, I see. How long had it been unoccupied?

MR. FRELENG:

Well, Village code requires it to be unoccupied for over a year so I would imagine that it was at least a year.

MS. HOLMES:

I see.

MR. FRELENG:

To answer Commissioner Bolton's questions, a use variance criteria, before I say that though, the Village is required to refer it to us whether they have that information or not. It comes, it triggers the criteria; they refer what they consider to be their complete application. The use variance criteria by General Municipal Law are four tests; the area variance criteria was revised so these are the traditional test for use variance criteria. One that it cannot realize a reasonable return a substantial as shown by component financial evidence. So while the applicants maybe correct in that they cannot realize a substantial return we were not provided with any kind of evidence. So we recommend to the Commission to recommend to the Village through that comment to get more information regarding that so they can make an educated decision on that economic test. The second is that the alleged hardship is unique and does not apply to substantial portion of the district or neighborhood. I think that's pretty self evident. The requested variance will not alter essential character of the neighborhood; that's questionable with regard to the use and whether or not the parking is going to overflow and take up the available parking and the character of that street and that for the alleged hardship has not been self created. And then again, there's issues there that the Zoning Board of Appeals needs to take a look at and again, through our comment we advised them that they need to look at that further.

CHAIRMAN CARACCILO:

Well, Andy, the staff's, you know, big problem with the retail is the parking is that correct?

MR. FRELENG:

The staff is looking at it from the land use point of view irrespective of the history of the property, yes. We're looking at it from land use point of view and the intensity of the use. We feel that a retail use just by its nature is going to have a high parking and turnover demand even if it's a low impact type retail use. So we are concerned about the parking; we think that an office use maybe able to bridge that concern and be a compromise on the overall building. It's unfortunate I did not bring a camera with me when I went out to the site. I intended to do that and forgot, but this is a unique looking building. It's definitely a turn of the century type of façade. It's obviously been there forever; it would appear that some of the houses built up around it so it is a, if you will, maybe a rough gem in the Village and staff was trying to look at a way to come out of this with a compromise to make all parties happy.

CHAIRMAN CARACCILO:

Commissioner Holmes are you familiar with the property?

MS. HOLMES:

Yes.

CHAIRMAN CARACCILO:

Is, you know, Greenport to me is a walking village.

MS. HOLMES:

Yes.

CHAIRMAN CARACCILO:

Is this in that area?

MS. HOLMES:

It is, yes, and as a matter of fact Madison Street as you get over toward Fifth is rather quiet, you know, it's not like Third Street or First Street and it's -- I was wondering if it would be possible for us to recommend that the application be return for both the applicants and the Village to give us more information.

CHAIRMAN CARACCILO:

And I think we have to act on that within --

MS. HOLMES:

Or clarification.

CHAIRMAN CARACCILO:

Is that possible?

MR. ISLES:

You have 45 days to act on an application. At this point we deemed to be complete in terms of the required submission to the County Planning Commission. So you have 45 days and I think the clock is well on its way at this point.

MR. FRELENG:

Well, March 20th would be the 45 day expiration date and the board doesn't meet again until April.

CHAIRMAN CARACCILO:

I think we have a picture that's being passed around here. If we could all take a look at that.

MR. GOODALE:

Just for a point of information. The reason this is here strikes me as a rather minor local thing is because it's within a mile of Southold (inaudible) Greenport it's within a mile of Southold.

MS. HOLMES:

Right, right.

MR. GOODALE:

And, and, and the reasoning behind that is that any kind of application might or might perhaps would have an impact upon the neighboring municipality that the -- even though in this case I don't think it would, but I mean, that's the trigger in any case on it.

MR. ISLES:

What is the Commission's jurisdiction Andy in this case?

MR. FRELENG:

Yes, there is a typo on the staff report I missed before it went out; it's within 500 ft. of the municipal boundary of Southold.

MR. GOODALE:

Oh, within 500 ft. that makes more sense. Okay.

CHAIRMAN CARACCILO:

Do we have any other comments from the Commission?

MS. HOLMES:

I just wish we could return it for local determination because I think there are issues that need to be resolved locally on this application and I agree with Bobbie. You know Greenport is within the Town of Southold actually, technically, but the Village line maybe 500 ft. away is that right? The Village line of Greenport this, this --

MR. FRELENG:

This application is in the Incorporated Village of Greenport 500 ft. away from the townline.

MS. HOLMES:

From the townline.

MR. FRELENG:

Yes.

MS. HOLMES:

But that's such a hair splitting thing; I just feel that there are issues that need to be resolved locally about this application I mean, clarified locally too. And as you said you know the hardship because when you talk about self induced it all depends on what a realtor told people that were planning to buy the property as to what they could do with it that's what troubles me.

CHAIRMAN CARACCILO:

Thank you Commissioner.

MR. DIETZ:

Going along with what I'm hearing here I'd like to make a motion to send it back for local determination even though the staff report is obviously very well done and everything this way --

CHAIRMAN CARACCILO:

I second that motion.

MR. ISLES:

Mr. Chairman, perhaps suggesting then that the suggested conditions be put on as comments to the LD?

CHAIRMAN CARACCILO:

I will make that part of the motion.

MS. HOLMES:

Yes, I would.

CHAIRMAN CARACCILO:

Okay, so that a first by Commissioner Dietz, second by Commissioner Caracciolo with the comments. All those in favor? Abstain and Opposed? So that's 10-0-0. There you go you have to think hockey. **(Vote: 10-0-0-2 Absent: Daum, Kontokosta)**

MR. FRELENG:

Next matter before the Commission is referred to us from the Incorporated Village of Sag Harbor. This is the application of Michael Maidan. The application -- the jurisdiction for the Commission is that the subject parcel is within 500 ft. of Sag Harbor Cove. The applicant seeks Village Board of Appeals approval Zoning Board of Appeals for a use variance to allow apartments in a resort motel zoning district. Subject parcel is located on the southwest corner of West Water Street, I'm sorry that's a Village Street and Garden Street that's also a Village

Street in the Incorporated Village of Sag Harbor. A review of the character of land use and zoning pattern in the vicinity indicates that the subject parcel is located in an area of RM or resort motel zoning. Properties to the west are improved with attached dwelling complexes. Across the street to the north is Sag Harbor Cove; to the south across Long Island Avenue is improved residentially land. Access to the subject parcel would be from Long Island Avenue. So quickly then you can see from the air photo you have the subject property, Sag Harbor Cove. There's multiple dwelling establishments to the west; you have residentially development to the south and a little bit smattering of commercial and attached unit development to the east. That is the infamous {gas mall} if you will in Sag Harbor which I don't believe is there anymore. So I think they took it down or they're in the process of taking that down.

The applicant seek as indicated Village Zoning Board of Appeals approval for a use variance to allow the construction of a 2.5 story apartment building to house 21 two and three bedroom units along with construction of 36 parking spaces. Thirteen of the parking spaces are to be located underneath the structure within garages, with the remaining being located in a newly configured parking lot to the north of the structure. Stone terraces, wooden first and second floor decks are proposed along with swimming pools on the roof and the ground floor of the building. Demolition of a pre-existing non-conforming restaurant, catering facility, bar, nightclub, apartments and dormitory is proposed if the variance is granted. Those are the existing uses in the building right now.

As this is a use variance, materials from the applicant indicating the deprivation of an economic use, the uniqueness of the alleged hardship, impact on the character of the neighborhood and the nature of the self created aspect of the property would be warranted. However, none was referred to the Suffolk County Planning Commission with the application.

According to the Village Zoning Law the explicit intent of the RM zoned designation is to "encourage recreational activities and tourism by providing potential sites for resort motels which accommodate *short-term* vacationers and *transient* travelers." The Village anticipates that "with a reasonable number of resort motel rooms clustered in close proximity to each other and to the village business center and waterfront there would be an opportunity to develop off-season mini-conferences and business seminars. Recognizing the impact of the resort motel use intensity in the district, (this is still quoting) it shall be located only on sites easily accessible to supporting facilities and served by both public water and sewage systems. (Emphasis added to this sentence.) ***It is not the intent that the resort motel use be converted into multiple dwellings for long term resident.***" Given that the applicant has made no attempt in the application materials submitted to the Commission to demonstrate a hardship it is the belief of the staff that the proposed use variance should be denied. Allowing the proposed use would only tend to substantially undermine the effectiveness of the zoning ordinance and would tend to establish a precedent for further such land development patterns in the local.

Issues related to the subject application stem from the Commission's policies regarding the subdivision, I'm sorry, the submission of adequate information to demonstrate compliance with applicable variance criteria. Staff is recommending then disapproval for the following reasons. Sufficient information has not been submitted to demonstrate compliance with the applicable use variance criteria. Second reason for disapproval would be that it would only tend to substantially undermine the effectiveness of the zoning ordinance. And the third reason for disapproval is that it would tend to establish a precedent for further such land development patterns in the local. And staff is recommending to the Commission that the following comment be provided and that comment is lifted from the text of the staff report indicating that since this is a use variance that materials related to the use variance criteria text should be submitted. That is the staff report.

CHAIRMAN CARACCILO:
Thank you Andy.

SPEAKER:

I have one question. This is just a point of information. On the first page of the staff report under supplementary information it says it has this listing, Property Considered for Affordable Housing Criteria, Yes. I was just curious as to what that exactly meant and how it applied to this?

MR. FRELENG:

Every multiple use application that we get the staff considers whether or not it would be appropriate to provide affordable workforce or next generation housing in that use. The Commission has adopted a policy that 20% of all units either in a subdivision or in a attached unit project be dedicated for affordable housing purposes. So that's a punch list or a check to see whether or not we've reviewed the application and its contents to see whether or not it would be suitable for affordable housing.

SPEAKER:

Okay, but is doesn't necessarily --

MR. FRELENG:

We -- this application doesn't really get there.

SPEAKER:

Okay.

CHAIRMAN CARACCILOLO:

So it doesn't necessarily mean that there's affordable housing in the application it just that the property or the parcel can support that.

MR. FRELENG:

That's correct; that we looked at it to see if there was criteria enough to require the Commission's standard.

CHAIRMAN CARACCILOLO:

That's a great point, Commissioner, thanks for making that.

SPEAKER:

Thank you.

MR. GOODALE:

So if I understand that correctly then there wasn't information supplied that would indicate that this was a certain percentage of this was for affordable housing?

MR. FRELENG:

There was not, that's correct.

MR. GOODALE:

There was not.

MS. BOLTON:

John.

CHAIRMAN CARACCILOLO:

Yes.

MS. BOLTON:

I just want to say this seems to be a case where use variance to apply for a use variance is really inappropriate and it really calls for a zone change and the appropriate comprehensive planning by the village in order to determine what is really appropriate for this site. This is not the mechanism at least it appears to me to do that.

CHAIRMAN CARACCILO:

That's correct. Do you want to make a motion to accept the staff report?

MS. BOLTON:

So moved.

CHAIRMAN CARACCILO:

Second.

MR. PRUITT:

Second.

CHAIRMAN CARACCILO:

All those in favor? Opposed? Abstentions? Okay. 10-0-0-2. **(Vote: 10-0-0-2 Absent: Daum, Kontokosta)** I'm getting the scores down.

MR. FRELENG:

Next referral comes to us from the Town of Babylon. This is the application of Deer Park Enterprises LLC. Jurisdiction for the Commission is that the application is adjacent to Commack Road which is CR 4. The applicants are requesting a Special Exception and Area Variances to develop an 805,000 sq. ft. "Lifestyle" center on approximately 81 acres of land zoned GA Industrial in the hamlet of Deer Park.

The subject parcel is located on the northeast corner of the intersection of Commack Road as indicated CR 4 and Grand Boulevard which is a town road. The parcel is in an established industrial zone of the Town of Babylon. The property is situated behind the Home Depot, Stop & Shop and Kohl's to the west. To the north the subject site abuts the right-of-way to the Long Island Rail Road. To the south the site abuts Grand Boulevard. To the east the subject property abuts approved light industrially zoned properties. Quickly then you can see the Stop and Shop and the Home Depot and the Kohl's to the west.

CHAIRMAN CARACCILO:

Andy, is that the new development that's being built right now?

MR. FRELENG:

This here? That is the existing AIL Building which will come down.

CHAIRMAN CARACCILO:

Okay.

MR. FRELENG:

Industrial development to the east; some more commercial/industrial development to the south. Up in here is where you start to see some of the residential development along Commack Road. Down over here you can start to see some of the residential development along Commack Road; certainly further up and further south you go along Commack Road there's more development actually comes closer to the roadway.

As indicated the applicants request Special Exception and Area Variance approval for the construction of an 805,000 sq. ft. outlet retail center for the erection of retail uses ranging from small retail space to a 50,000 sq. ft. medium box to a multiplex theater of 14 screens and multiple restaurant uses. Some of these restaurant uses four of them are located on free standing pad sites. This is all proposed in an outdoor open air mall design. The site plan proposal also includes 4,712 parking stalls. Execution of the proposal would involve incorporating the demolition of an existing 2-story masonry building and other structures on site.

An analysis of the character of the area indicates that the subject property is located in a well established industrial area notwithstanding the big box retail to the west. Parcel to the immediate south and east are zoned for and improved with light industry. The subject property is situated in an area of light industrial zoning that remains consistent with the 1998 Town of Babylon Comprehensive Plan Update. The specific recommendations for land use of this property in the master plan is Planned Industry. The proposal is not consistent with Town of Babylon master plan and appears incongruous with the remaining nearby industrially zoned land. It is the belief of the staff that the site can be reasonably developed for light industry purposes.

The Suffolk County Planning Department's 2001 study Shopping Centers and Central Business Districts states that there is a questionable need for major additional retail space in Suffolk County. The addition of 805,000 sq. ft. regional shopping center where there is questionable need for such a retail center is problematic and could lead to an increase in retail vacancy rates in large shopping centers within 10 miles of the site contributing to retail blight. In addition, the region is already presently adequately served by outlet shopping centers including the Tanger Outlet in Riverhead; the addition of the Deer Park Tanger outlet center would cannibalize sales at the other outlet shopping centers possibly leading to retail blight and a lose of property tax revenue in the Town of Riverhead. There is also questionable need for large multiplex theater at this location. Plans are underway to redevelop the Commack Multiplex which is about three miles north of the site for a 16 screen state-of-the art theater.

The subject application is referred to the Commission as a Special Exception petition from the Zoning Board of Appeals of the Town of Babylon. Retail uses in industrial zones constitutes a Special Exception use, as well as, the placement of restaurants, taverns or bars and on on-premises food consumption establishments. Those are all Special Exception uses. Moreover, multiple buildings are proposed on site and also require a ZBA variance. The location of multiple buildings on site may constitute the unwarranted over intensification of the use of the premises.

It is the belief of the staff that the site plan is problematic in that the two main entrances to the site from Grand Boulevard funnel traffic to the immediate perimeter of the shopping center building. It's hard to see, but if you can see the access points coming off the roadway they funnel the traffic right to the perimeter of the buildings here which is unsafe if you're walking from your car to these buildings you're going to have to negotiate fast moving vehicles as they're racing to fine a parking spot. The design of this isle arrangement would cause conflicts between pedestrian and vehicles. Moreover, this location is poorly suited for an 805,000 sq. ft. retail center as there is no visibility of the site from the major road and the site contains no access from a limited access highway. In fact, there are no limited access highways within two miles driving distance of the proposed shopping center.

The route promoted by the petitioners to access the site, Sagtikos Parkway to Pine Aire Drive etc., etc., is convoluted. A discussion in the DEIS on jug-handles, creating one way streets, internal traffic signals and other unusual traffic mitigation measures only underscores the potential for severe traffic problems if this project were constructed. It should be noted that the Suffolk County Department of Public Works has expressed concern about significant offsite issues related to motor vehicle traffic congestion at certain intersections. There is a concern

that traffic circulation patterns will be adversely affected in the area as a result of the proposed project as compared to a light industrial use on site.

Issues related to the subject application for the Commission stem from details relating to the project being inconsistent with the pattern of zoning and land use in the immediate area. The project appears to be incongruous with the remaining adjacent and nearby industrially zoned lane. The application was previously referred to the Planning Commission in February of 2005. The Suffolk County Planning Commission was unable to render a determination, as the necessary votes were unable -- unavailable to carry a resolution. Therefore, the Planning Commission took no action on the site plan referral for this project in 2005.

The staff is recommending disapproval for the following reasons. Number one, it is inconsistent with the 1998 Comprehensive Land Use Plan of the Town of Babylon which designates this area for industrial use. Number two, it constitutes the unwarranted over intensification of the premises. And number three, elements in the site-design are problematic and that refers to the parking and isle arrangement and the paragraphs which follow the two reasons for disapproval are the paragraphs from the rationale of the staff report. That is the recommendation of staff.

CHAIRMAN CARACCILO:

Andy can you go back to the aerial photo and show me the Long Island Expressway, just highlight that?

MR. FRELENG:

It's off map.

MR. WREDE:

It's off the map. There's no way to scan out; this is just the picture.

MR. ISLES:

So what is the distance about two miles north I believe it is to the Expressway?

MR. FRELENG:

Yeah, it's about two miles maybe.

MR. ISLES:

How far is Sagtikos to the east approximately?

MR. FRELENG:

Off the top of my head I would say about two or three miles, I don't know.

CHAIRMAN CARACCILO:

Comments.

MR. GOODALE:

Yeah, just again a point of information. This was referred to us a year ago.

MR. FRELENG:

That's correct.

MR. GOODALE:

And so are we just whistling in the wind here; has it moved a pace this project?

MS. HOLMES:

We didn't have a quorum.

MR. GOODALE:

I know, but I mean now it's been a year later I imagine this project is moved along.

MR. FRELENG:

It's my impression that the Planning Board approved the site plan and now it's before the Zoning Board of Appeals for a Special Exception.

MR. GOODALE:

So it's still possible for our comments to have some impact upon this?

MR. FRELENG:

With the Zoning Board of Appeals, yes.

MR. GOODALE:

All right, thank you.

MS. ESPOSITO:

Has it changes at all over the year?

MS. HOLMES:

Would the members of the public like to --

CHAIRMAN CARACCILO:

Wait Linda , let just -- Commission Holmes I'm sorry go ahead.

MS. HOLMES:

I was wondering if a member of the public could clarify --

CHAIRMAN CARACCILO:

No, no we can't do that I'm sorry. Commissioner, you had a comment.

MS. ESPOSITO:

I asked if it had changed at all since we saw it first.

MR. ISLES:

Well, I'd like to make that clarified. I thought there was some reduction in the square footage and maybe Peter or Andy if you could come in on that.

MR. FRELENG:

Maybe I should clarify. I didn't notice any substantive change; if there were some minor changes to the site plan they were not substantive in terms of our review. And I believe I heard from the audience that Sagtikos Parkway is probably a mile to the east.

MR. ISLES:

I think there was a wholesale club also as part of this proposal that's now eliminated. I think that's about 100,000 or 125,000 sq. ft. so there is some difference. The Planning staff's review however, is based upon the current application that was referred to the Commission.

CHAIRMAN CARACCILO:

Okay. A motion is in order.

MR. FIORE:

I have a question.

CHAIRMAN CARACCILO:

I'm sorry, I'm sorry Commissioner.

MR. FIORE:

Has there any traffic impact -- anything with the traffic been done within the last year; any traffic impact statement I should say?

MR. FRELENG:

Certainly, this application had traffic impact analysis that was reviewed by Suffolk County Department of Public Works and the County Executive, as you know, is undergoing major, I shouldn't say major, but a regional study of this area and other areas and tying that into a traffic impact analysis report as well. So there is or there was and there is ongoing traffic impact analysis for this project. Did that answer your question?

MR. FIORE:

Yes and no. Yes it did and no it didn't. Did it do anything to the application that's before us now?

MR. FRELENG:

The traffic impact report that came with the application to us did make recommendations for mitigations to the plan and the plan did have some of those incorporated into it.

MR. ISLES:

Right. So there is a traffic impact study submitted as part of the environmental review process. One of the things the County Executive is called for is the fact that there are a number of projects, large projects happening in this vicinity within a couple of miles and that he'd like a cumulative review. So we are actually hiring a consultant to look at all the traffic impact studies and to actually broaden that into a whole planning review. We respect the powers of the towns, but we feel that if ever there was a case for County review and regional planning with the four towns converging at this location we are very concerned about the future ability of the road system can handle this. Sagtikos is not -- does not have a lot of excess capacity as it is right now. And even though the immediate impacts are addressed and the traffic impact study for the immediate intersections and so forth we still remain deeply concerned about the when all the projects are piled on top of each other what happens to this area.

MS. BOLTON:

Can we add as part of our comments the potential for cumulative impacts, cumulative traffic impacts at this point?

MR. ISLES:

We can do that, sure.

MS. BOLTON:

I mean, negative when it's obviously.

MR. ISLES:

Right.

CHAIRMAN CARACCILO:

A motion is in order. Any other comments, Commissioners? A motion's in order.

MS. HOLMES:

I moved the adoption of the staff report with the additional comment that was suggested by Charla.

CHAIRMAN CARACCILO:

Do we have a second?

MR. PRUITT:

Second.

CHAIRMAN CARACCILO:

All those in favor? Could I have a show of hands please? So it's six. All those opposed? Abstain? 6-0-4. So this goes back for local determination?

MR. ISLES:

It would, it would be timed out so we can send it back local determination with comments if you would like or you could just take no action on it.

MS. HOLMES:

I think we should take some action.

CHAIRMAN CARACCILO:

It's up to comment what you guy want to do.

MR. FRELENG:

If I could Mr. Chairman, when the Commission approached the same issue last time the application went back for local determination with no comments. I just wanted to make --

CHAIRMAN CARACCILO:

It went back for local determination with no comments?

MR. FRELENG:

No comments attached to the local determination; I just want to advise the boards about that.

MS. HOLMES:

If we sent it for local determination can we add the comments?

MR. FRELENG:

I'm sorry I misspoke. It didn't go back for local determination it went back that you were unable to carry a resolution, but there were no comments attached, I'm sorry.

CHAIRMAN CARACCILO:

Okay. So we're going back for local determination with no comments?

MR. GOODALE:

I think we'd want the comments.

CHAIRMAN CARACCILO:

You want comments on it Linda?

MS. HOLMES:

Yes, with the comments.

CHAIRMAN CARACCILO:

Or do you just want to send it back for, you know, no action?

MS. HOLMES:

No, I don't want to do no action. I think we should -- because we couldn't have a majority to endorse the staff report I think we should send it for local determination, but add the comments the staff report and the additional comments that Charla suggested.

CHAIRMAN CARACCILO:

Okay, we'll send it back for local determination adding your comments Andy.

MR. DIETZ:

Do you need a motion, Mr. Chairman?

MR. ISLES:

I think we should get a motion.

MR. DIETZ:

I'll make a motion to send it back to the Town of Babylon for local determination with the comments that were --

MS. HOLMES:

I'll second that.

CHAIRMAN CARACCILO:

Seconded by Commissioner Holmes. All those in favor of sending it back for local determination.

MS. ESPOSITO:

Could we have a discussion first?

CHAIRMAN CARACCILO:

Sure absolutely, I'm sorry, Commissioner.

MS. ESPOSITO:

If we send it back for local determination doesn't that send a message to the town that -- I think it's a little bit contradictory that what we're saying here with the discussion is saying which is if ever there was a need for a regional view or for cumulative impact whether it be on traffic or the land use this is it. But yet we've return and decide to make it local determination we've kind of undermined the intent of what we just did I feel. I don't think we should send it back for local determination.

CHAIRMAN CARACCILO:

Well, it doesn't carry the vote so if we don't send it back for local determination then it just doesn't -- we take no action on it at all and it still is the same result.

MS. HOLMES:

But the comments the staff made are quite relevant to our concerns; so I think with those comments added the local determination, you know, they would see that we had some concern and some thoughts about the issue.

MS. HOLMES:

Yeah.

MR. ISLES:

Yeah.

MR. FRELENG:

Mr. Chairman, the local determination language has in it, it indicates that there are no inter-community or regional impacts and therefore it's being returned for local determination.

MS. BOLTON:

John, is there any possibility that we could take a revote on this? Did everybody know what they were doing?

CHAIRMAN CARACCILO:

No, we really should not take a revote. No.

MS. BOLTON:

We've done that before.

CHAIRMAN CARACCILO:

That would be somebody would have to make a motion to reconsider.

MS. HOLMES:

You can make that motion.

MS. BOLTON:

Okay. I'm going to make a motion to reconsider.

MS. ESPOSITO:

I second it.

CHAIRMAN CARACCILO:

All those in favor of reconsidering? Five. Oppose reconsidering? Abstain? One. So that doesn't carry so we can't reconsider that. Okay, so it's going back with no action.

MS. ESPOSITO:

Actually, you had a motion on the table that we had a motion and a second that we left hanging.

MR. ISLES:

On the LD?

MS. ESPOSITO:

On the LD.

CHAIRMAN CARACCILO:

With a local determination.

MR. ISLES:

Just take a vote on that --

MS. ESPOSITO:

I'm just saying there was a motion and there was a second.

MS. HOLMES:

There was.

CHAIRMAN CARACCILO:

For local determination without comments and then Andy made the comment that if it goes back local determination that really circumvented what you were saying that it there's no community impact. So you just want to resolve --

MS. ESPOSITO:

I was just talking procedurally we had a motion and a second.

MR. ISLES:

So it would be either withdrawal of the motion or vote on --

CHAIRMAN CARACCILO:

Okay. So we're withdrawing the motion for --

MR. ISLES:

The sponsor of the motion is willing to withdraw it --

CHAIRMAN CARACCILO:

And that was Lou.

MR. DIETZ:

I make a motion we withdraw the motion.

MR. ISLES:

You just withdraw your motion.

MR. DIETZ:

I withdraw my motion.

CHAIRMAN CARACCILO:

Okay. Thank you Commissioner.

MS. HOLMES:

So I'm confused. How did we --

CHAIRMAN CARACCILO:

It's going back no action.

MS. HOLMES:

No action, no wonder they stormed out.

CHAIRMAN CARACCILO:

Okay. Next, Andy.

SPEAKER FROM THE AUDIENCE:

Unbelievable, this is a disgrace, it's unbelievable.

MR. ISLES:

Please do not disturb the proceedings.

SPEAKER FROM THE AUDIENCE:

This a proceeding? This is ridiculous.

CHAIRMAN CARACCILO:

Thank you for your comments.

MR. FRELENG:

Okay, so I'm going to turn over the rest of the regulatory review to Chris and then to Ted.

SPEAKER FROM THE AUDIENCE:

Caracciolo never run for anything in Huntington I'll tell you --

CHAIRMAN CARACCILOLO:

Why did I have to -- you know Bobby Martin sat here for how long, never had anything.

MS. ESPOSITO:

You had three minutes and look what happened.

SPEAKER FROM THE AUDIENCE:

You guys smile, you like it, you think you won.

MR. ISLES:

Okay.

MS. ESPOSITO:

Is it always like this?

MR. WREDE:

I think the next two applications are a little less controversial. The next one is the application of Christopher Morse referred by the Town of Babylon the ZBA. The applicant proposes to subdivide a 9,375 sq. ft. parcel into two lots and seeks area and dimensional variances for the proposed lots.

The subject parcel is located on the southwest corner of Liberty Avenue and Statesman Street in the hamlet of North Babylon. Our jurisdiction for the subject application is that's it's within 500 ft. of Sunrise Highway. As indicated the subject property is 9,375 sq. ft. in area and improved with an existing house. The applicant seeks variances to subdivide the property into two lots. Lot 1, would provide for the existing one-family dwelling and Lot 2, is proposed for the construction of a single family dwelling. Again, it's hard to see, but essentially they're splitting this lot into two; that is where the existing house is located and they're proposing a house in the undeveloped portion.

The requested variances associated with the application are identified in the staff report. The proposed subdivision is creating two non-conforming lots. Lot 1, is 32% deficient in lot area and Lot 2, is 42% deficient. In addition, because Lot 2 is a corner lot it is the opinion of staff that at the very minimum it should meet the lot area requirements of the residential "C" zone. Along with the dimensional variances also required the proposed land division results in an over intensification of use of the premises. Issues related to the subject application stem from the creation of substandard lots.

We're recommending disapproval for the following reasons. The requested variances are substantial. The lot areas are both 32 and 44% deficient in lot area compounded with the numerous other dimensional variances which are also required. The practical difficulty was self-created; the applicant is subdividing the lot and creating two non-conforming lots. And the creation of lots that are less than the minimum required by the zoning classification constitutes an over-intensification 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 in the area which results in an increase in off-street parking, the overburdening of the local road system, and other public facilities. That's the recommendation of the staff.

MS. BOLTON:

I'll move the staff report.

CHAIRMAN CARACCILO:

Is there a second?

MR. DIETZ:

Second.

CHAIRMAN CARACCILO:

All those in favor? Opposed? Abstentions? Motion carries. **(Vote: 10-0-0-2 Absent: Daum, Kontokosta)**

MR. WREDE:

And the last zoning referral comes from the Town of Brookhaven ZBA application of S. Levent Yilmaz. The applicant seeks variances for a proposed two-story residence. The subject parcel is located on the eastside of Glenwood Avenue which is a paper street 86 ft. north of Horseblock Road in the hamlet of Medford. Our jurisdiction for the application is within 500 ft. of Horseblock Road. The property is zoned A-1 residential however, the property is obviously bordered by Town of Brookhaven ball fields and Long Island Power Authority property to the south. Obviously, you can see it's in a very bad location.

Applicant seeks variance to develop the 4,000 sq. ft. parcel with a two-story dwelling. The requested variances associated are identified in the staff report. The proposed lot is 90% deficient in lot area long with the other dimensional variances required. Issues related to the subject application stem from the creation of substandard lots. This is the zoning, this particular lot is, there is some old filed lots that were left over. There's one here, one here; the Town of Brookhaven owns this one and this one for whatever reason got left out.

We're recommending disapproval of the variance, I'm sorry, this is the copy of the map that was referred showing they would have to improve Glenwood Avenue and this is where they're proposing the house. Again, the Town of Brookhaven ball field is here and it's again, you can't really see it LIPA property to the south. It's in a bad location. We're recommending disapproval; the granting of the variance will be a detriment to nearby properties. A single family dwelling at this location will obviously, hinder activities associated with the Town of Brookhaven parkland. The requested variances are substantial the property is 90% deficient in lot area compounded with the numerous other dimensional variances that are required. The practical difficulty was self created. The applicant acquired the property in 1996 with the applicable zoning already in place. And the over intensification of land use and I just want to throw in a comment that obviously, the Town of Brookhaven should explore the possibility of acquiring the property for parkland purposes. That's the recommendation of staff.

CHAIRMAN CARACCILO:

Thanks.

MS. ESPOSITO:

Is that included in the recommendation that the town should considering purchasing it?

MR. ISLES:

Yes.

MR. WREDE:

Yeah, I'm going to make that as a comment with the reasons for disapproval.

MS. ESPOSITO:

Okay.

MR. WREDE:

It should be in the staff report I hope.

MS. ESPOSITO:

Oh, it is, I'm sorry its right here. Thank you.

CHAIRMAN CARACCILO:

A motion is in order.

MR. PRUITT:

Motion to accept staff report.

CHAIRMAN CARACCILO:

Second.

MR. DIETZ:

I'll make a second.

CHAIRMAN CARACCILO:

All those in favor? Opposed? Any abstentions? Motion carries. **(Vote: 10-0-0-2 Absent: Daum, Kontokosta)**

MR. KLEIN:

Good afternoon we have two subdivisions for your consideration today. The first application is the map of Doig-Murphy. It sent to us by the Town of Shelter Island. The Commission's jurisdiction for review is that it's adjacent to Ferry Road; it's a state highway known as SR 114. The property is located along the easterly side of Ferry Road approximately 112 ft. north of Hedges Road in the hamlet of Shelter Island. The applicant's proposing to subdivide three acres into two lots. The subject is zoned C-Residents which permits single-family development on minimum lot size of 40,000 sq. ft.

The subject can be categorized as mostly cleared and lightly wooded having a general level -- level topography. The parcel is currently improved with one single family dwelling and an accessory structure used as a real estate brokerage office. You can't see it from the aerial; here's the house and then there's a little one-story framed office building right here. The proposed subdivision will create two residential lots resulting in one additional residence while maintaining the existing improvements and their uses. The residential lots will range in size from 81,853 sq. ft. that's Lot 1, to 40,987 sq. ft. that's Lot 2. These areas exclude the -- a 20 ft. wide right-of-way easement that extends from Ferry Road along the southerly property line. As you can see from the map this is an easement right here. This existing easement currently provides the only vehicular access to four other residential lots to the east three of which are improved and one is under construction. The subject properties current improvements the residence and the office take access along the frontage on Ferry Road.

The applicants is proposing that the existing improvements on Lot 1, continue to take their access from Ferry Road while the newly created Lot 2, will take access over the existing easement. It should be noted that this right-of-way or easement is only improved with a gravel driveway and that two vehicles cannot pass one another at any point while driving on it. They would need to drive off of it to pass. Furthermore, since the proposed Lot 2, is only accessible from a public road via the easement over the portion of Lot 1, it is by Commission definition land locked. And a land locked parcel is one that does not have frontage on an existing or proposed public road, and creation of such lots is contrary to Commission guidelines and good planning principles. These kind of lots create problems as far as access by emergency and service equipment is concerned. This form of access could result in health, safety and welfare

problems for the residents of the land locked lots not to mention potential disputes over the use and maintenance of the easement.

The land locked nature of the lots to the east is a pre-existing condition and may not be totally rectified with this application, but increasing the number of lots taking access from the easement will compound the existing problem of safe access and maintenance responsibilities. Before I give you my recommendation I just want to point out as pursuant to town law the applicant is proposing to satisfy the town's park's requirements by creating a 13,800, excuse me, 84 sq. ft. conservation easement that's 10% of the entire parcel along the north side of the right-of-way. And according with the town and given that it's a small, it's a small, relatively small parcel a minor subdivision a conservation easement is considered more appropriate and desirable than a transfer of ownership or dedication of parkland.

Now for the staff's recommendations. The staff feels that the issues related to the proposed subdivision that bring this application to a level of Commission review stem from the Commission's policy on the creation of subdivisions containing land locked lots and also the continuation of a non-conforming use when altering the intensity of the parcel's permitted use.

Staff recommends approval of this application subject to the following conditions that are deemed necessary for good planning and land use. Condition one: even though the applicant cannot be held accountable for the existing land locked nature of the parcels to the east, the proposed subdivision map shall be redrawn so that the existing right-of-way easement is replaced with a 50 ft. wide right-of-way designed to provide safe vehicular access to all participating lots to and from Ferry Road. And this right-of-way shall be laid out in such way that is easily connected and dedicated to the town highway system in the future.

Condition two: all non-conforming uses shall be eliminated or remedied by the town's ZBA as a condition prior to subdivision approval. That's the staff report recommendations.

CHAIRMAN CARACCILO:

Commission Holmes I know it's Shelter Island and I'm confident you have a comment.

MS. HOLMES:

I think I mentioned last time to Andy and to Tom I knew this was coming along. The applicant is one of the three surviving daughters of Evans Griffing and she merely wants to keep a foothold on Shelter Island. She wants to main -- to keep a piece of land on Shelter Island and she has bought out her sister's in their interest on the land. The planning board is very well aware of the hazardous nature of Rte. 114; this parcel is just to the north of a very wide curve on SR 114 which is the site of numerous accidents particularly in the busy season. I know, Ted you mentioned you went out and looked at it and even that day in the dead of winter you observed a hazardous moment, I think he said. And for the fact that the planning board is very well aware that Mr. Griffing's daughter does not intend to build on this lot in the near future or possibly ever; she just wants to keep the piece of land and the planning board chairman told me that they would require that the roadway be widened so that there could be access for two vehicles should there be any effort to build there. But they are very well -- they will probably require in their own determination that the easement be widened even though if they wouldn't require that it be paved. And because the local boards are very well aware of the particular history and nature of this plan I would like to see us and I would like to propose that we send it back for local determination because they are very well aware of the situation there and the correction --

CHAIRMAN CARACCILO:

But we're approving this Commissioner, you don't want it approved?

MS. HOLMES:

Well, ah, the criteria that the staff is asking for some of them are the planning board is planning to address, but they definitely do not want to have a road that comes out on to the state road. And they have some very good reasons for that and so for that reason I would like to send it to them for local determination because I think they're very well equipped to deal with the hazardous of the state road and the actual plans of Mr. Griffing's daughter.

CHAIRMAN CARACCILO:

I yield to the Commissioner from Shelter Island and if you'd like to make a motion for that.

MS. HOLMES:

I would like to move that it be sent back for local determination.

SPEAKER:

I'll second that.

CHAIRMAN CARACCILO:

All those in favor? Opposed?

MS. HOLMES:

Oh, I said aye.

CHAIRMAN CARACCILO:

Any opposed? No abstentions?

MS. HOLMES:

Thank you.

CHAIRMAN CARACCILO:

Back for local determination, Andy.

MR. KLEIN:

With conditions or no conditions?

MR. FRELENG:

There wouldn't be conditions it would be comments.

MR. KLEIN:

I mean comments. With the comments?

CHAIRMAN CARACCILO:

Just local determination, Commissioner?

MS. HOLMES:

Local determination because they're probably going to incorporate the major conditions in there own --

CHAIRMAN CARACCILO:

Back for local determination with no comments, Andy.

MR. KLEIN:

With no comments?

MR. FRELENG:

No comments.

CHAIRMAN CARACCILO:

No comments. **(Vote: 10-0-0-2 Absent: Daum, Kontokosta)**

MR. KLEIN:

Second and last application is the map of Samuel G. Lester, Sr. sent to us by the Town of East Hampton. Commission's jurisdiction for review is the property is situated within 500 ft. of Montauk Highway that's a state right-of-way known at Rte. 27. The property is located along the south side of Skidhampton Road approximately 287 ft. east of Montauk Highway in the hamlet of East Hampton. The applicant is proposing to re-subdivide approximately 3.26 acres into three lots.

The subject property is zoned A-Residential which permits single family development on a minimum lot sizes of 40,000 sq. ft. The subject can be categorized as mostly cleared having a general level topography. The parcel is currently improved with one single family dwelling and several accessory structures which include one large concrete barn and a large frame barn or shed type structure.

The proposed subdivision will create three residential lots ranging in size from 40,847 sq. ft. to 50,190 sq. ft. In addition to the existing residence, the land is currently being used as a building contractor's place of business. He utilizes the frame barn primarily. The parcel has access, excuse me, the parcel has adequate road frontage along publicly owned and maintained street from which access to the three proposed lots is intended. Contained within the boundaries of proposed Lot 1, is a 22 ft. wide common driveway access easement intended to provide the sole access to Lot 2, and additional access to Lot 1. That easement is right here. Since Lot 2, will only be accessible via this proposed common driveway easement is by Commission definition land locked. A land locked parcel is one that does not have physical road frontage on an existing or proposed public road and creation of such lots is contrary to Commission guidelines for the same reasons as the previous application. The character of the surrounding area of the subject property is predominately residential with some business along Montauk Highway.

Staff recommends approval of this application subject to the following conditions. The subdivision shall be redrawn so that the proposed common driveway easement -- access easement on Lot 1, is replaced with an easement, excuse me, with an access strip and reconfigured as part of proposed Lot 2. This will make Lot 2, a true flag lot having physical road frontage along a public right-of-way known as Skidhampton Road. That's the staff report and recommendations.

CHAIRMAN CARACCILO:

A motion is in order.

MR. DIETZ:

I make a motion of staff.

CHAIRMAN CARACCILO:

Second. I'll second it. All those in favor? Opposed? Abstentions? **(Vote: 10-0-0-2 Absent: Daum, Kontokosta)**

MR. ISLES:

That completes the agenda; just two quick things, one I should have introduced the staff of the new members. We have Claire Chorny with the regulatory reviewing. Andy Freleng is the Chief Planner and oversees the unit. Ted Klein is a Senior Planner doing subdivision review. Chris Wrede is a Planning Aide doing a number of things including the use variance reviews and Peter Lambert is a Principal Planner in the Planning and Research Section. With that Mr.

Chairman we will go ahead and schedule a orientation session for the next meeting day which is April 5th in the Department in the Dennison and which ever members care to attend we'll certainly set out notices in advance perhaps start it at 9:30 or 10:00 o'clock in the morning.

MS. HOLMES:

Oh, we'll be at the Dennison Building.

CHAIRMAN CARACCILO:

We'll be over in the Planning office.

MR. ISLES:

Right.

CHAIRMAN CARACCILO:

And then we'll come over here for the meeting.

MR. ISLES:

Right.

CHAIRMAN CARACCILO:

Okay.

MR. ISLES:

So we'll send you notices.

CHAIRMAN CARACCILO:

It'll be like a field trip.

MS. HOLMES:

(inaudible) substance abuse office --

CHAIRMAN CARACCILO:

Let's just make a motion to end the meeting and cut the recording.

MR. DIETZ:

Motion to adjourn.

CHAIRMAN CARACCILO:

Second. **(Vote: 10-0-0-2 Absent: Daum, Kontokosta)**

(Having no further business the Planning Commission was adjourned)

{ } denotes spelled phonetically.