

## **SUFFOLK COUNTY PLANNING COMMISSION**

### **MINUTES**

A regular meeting of the Suffolk County Planning Commission was held at the Evans K. Griffing County Center in the Maxine S. Postal Legislative at 300 Center Drive, Riverhead, New York on December 1, 2004 at 10 A.M.

#### **MEMBERS PRESENT:**

Robert Martin (Smithtown) - Acting Chairman  
Louis Dietz (Babylon)  
Thomas Thorsen (East Hampton)  
John Caracciolo, (Huntington)  
Frank Tantone (Islip)  
Linda Holmes (Shelter Island)  
Charla Bolton (At Large)  
Richard London (Village 5000 & Under)  
Laure Nolan (Village 5000 & Over)  
Linda Petersen (At Large)

#### **MEMBERS ABSENT:**

Richard O'Dea (Riverhead)

#### **ALSO PRESENT:**

Thomas Isles - Suffolk County Director of Planning  
Gerald Newman - Suffolk County Chief Planner  
Andy Freleng - Suffolk County Principal Planner  
Claire Chorny - Suffolk County Planning Department  
Chris Wrede - Suffolk County Planning Department  
Charles Bender - Aide to Presiding Officer Caracappa  
Kim Kennedy - Aide to Legislator Caracciolo  
Basia Braddish - Suffolk County Attorney  
Ted Klein - Suffolk County Planning  
Peter Lambert - Suffolk County Planning Department  
Kim Kennedy - Aide to Legislator Caracciolo  
Vito Minei - Director of the Division of Environmental Quality  
Stephen Kretz - Deer Park Avenue Villas  
Robert A. Curcio, Jr. – Deer Park Avenue Villas

#### **Minutes taken by:**

**Alison Mahoney – Court Stenographer**

#### **Transcribed by:**

**Eileen Schmidt – Secretary**

**(\*The meeting was called to order at 10:15 A.M.\*)**

**CHAIRMAN MARTIN:**

Good morning, everybody. Suffolk County Planning Commission now in session. Would you please rise and join us in the salute to the flag, Lou, please.

**SALUTATION**

We thank you. We want to wish everybody a very Happy Holiday season. We missed Thanksgiving, I forgot to say Happy Thanksgiving, but we'll start with that one and all the rest of that follows including New Year's. Tom?

**MR. ISLES:**

Okay. Thank you, Mr. Chairman. Today we have one piece of correspondence to report to the Commission that actually arrived yesterday and it concerns a matter on the agenda today, the zoning section and just to briefly summarize the letter is written from the Town of Babylon from the Commissioner of Planning, Peter Casserly and it's in reference to the application of Deer Park Avenue Villas, LLC of Deer Park, Town of Babylon and briefly this letter is written regarding the above matter.

Currently pending with the Town of Babylon Zoning Board of Appeals which I understand is scheduled to be reviewed by the Suffolk County Planning Commission on December 1, 2004.

Your letter of October 5, 2004 to the Zoning Board requested additional information. It is my understanding that a response was sent to you by Rachel Scelfo, Assistant Town Attorney on or about October 25<sup>th</sup>. This response included a letter on that date from the office of Donohue, Kretz & Garabrant, attorneys for the applicant.

I have reviewed the letter and the attachments thereto and find it to be an accurate summary of the Town of Babylon's position with respect to the application. Our Town Board is committed to adopting a program of making workforce/affordable housing available to qualified residents. This position is clearly reflected in the fact that the Town Board rezoned the parcel in questions, relying on the site plan currently before you. This shows twice the number of units currently permitted under the Town Code. However, a new local law is currently pending before the Town Board, public hearings have been held, and the vote to adopt this law is imminent. All that we have yet to resolve are the details of the affordable criteria and restrictions on gain to be allowed on resale.

For now, the applicant only recourse is to preserve their transaction and financing commitments is to pursue this application with the Zoning Board of Appeals. We support this application and recommend that the Planning Commission do so as well. That's the only piece of correspondence to report today.

In terms of Director's report items I have a few brief items. I would note that the Legislature has been conducting hearings regarding some changes to the Long Island Regional Planning Board. Hearings were held in November in Nassau as well as in Suffolk County involving the Committees of Environment and Planning in the two counties. Mr. Martin and Mr. Caracciolo from this Commission did attend the hearing in Suffolk County, a rather lengthy hearing and covering a wide range of aspects of what the Regional Planning Board should be doing, can be doing and so forth. Both County Executives in the two counties have submitted legislation to change the board primarily dealing with increasing the membership size since it was originally adopted in 1965 to 10 members total. In doing some housekeeping changes in terms of conforming the current authorizing legislation for the Regional Board to current state law requirements. And in thirdly, it also speaks on certain priorities what the board should be focusing on, but not to the exclusion of other issues. So that dialogue is a healthy dialogue that has been happening and is continuing to occur. There is an Environment Committee scheduled for one o'clock today and it's on the agenda at that meeting as well; I will keep you posted on that as that proceeds.

As many of you have probably read about, there is a proposal for a liquified natural gas terminal on Long Island Sound off of the coast of Suffolk County. It is an item that we do not have as you as a Commission do not have any direct jurisdiction on. It is something, however, that we do think is important in terms of Suffolk County and potential impact to the County, whether they be positive or negative and Planning Department staff will be monitoring that project. And I would like to bring back certain points of information for you and whether you want to take any position, or issue a Sense Resolution will be your call, but I think it is important enough to warrant a Regional Countywide perspective; it is off the coast of Riverhead.

Just a couple of small acquisition items, we did complete the acquisition of the Camelot property in the Town of Huntington which has been basically a four year effort. It is in a deep flow recharge area; it is a joint acquisition with the Town of Huntington. It was described to me by one of the County Attorney's as the most complexed transactions he's ever been involved in and he's been doing this for 25 years. But it was successfully closed about a week and a half ago and now added to the County's inventory of open space. We also completed the purchase of the {Neomocus} Farm in Southold recently as well and we were working with the Town of Brookhaven on closing the Rose Breslin AVR acquisition in Yaphank which will total over 400 acres of Pine Barrens properties.

We do have an auction going on today as well as yesterday of the Real Estate Division of surplus properties, that's been going well despite a few little glitches along, but we're back on track with that and here again that's done with Planning in terms of coordinating which properties are sold and so forth.

The last item I have and probably the most disturbing items I have is to speak to you a little bit about the retirement of Jerry Newman, and we've provided notice to you of that,

but it's something I think we're still dealing with the shock in the office even though we thought Jerry would be a permanent there. And he's given us 41 years I think of approximately service to the County of Suffolk and he's been clearly an institution in the County. I got to know Jerry when I was a Town Planner and, you know, he had a problem call Jerry he would call you right back, he'd answer the phone. He was always helpful and responsive a consummate professional and someone who we will deeply miss in the Planning Department, no question about that. And we certainly wish him very well and appreciate his service to this Commission and to the department specifically. So with that, that completes the Director's Report.

**CHAIRMAN MARTIN:**

Thank you, Tom. Did you want to say something, Jerry?

**MR. NEWMAN:**

I started the presentations of the zoning actions before the Suffolk County Planning Commission January 1 of 1969. Commissioner Martin was there at that time and over the years I've met many, many members of the County Planning Commission and they all have exhibited a high degree of professional integrity and a strong commitment to planning and I'm proud to say that I was a member of this body for 35 years.

Just to give you a little history on the zoning actions, we started -- the Planning Commission started to review the zoning actions in January of 1969 and the year before that Mike LoGrande and I went to Westchester County, spent a day there gathering information on procedures, forms and how they processed it. We came back and we melded that information into a procedure and forms for review of zoning actions for the Suffolk County Planning Commission and it's continued to this day. And it's been an absolute pleasure serving this Planning Commission, I have the highest regard for it and I thank each and every one you and I'm proud to be a part of it.

***Applause & Standing Ovation***

**MR. NEWMAN:**

Thank you, thank you so much.

**CHAIRMAN MARTIN:**

Thank you, Jerry, for all the time you've served. Public portion: Attorney for Deer Park Avenue Villas, Stephen Kretz we recognize you to speak on the application.

**MR. KRETZ:**

Thank you, Mr. Chairman and members of the board, Mr. Newman. I would like to digress before I get into the subject and to say that when I was a young attorney I was appointed as Village Attorney for the Village of Amityville and served there for 18 years and during that entire time Mr. Newman was my right-hand in terms of zoning questions and things like that. I don't know if he remembers me or not.

**MR. NEWMAN:**

No, I remember.

**MR. KRETZ:**

I always knew I could rely on some good advice when I called him. Today I'm here before you on behalf of my client Deer Park Avenue Villas; I'm with a principal of that company, Mr. Robert A. Curcio, Jr who yields his three minutes to me so I will take whatever I can get.

Mr. Isles has read the letter from Commissioner Casserly from the Planning Division of the Town of Babylon so I will not go and rehash that. I had previously submitted through the Town Attorney's Office correspondence to the Commission addressed directly to Mr. Isles setting forth our response to what we think is basically the criteria that supports our application for an area variance. We are frankly doubling the density that's currently allowed by the town code, however, this is pursuant to a site plan what was approved tacitly by the town board when they adopted or approved our rezoning application to a multiple resident zoning. And the reason that they did that is because we have agreed and continue to agree to provide a work force affordable housing component on this development of 20% of the units to be built. Those units will be like all of the other units, they will blend in, they will provide the kind of housing that has become one of the primary issues in Suffolk County on Long Island in the State of New York as recognized by the State Legislature, the County Executive's Office and the Town of Babylon as well as many, many other municipalities.

The -- I know the issue about the precedent set by such a drastic increase in the density allowed by the zoning code is troublesome and that you're concerned about setting precedence. However, we would never be before the zoning board if the town board had not previously approved the rezoning at this density. Now that is very discretionary move on the part of the town, I think as Commissioner Casserly repeats that indicates strong support for the concept that's coming along. The town board has a law pending before them, why haven't they passed it? They clearly support it, it's the details and of course the {devils} in the details. They are confident, however, that before we are ready to open, before we get certificates of occupancy, before we're able to sell a unit that -- those details will be worked out. They have to do with questions about definition of what a work force affordable qualified person is. They have other questions that go to the question of what will happen when these units once earmarked as a work force unit get sold down the road. They want the participant in the program to get the benefit of the equity increase that homeowners enjoy that helps to fuel our economy and help people remain upwardly mobile get but at the same time they don't want necessarily to provide them with a windfall.

The question is, should money come back to the program or should there be a cap on the profit that can be made over a period of time tied somewhere into the cost of living and things like that. Those details are manageable; they will be worked out. The town has reviewed every single affordable multiple residence housing ordinance that has been issued to date on Long Island and they have branched out throughout the state.

And they are coming up with the solutions to these questions and in the meantime, of course, the reality of the market of having a contract with the family and an estate who owned the property is something that we have to deal with. Those people cannot wait any longer; we've had to close. Frankly, my client owns the property now at the cost of substantial fund and must now carry the finances on that go forward with the funding. We are, therefore, left with no alternative then to go to the Zoning Board of Appeals; we look forward to the opportunity to present our case to the board. As you know an area variance is a balancing test between the benefits to the applicant and the detriment to the community. We've had traffic experts and Real estate experts testify in prior hearings before the Planning Board and the town board indicating that the traffic is not great in that neighborhood along Deer Park Avenue, Bay Shore Road and that corridor. Any of you who may have traveled will know that, however, it has been established to the satisfaction of the Town of Babylon traffic engineer that we will not have a measurable impact on that existing less than perfect traffic situation. That the alternative to our development perhaps another retail site will have far less of an impact or a professional office building or a medical office building which was previously proposed on the site we will have far less impact then that kind of thing. Also that we have well have a positive impact on the residential real estate values especially in the neighborhood immediately to our south. People have lived on what's called Lombardi Street. We've done everything on the site plan that's possible to move the units away to soften the impact on those residents and I think its not fair for me to speak for them, but I think that they've grudgingly in the end acknowledged and realized that we have done what we can do to make it the best application we can. I have no further comments if you have any questions I would be happy to try to answer. Thank you again for the opportunity of allowing me to speak today.

**CHAIRMAN MARTIN:**

Thank you Mr. Kretz. Thank you for the presentation.

**MR. ISLES:**

This is on the agenda later on with the zoning calendar for the Board to take up at that point.

**CHAIRMAN MARTIN:**

I was going to ask the board if they wanted to make and inquiry because we didn't hear it yet. When the board hears it later they'll make their comments, okay.

**MR. KRETZ:**

Yes, I understand. Thank you very much.

**CHAIRMAN MARTIN:**

I thank you, sir. Is there anybody else that wishes to be heard?

**MR. ISLES:**

No, that's it.

**CHAIRMAN MARTIN:**

Okay, we'll start the round table with Laure.

**MS. NOLAN:**

I have nothing today.

**CHAIRMAN MARTIN:**

Nothing today Laure? Tom? Karla?

**MS. BOLTON:**

Charla.

**CHAIRMAN MARTIN:**

Charla.

**MS. BOLTON:**

The answer is no.

**CHAIRMAN MARTIN:**

Linda.

**MS. PETERSON:**

I would just like to say it's been a true privilege and honor to work with Jerry over the years. I have known him a long time, he is just -- your amazing amount of knowledge, your great direction you've given us, it's been an absolute pleasure to work with you. I'm really going to miss you. I know from the town whenever I called him he was there and I got any answers I ever needed, so thank you from my heart.

**CHAIRMAN MARTIN:**

Dick.

**MR. LONDON:**

I can only second what Linda just said about Jerry. The few times that I've had to call him, I've only been around a short time, he's always been right there always getting back to me with a straight, honest, direct answer. So Jerry, for the short time I've known you you've been great and I've learned everything I could through your help.

**MR. NEWMAN:**

Thank you.

**MR. THORSEN:**

Congratulations, Jerry, also on your retirement. Supervisor of the Town asked me to say something I will wait. I have nothing else at this time.

**CHAIRMAN MARTIN:**

Jerry, 35 years you were there; how did I put up with you for 35 years? John, go ahead, I'm not saying anymore.

**MR. CARACCIOLO:**

Okay. Well, Jerry, I just want to thank you. You know when I first started here I think I lacked the most experience of planning and you made me feel very comfortable; always answered every question for me and I do appreciate that. Thank you very much.

I just wanted to mention that the Chairman and I had the pleasure of sitting in on the Legislative hearing regarding the Regional Planning Board. I found it was a very enlightening experience to say the least. I just hope that they do move forward it seems it was a lot of information given at one time and I just hope that they do cipher threw it and are able to come up with a determination that is beneficial to Long Island as a whole.

**CHAIRMAN MARTIN:**

Thank you, John. Frank.

**MR. TANTONE:**

From a standpoint of the Town of Islip, there's no real report this month, but I too would like to echo everybody else's sentiments about Jerry and take it from a different perceptive. When I wandered in here nine years ago I too like John was kind of new, kind of young at this and there was one person who made a point amongst others obviously, who made a point of coming over telling me he was also from the Town of Islip, which we're very proud of, and always made me feel very welcome here. So I'd like to wish Jerry well in his retirement and we're happy for you and you should enjoy your retirement.

**MR. NEWMAN:**

Thank you.

**MS. HOLMES:**

You're right we're happy for you, but we're not happy for us. I must say that what I will always remember about Jerry is that about a year ago when I called him up to find out why the Legislature was taking five, six months to approve my appointment to this Commission, Jerry not only knew right away what all the politics were about it and advised me what to ask my supervisor to do, but the best thing was Jerry remembered me from our conversations many years earlier, 20 years earlier about planning and zoning matters on Shelter Island that were very crucially being disgusted -- disgusted and discussed. But Jerry remembered me and I will always cherish that. Thank you Jerry.

And as usual, Shelter Island is microcosm of what's been going on, I thank Linda for sending me the bulk regulations from Brookhaven. They were very helpful to this hard working committee which is trying to come up with maximum house sizes. We never



thought we'd have to deal with maximums but the McMansions are coming and they're being built on one acre lots or less. And this committee has been very hard at work and the town is trying to come to a compromise bulk restriction and just when they thought they were making progress somebody got up a petition with 330 signatures to protest it. And the basic thing is dealing with accessory buildings and whether or not to allow the entire lot to get covered with various buildings and obviously, we're away from that. Meanwhile, our lock clearing committee is very hard at work and is almost finishing our recommendations. We hope that our town will appoint a code enforcement officer because the building Inspector really is not able to deal with all these things when they come up.

We did have a situation where a fellow did clear a lot of trees right above a protected title pond and he came and admitted that they had gone beyond what they should have done but he said on the other hand when we were discussing with the building Inspector the building Inspector didn't remind us what the regulations were. So it makes it difficult but we hope that we will get the town to set out reasonable criteria and to develop brochures and booklets to make people aware where they purchase property or improve property on Shelter Island what the regulations and what the parameters are. We're hoping very much that will happen over the next few months. Thank you very much. And thanks again, Jerry.

**CHAIRMAN MARTIN:**

Thank you Linda. Basia, our attorney would like to say a few words about Jerry and I'd like you to sign that proclamation too.

**MS. BRADDISH:**

I did.

**CHAIRMAN MARTIN:**

Did you, okay, thank you.

**MS. BRADDISH:**

I actually had no problem signing Jerry's. I just want to say thank you Jerry because even though you called and asked me for questions usually you give me the answer.

**MR. NEWMAN:**

It's been mutual.

**MS. BRADDISH:**

It's been a real pleasure working with you, good luck.

**MR. NEWMAN:**

Thank you.

**MS. BRADDISH:**

Don't go.

**MS. HOLMES:**

Too late.

**CHAIRMAN MARTIN:**

Okay, now that we all thanked Jerry, should we all start crying, is that the next step? No.

**MS. CHORNY:**

Yes.

**CHAIRMAN MARTIN:**

I knew I would get somebody, you and Jerry can start any time.

**MR. DIETZ:**

Same day as Tom Brokaw.

**MR. CARACCIOLO:**

I want the hamburger.

**CHAIRMAN MARTIN:**

We become a team, we eat the same, think the same.

**MR. ISLES:**

Go to the same meetings. Okay.

**CHAIRMAN MARTIN:**

Oh, we're going to have the Director of the Division of Environmental Quality, Vito Minei.

**MR. ISLES:**

Mr. Chairman and members of the board -- you can take that board down if you want to use the easel, Vito.

**MR. MINEI:**

These are so small I just might hold them up in front of me.

**MR. ISLES:**

Okay. While Vito is getting set up here, Vito is the Director of the Environmental Quality in the Department of Health and he has a staff in excess of a hundred. They have a wide range of responsibilities including conformance of the County Health Code in terms of waste water disposal, sewage treatment plant review, air quality. They administer the Peconic Estuary Program on behalf of the County; they're heavily involved in through their Office of Ecology and a number of Environmental Protection Program, Long Island Sound Study and so forth. Vito is somebody that I work with quite often and is a huge help to me and to the County Planning Department in what we do.

The project that he's here to speak on today is a significant project in terms of that Vito will explain in terms of looking at our groundwater resources, we are sole source aquifer. It is something that directly affects planning; it is something in terms of land use decisions. It is something that is regional in nature and certainly beyond the individual municipality's responsibilities and control. So we've asked Vito to come down today to provide an overview of this study. County Planning will have a roll in this that will be defined a little bit further, but at this time I'd like to turn it over to Vito to give this Commission an explanation of what the this plan is about and what it's intended purpose is. Thank you Vito.

**MR. MINEI:**

Thank you, Tom. Mr. Chairman, Members of the Commission, if I could take a moment, I personally would like to reflect. I have known Jerry over 30 years and it's good to see someone who can attest to the fact that we work for the County after there was an environment in Suffolk County, not before. I, too, have always known Jerry to be very professional; he was always a gentleman, a very stable personality at the Planning Department at times when some of the personalities were a little bit more volatile. And I will -- on behalf of all of us at the Health Department we'll miss you, Jerry. I hope the retirement doesn't mean that I won't run into you at the 111 Deli, it's something that the health inspectors approve of so you can eat there safely. But seriously, Jerry has been a great friend and always a great help and we appreciate it. Good luck in your retirement.

**MR. NEWMAN:**

Thank you.

**MR. MINEI:**

I want to go over what we're referring to as a Comprehensive Water Resources Plan. We're hoping to begin this early next year and essentially it's a plan that's intended to help manage the water supply and surface waters of Suffolk County and also accommodate some other social pressing needs here in Suffolk, namely the Work Force Housing and some of the sustainable growth initiatives that you folks are handling. I've been involved in ground water management for over 30 years. I worked with the Planning Commission back in the mid 70's on the 208 Study; that was really a landmark investigation and management plan for the water resources. And I was pleased to hear, Tom, you use some of our terminology. I'll be referring to this information package I handed out.

I will just quickly go down then I want to if it's okay show a few graphics that will represent some of the work that will done. The last time we in the Health Department did a comprehensive water resources plan it was in the mid 80's and a lot has happened since then. There are new and emerging water quality problems. We've learned more about pesticides especially on the east end of Suffolk County. There are other problems with groundwater quality the result of development transportation and other aspects of our life here in Suffolk County. Gasoline additives, a new and emerging issue nationwide and you'll probably be hearing more about it is the concern

for pharmaceuticals and personal care products that are finding our way into our water resource and that will be an element of the investigation for this comprehensive plan.

One of the things that has changed is we have a very powerful planning tool for us now, it's a three dimensional computer model that helps us track groundwater and any potential for contamination or the benefits from open space and I will try to describe that a little bit more. The project has a budget of about \$700,000, \$400,000 is coming from the Health Department's Capital Program and \$300,000 is being dedicated by the Water Authority. The Planning Department as usual is playing a vital role especially in terms of its land use capabilities, GIS, and I will talk a little bit more as I go through.

There are a number of issues to be addressed. I think you here deal routinely with the concerns about how are we accommodating more development in Suffolk County and still protecting the natural resources and that's really issue number one. If Suffolk County is serious about smart growth, if we're truly concerned and determined to have affordable housing in Suffolk County, it means we have to find appropriate places in Suffolk County to place this additional development and still retain the character and the environmental resources and that is, is really the over arching theme of this comprehensive water resources plan.

There are a number of issues with regard to the Health Department. We've essentially put everything on the table, I get questions all the time about the sanitary code provisions and how it interfaces with the town authorities and how it's protecting the environment and still allow for all these other social needs we've discussed and a lot of the regulations that I've been involved in preparing over the last 25 years. We believe that have held us in good stead here, but I believe personally that it's time to revisit the issue. And so all of our regulations in the Health Department are open for evaluation and objective discussion. These include housing, density, need for public water; the need for sewers, etcetera. And also the other environmental issues that are involved in development, storm water runoff, impacts to wetlands, etcetera.

Some of the possible recommendations will be, again, issues you probably deal with routinely here, how effective are transfer of development rights as a management capability. How far can we utilize them with respect to accommodating additional development? Also what changes do we have to have in the distribution of public drinking water and also how are we going to address some of the rural areas on Suffolk County on the east end and their concerned about maintaining the character of the east end while still protecting water supply and the surface waters of Suffolk County. We're also concerned with the west end of Suffolk; will we need additional water treatment systems to address these pollutants I talked about or will long distance transmission from the Pine Barrens be necessary?

Back in the 208 Study while we were protecting some of the areas we really didn't think that long distance transmission of water supply would ever be cost effective, but in today's terms it may be competitive with the very high cost of treating water supply. So we'll be discussing that and evaluating it as part of the comp plan. The oversight will be

provided through a steering committee and there will be several regulatory agencies as well as the local towns will be invited to the table and also environmental and citizen activists groups will be involved in the study.

I thought if I had a couple more minutes I would just quickly go through some of the graphics that are included in your package and I hope I go in the sequence that I have them there. The first one is a map of Suffolk County, all my maps end at Nassau Suffolk border, I don't have your perspective of the world but you will see what Tom referred to those red lines are the groundwater management zones that were established in 208 Study. We have used them for our regulations in the sanitary code for the last 25 years. Those boundaries and all regulations that pertain to a ground water movement will be revisited as part of this comp study. And Tom referred to deep flow ground water and that's zones one, three and the aquifer overlay area of five on this graphic. But there have been questions from time to time about the veracity of the delineation of these boundaries they will be investigated with the model. Hopefully from your graphic you can see all of these ribbons these small ribbons which really show the ground water contributing area to all the public supply wells in Suffolk County. This was derived by that computer model I discussed very powerful tool. Something we didn't have in the past; we used to draw circles and then we tried to be more conservative and draw bigger circles around public supply wells. Now with computer models we're able to really discern the actual land area that contributes ground water to each of the public wells at the current depth and the pumping rates that we have. So immediately you can envision that land use is a concern with regard to the long-term protection of water supply.

One of these ribbons and there are about 400 of them, I can show in detail is near the Hauppauge Industrial Park and that's the next graphic hopefully in your package. And what this shows is the well field of concern in that Hauppauge Industrial Park and it moves out in terms of time from two to five years ten years 25 years 50 years and 100 years. So these ribbons on the first graphic really show the 100 year contributing area to each of those public supply well fields and these colors in this graphic are really the various land use categories that the Planning Department provided. This cannot be overstated the value of this. I get to travel around the country there are very few municipalities that have this kind of exquisite detail to the tax map parcel level that we have through the planning department, and it gives us in the Health Department again another important component on how to evaluate impact to water supply and surface waters. So you'll see the different land uses as you move out and the concern for describing these various times of travel to that well field is because different ground water contaminants have different lives. Bacteriological contaminants may only survive in the ground water a short time, and we are indeed concerned about bacteria and virus so anything that may be contributing within that two to five year ground water area septic tanks or other sewerage discharges are a concern. As you move out and you encompass other land uses whether it's residential or commercial industrial we get concerned with industrial solvents other household products and pesticides we're finding more and more that not only the parent compound of the pesticide is a concern. And one of the things that worries us is the parent compounds are usually the only ones

that the federal government has drinking water standards, but even the breakdown products of pesticide can be problematic. So our laboratory capabilities keep improving so with time of travel pesticides may indeed breakdown but the breakdown products may still be a problem. So this ability to be able to delineate the ground water contributing area and the actual area that moves towards the well field over time is very important to us. It helps us work with the Water Authority to plan infrastructure changes, do they have to go deeper do that have to plan for water treatment; what type of water treatment do they have to plan for or should they seriously be considering moving well field altogether. Again, this is information that was derived from the model developed here in Suffolk County; we used it for federally funding project called Source Water Assessment Program. It was required by the Safe Drinking Water Act, but as that name implies it was only an assessment; we're moving into the implementation and management phase. So this ability coupled with the information provided by the Planning Department gives us an idea of time of travel, the land uses of concern, the prevalence of confirmation, the sensitivity of the well fields to contamination over time. I just wanted to provide this graphic.

The next one shows a cut-through the land and again you should easily get a feel for the way ground water moves through the system from first rain fall and any contamination on the land penetrating the soil mantle into the ground water and then how it moves to different wells; and hopefully, you'll get a sense that the shallow private wells on the east end are truly vulnerable. Some of the deeper wells have some protection by virtue of the fact that ground water takes longer to get there. This computer model that we have not only gives us an ability to forecast regional implications, but also has as I have shown on the Hauppauge well field sites specific concerns as well. And with this computer model you're able to track a particle of ground water as it comes through the soil, moves towards the well field; therefore, you get an idea of how long you have before you have to react. If in the corollary you have contamination of well field you can track that particular back and possibly identify the source of contamination. So very powerful capability with the computer model and obviously computers now run much faster; we used to have wait long times for outputs and results, now we're able to get information very quickly.

The opposite of concerns about pollution inputs is what benefit can be derived from open space acquisitions and now with this modeling capability we can site not only regional implications of large scale open space protection, but even a smaller scale. When people come to us and say gee, there's interest in preserving a few hundred acres in the Coram area, is there truly a value to long-term water supply and we're able to forecast that depending on where you place water supply infrastructure, the well fields, you can truly derive decades possibly centuries of protection of ground water to that well field. Again by locating it properly in terms of the overall protection and direction of ground water with respect to the open space. So the model and the planning capabilities not only to look at pollution but also to look at the benefits of open space protection. This graphic also shows you that you as we've discussed further this idea of displacing through transfer of development rights what are the impacts on those

receiving areas and is that offset by the value and improvement in the sending areas; so there's a lot of information in these few graphics.

The last one I wanted to show you is something that still holds up overtime. These graphics were originally created back by Cornell for us in the 208 Study about two-and-a-half decades of groundwater monitoring by our staff at the Health Department still, documents that these are pretty close to the concerns. This graphic shows nitrogen and as we all know sources of nitrogen is either fertilizer that we as residents put on our lawns or agricultural fertilizers also human sewage is an input of nitrogen. Nitrogen makes up all of our cells of our body and is found in waste water and as you move from left to right you can see the impacts. One of our concerns is that on the east end we're not finding that the nitrogen levels are going down; we're finding that they're still going up. There's still a lot of education that has to be done; we're working with Farm Bureau and Cornell and Soil and Water Conservation because farmers still tend to do what their ancestors did. They spread fertilizer in the early spring on bare land; if it rains very heavily in April and May they fertilize again. They now have multiple crops on some of these properties so they're putting multiple applications of fertilizer. So we're still concerned with the amount of nitrogen getting into the ground water from fertilizer and as you move left to right you can see that the various levels of development from quarter acre zoning (inaudible) acre down through half acre. And half acre is still what we use as the break point between the input from either the septic system or the fertilizer of turf on residential land.

And one of the issues that will be investigated as part of this comp plan is the need for additional sewerage in Suffolk County. You may be aware that we still have only one major sewer district, that's the Southwest Sewer District built in the 70's, but we have about 165 sewage treatment plants operating in Suffolk County. The problem is those 165 treatment plants only serve about one-third of the population of Suffolk County; two-thirds of the rest of us are on septic systems. So one of the issues to be evaluated is as you try to accommodate all of these other pressing needs, accessory apartments in downtown hamlets, additional housing unit, condos on smaller and smaller pieces of property. What is the impact to ground water if indeed you allow them to be served by septic systems or the need for sewerage. So that's what this graphic shows you very quickly and then at the end you can see again the benefit of open space. To our way of thinking there is no better insurance policy for protecting ground water then to preserve open space. That's a given to us that's where we start any of our investigation; anything else is an engineered solution to a potential problem. Hopefully, I didn't take too long Tom, but that's overview of comp study we hope to take two-and-a-half years; there will be some early action products coming out especially as it relates to Workforce Housing Commission and some of the initiatives of the towns that are trying to approach us with, can we locate a large scale affordable housing unit in this area? What do we need in terms of infrastructure to protect the natural resource? Thanks again. Any questions?

**MR. ISLES:**

If I could add too just for a moment that the County Planning Department will be assisting in this project with the land use analysis and preparation of that information as

Vito's indicated. And Vito if you could just make one point too; all of the ground water in Suffolk County is classified for drinking water purposes so the significance of this is not just something out of thin air, but its guided by state and health standards that we then must comply with. So the Health Department is often pushed, put into a tough position where there are these pressures for increased development smart growth and so forth and the standards can often has often been an impediment to that. And what are the creative solutions out that there that still preserve the public health need in terms of drinking water supply, but also allow flexibility to in some of the planning solution. But I think it's important to note here again that this is not just a creature of the County Health Department; they're not just being bad guys for the sake of being bad guys, but it's the long-term view and it's guided by state standards.

**MR. MINEI:**

Thanks. Tom.

**MS. HOLMES:**

May I ask a follow-up of something that we were very interested in when you made your presentation on Shelter Island a while back was the shock that people got when you spoke about pharmaceuticals being a new element of contamination. And at that time there was quite a discussion as to how to educate physicians and pharmacists not to continue telling me people to flush out dated pharmaceuticals down the toilet or flush something they weren't -- and I'm wondering have you been developing any ways to go forward with that kind of, you know, newspapers and publicity are a very good thing, but I think booklets we were talking about brochures for physicians; are you making progress that way?

**MR. MINEI:**

Yes, that will be part of the public outreach of this program. There is indeed a lot of concern; we're currently with the assistance of Bruce Brownawell at Stony Brook investigating pharmaceuticals in ground water and surface waters. He's looking at waste treatment systems at some of our requirement homes and other places to see how widespread it is a problem in Suffolk, but I'm -- I honestly try not to alarm people, but it is indeed an emerging national problem of concern. And there are indeed by some initiatives by states to inform people not to do what you just said flush it down the toilet and things like that, but we have to get the word out there. I take a lot of joking about the types of pharmaceuticals that are getting into ground water but we are looking at it. And we took sort of a pragmatic approach, we took the top 50 prescribed medication and we're trying to develop analytical capabilities to evaluate them. One of the big concerns in the environment is estrogen as found in birth control products etc. getting into the environment and there are a number of national studies that say they are having an effect.

And there are several comical views of what it's doing, but it's what's referred to as feminizing fish in the environment that's one concern. The other thing is we just don't like the idea that involuntarily are sharing our medications; we're hoping that's not the long-term prognosis for ground water in Suffolk. Some of them are very easy to treat;



they're very fragile in the environment. Some of them are intended to be tough to breakdown and, unfortunately, they are finding their way in surface waters and ground water.

**MS. HOLMES:**

I think my concern was coming as I do from a newspaper background I think it's always valuable to do a heads up and I know you want to get the analysis and be able to say this does happen, but I was hoping there might be an interim way to say this may happen and please don't advise your patients to flush. You know that would help a lot I think and I, you know, I'm a great one for interim heads up when there's a, you know, a real concern. The word may is okay when it's just a caution that would be very beneficial to get people to stop flushing things down the toilet. That's a -- that's something that you can do as a caution even before you have the hard data to show the definite effects.

**MR. MINEI:**

Yeah. No, you are right, Linda, and thank for reminding me of why I don't get invited to speak at lunch or dinner time as well. But one of the concerns raised quite honestly is people say gee, we're very much concerned about the development implications of extending infrastructure whether its sewers or public water. We are still steadfast in the Health Department that we don't think long-term solution for Suffolk County is homeowner water treatment or sewerage treatment units. The cost of them are significant, it puts you in the position on daily basis of being a chemist, a biologist or also a mechanic to keep the equipment operating and it's costly here in Suffolk. Invariably there's electrical costs or a chemical costs involved. There are some municipalities trying to set up districts for private companies to come around and service your unit. We've heard mixed reaction to the experience; we do not believe that is the best way to go with regard to protecting drinking water and ground water here in Suffolk County. We still are in the enviable position where we can preserve a lot of the resource and there are other ways on regional basis to provide the infrastructure and still have control of the land use. We don't think that extending public water automatically means that there'll be immense development in some of our rural areas. We don't believe that's true at all that's why you folks are here to help bring in those concerns so we do have some issues that we're addressing right away. One of them is to constant questioning about homeowner units whether its water supply or sewerage disposal.

**MR. TANTONE:**

As a result of the study do you envision or is there some thought to the results maybe changing the density requirements at some point or is that not what the study is geared to?

**MR. MINEI:**

As I said, everything is on the table.

**MR. TANTONE:**

Okay.

**MR. MINEI:**

We're looking at the level of protection provided by the current density requirements and what Mr. Tantone is talking about is Article 6 of the Sanitary Code allows certain housing density on septic systems depending on which ground water management zone you're in. In zone three we only allow one house per acre (inaudible) 40,000 sq. ft. in other areas we allow 20,000 sq. ft. That was based on ground water data derived in the 70's and still as I mentioned here documented by our subsequent sampling up to the current date. We have massive amounts of data through monitoring wells through private well data through our public water supply monitoring, but the answer is yes, density issues are all on the table and the idea we're trying to address that Tom brought up the concern going the in the constraint is that every drop of ground water has a best intended use for drinking water. So whether you are at ground water divide in the middle of the Pine Barrens or you're standing on the shores of Peconic River and water is just coming out of the system, the ground water system into that stream every drop is intended for drinking water. And we're looking into the possibility with these powerful planning tools if we're able to displace or offset development and protect areas. In the past that was not an accepted management concept, but we're hoping because of these other social needs and because of the cost of building infrastructures especially after the fact the Southwest Sewer District was the lesson for Suffolk County that it is very expensive. It has numerous social impacts on the area.

I was a young engineer I remember walking down Main Street in Bay Shore and other areas and open trenches and dewatering and dust and contractors moving around and businesses literally went out of business in Babylon and Islip while that construction took a long time to do. And so there is concern especially in the context of smart growth which sort of guides you towards moving development to an already developed area. So how do we did that and still protect our ground water and surface waters, but the density issue is indeed the primary issue on the table for us.

**MR. THORSEN:**

Vito?

**MR. MINEI:**

Yes.

**MR. THORSEN:**

Vito, one of my big concerns is part-time neighbors that have rather nice lawns and numerous times during the year you'll find the yellow sign out on the front lawn, you know, stay off the property and so forth for a few hours. So the insecticides they put on must have a tremendous impact on ground waters. What is the Health Department doing relevant educating these people because essentially, they hire a contractor to do the job and they're away, you know, they're in New York City or someplace while the contractor does it so they don't seem to be in tune with the problem.

**MR. MINEI:**

Right. We have a Local Law that's been on the book for at least a few years where there is supposed to be guidance provided to the neighbors alerting you to the fact that they're going to apply this. All the applications are expected to be done in accordance with state permits. There's a whole unit devoted to these commercial applications and pesticides. We in the Health Department get involved with homeowner complaints; we do not have the regulatory authority to stop them from applying, that state, but on the other hand we're hoping that through this planning process that we can provide better guidance to our colleagues at the state DEC and, therefore, to these homeowner and these companies. Even a casual observer has to notice that lawn care businesses have really taken off in Suffolk County in the last 20-25 years and certainly on the east ends it's a big business. And we are concerned about it and we are getting the record out and often times we are we have inspectors going out.

There is a fine that can be levied if they're not doing it in accordance to the 24/48 hour notice and also if we find any indications that they're not applying it in accordance with the their permit we work with our friends at the DEC to get enforcement action on those commercial applicator. That doesn't stop us from going to Home Depot or Lowe's and buying tremendous amount of chemicals and applying them ourselves and often times people use the old adage, well, if a pound per thousand square feet is good ten pounds per thousand square feet can't be too bad. And as it turns out these chemicals aren't all that expensive and people see what they think are the results of a nice green lawn and things like that. So we're trying to get the word and quite honestly those big stores have been somewhat cooperative, but it's a matter of posting signs and we think that has limited public educational, you know, ability and benefits, but we're trying to address it from both from the homeowners stand as well as the commercial applicator.

**MR. THORSEN:**

I know I don't put it on my lawn so my lawn is probably the worst lawn on the block. Thank you.

**MS. HOLMES:**

It's the most environmentally desirably lawn on the block.

**CHAIRMAN MARTIN:**

Wait, wait let everybody have one chance because it's getting late. We can't be going here all day; Tom are you finished?

**MR. THORSEN:**

Yes.

**CHAIRMAN MARTIN:**

John didn't have a chance.

**MR. CARACCIOLO:**

I just want to know in the scope of this 30 month project, will you be reporting back to us at different intervals?

**MR. MINEI:**

Yes, absolutely. The Planning Department will be on our steering committee and will be integral to the work team as Tom mentioned. So yes, we can do that at your pleasure. As I mentioned I have already pledged earlier work products to the Workforce Housing Commission and to the County Executive to move along some of these concerns that we talked about density versus affordable housing.

**CHAIRMAN MARTIN:**

Thank you.

**MR. CARACCIOLO:**

Thank you.

**CHAIRMAN MARTIN:**

Laure?

**MS. NOLAN:**

No.

**CHAIRMAN MARTIN:**

Charla?

**MS. BOLTON:**

No, not right now.

**CHAIRMAN MARTIN:**

Linda?

**MS. PETERSON:**

If we're in the process of planning sewage treatment areas within a given area say in Brookhaven where we're looking at multiple project would you prefer to see one large district created or a few small ones the handle current sewage issues?

**MR. MINEI:**

There are indeed economies of scale; back in the late 80's and early 90's we did a project called North Central Brookhaven Waste Water Management and we looked at what started out at that project to be 16 sewerage treatment plants. By the time we were finished there were 22 in that area Centereach, Middle Island, Coram. Generally, we prefer to see what is now referred to as sub regional facilities. We don't see much potential because we don't see the economic support from the federal and state government. The Southwest Sewer District believe it or not got tremendous federal and state support to do this regional sewerage; we don't have that any more. There's the

state revolving fund which in some instance is an incentive. Typically, we like to see fewer treatment plants in an area; I also serve on the sewer agency which tries to direct developers to combine their projects into one treatment plant. I know that the town is looking at the Montauk Road corridor in Mastic-Shirley we're in favor of that plan to locate a treatment plant on the, I believe it's Brookhaven Airport.

**MS. PETERSON:**

Okay.

**MR. MINEI:**

I would consider that a sub-regional approach that would be something we'd like to see further up William Floyd Parkway we'd like to see one treatment facility serving those multiple large industrial commercial developments. At this point there's no way to force it, but we think that's better planning.

**MS. PETERSON:**

Okay.

**MR. MINEI:**

Just think of it logistically trying to inspect so many facilities; making sure they're operating properly. The cost, there's a benefit to developers if you can share the cost.

**MS. PETERSON:**

Thank you.

**CHAIRMAN MARTIN:**

Mr. London.

**MR. LONDON:**

Nothing.

**CHAIRMAN MARTIN:**

Mr. Dietz.

**MR. DIETZ:**

No.

**CHAIRMAN MARTIN:**

One question I have. Years ago 15, 20 years ago every subdivision was put in dry lines there must be a million miles of dry lines; what ever happened to them? Has all been abandon?

**MR. MINEI:**

Gee, I was hoping to get away without sore point being raised.

**CHAIRMAN MARTIN:**

Nobody wants to talk about that anymore.

**MR. MINEI:**

Fifteen years ago is a good estimate. My staff says I always say things are 15 which are really 20 or 25. About almost 30 years ago the sewer agency had different contracts A, B, C and D. A meant you put in the sewers and you always put in the operating sewage treatment plant. There was another B contract that I believe was a cash contribution for future sewage disposal facilities. C is what Mr. Martin is talking about where you can install dry sewers install septic tank at the houses and also contribute money to future sewage treatment plants. What happened over the ensuing years were that these facilities were not built and under the County Legislature a good 15 years ago they said stopped this practice it's not happening there's no service. There was indeed several millions of dollars tied up in the contribution and several miles of dry sewers laying out in the ground. What happened was the county returned that money to the current homeowners. So it was quite a little windfall some of it was I believe 1,500, \$2,000 checks were sent to the homeowners to offset money that was put into place by the developer many years before. Those different contracts are not utilized by the sewer agency as directed by the Legislature probably about 15 years ago.

**CHAIRMAN MARTIN:**

I remember seeing them go in because in town we were concerned about them because we even had -- some even -- we even ran the laterals on to private property so we didn't have to break up the road. I mean, you know, then all of a sudden it was never mentioned again like it never happened but they are there because the manholes are there.

**MR. MINEI:**

I'm kind of sorry you mentioned it today, but the fact is it was a good plan gone bad it just never was realized. We were hoping to use all that money in escrow for future sewage disposal planning concerns, but the Legislature decided no just give the money back.

**CHAIRMAN MARTIN:**

Okay, thanks Vito. Anybody else? Everybody has been heard once, okay, thank you for coming.

**MR. ISLES:**

Thank you Vito.

**CHAIRMAN MARTIN:**

Looking forward to seeing you again.

**MR. MINEI:**

Thank you very much.

**CHAIRMAN MARTIN:**

Are you ready, Ted?

**MR. KLEIN:**

Good morning ladies and gentlemen. Let me introduce myself again for those who weren't here last month, my name is Ted Klein and I've been reviewing subdivisions for the last two months in place of Andy and this is -- I'm going to miss Jerry a lot. Jerry has been -- I know this meeting is running long, but Jerry has been a mentor, a power of example regarding both being a planning professional and my life and probably Claire and Andy lives are going to be most effected by Jerry's retirement. I will miss him greatly really. He's one of the most truly and completely a very decent human being and he's going to be missed.

The first subdivision for review is the map of Oregon Landing. Commission jurisdiction is the Long Island Sound. This is subdivision of 25.79 acres which will be subdivided into five lots in the hamlet of Cutchogue. The property lies within the Agricultural Reserve zoning category which permits single family development on lot sizes having minimum of 80,000 square feet. This map is a cluster subdivision. As you can see it's a beautiful piece of property. The applicant proposes to create four residential building lots; those are numbered lots one through four and one large agricultural parcel designated as lot five. The residential lots will have a range in sizes from 70,383 square feet to 81,039 square feet. A point out lot one is a panhandle lot, a crooked panhandle lot whose the entire parcel measures 139 -- excuse me, 136,240 square feet, 500 -- excuse me, 55,208 are the panhandle portion which is the driveway -- it's a driveway strip. At lot five the agricultural parcel has an overall size of 17 acres and we've been told that the town is going to purchase has the development rights to that parcel.

This subdivision is voluntary reduction of yield from a potential ten lots to five lots. And the proposed map I should point out depicts itself as a minor subdivision, however, being five lots and according to Commission guidelines this would be classified as a major subdivision. Access to the residential lots from Oregon Road is provided over a long access that crooked panhandle of lot one which will serve lots one through four. If you follow this is the proposed access to the residential lots and then it bends over here and as I mentioned this is part of lot one okay. The length of this access is 1,853 feet long it's a dogleg and it has a turnaround a cul-de-sac with a 50 foot radius. Since proposed lots one through four are only accessible via this common driveway easement over the panhandle portion of lot one they are by Commission definition land locked and creation of such lots is contrary to Commission guidelines and good planning principals.

The subject parcel fronts along Oregon Road for vehicle access and the shoreline of Long Island Sound borders it to the north as you can see from the aerial. To the east and west are the private holdings. The character of the area is primarily agricultural with some clusters residential development. There are several parcels in the immediate vicinity that have had their private wells purchased and some have been subdivided in similar ways as that proposed on the subject property. If you look at the tax map you

can see that. The subject parcel is mostly level farmland with some wooded cover to the north and bluff areas along the shoreline which drop off quite sharply. The top of the bluff is located in the middle of the wooded area; this is about the bluff line right here. Soils on the subject consist of Haven in Riverhead and Plymouth Associates which are prime farm soils and dune land soils which are subject to coastal erosion. Both are considered worthy of preservation and protection.

Issues regarding the Commission policy relating to this particular subdivision are as follows; issues relating to the creation of lots adjacent to the shoreline at Long Island Sound and areas containing bluffs. The creation of subdivision containing land locked lots and poorly designed access and also the map name described this type of map is minor when it should in fact be described as a major cluster subdivision.

The staff recommends approval of this application subject to the following conditions that are deemed necessary to help preserve the natural and aesthetic attributes of the Long Island Sound shoreline and additional conditions deemed necessary for good planning and land use.

The first condition, the top of the bluff shall be flagged in the field by qualified professional and verified by the appropriate regulatory agency and shown on all surveys plans maps and sketches.

No new residential structure or sanitary disposal facility shall be constructed or otherwise located within 100 feet of the top of the bluff.

Within 50 feet of the top of the bluff there shall not be any grading except that maybe necessary to control or remedy erosion or to prevent storm water flowing over the edge of the bluff. Clearing and cutting within this area shall be limited to that necessary for proper maintenance and removal of diseased decay and dead material and obnoxious plant species. Such clearing and grading shall be subject to agreement by the town to assure proper maintenance and preservation of natural bluff.

No run off resulting from the development or improvement of the subdivision or any of its lots shall be discharged down the face of the bluff in any manner.

There shall not be any individual access structure to beach from lots two, three and four, which are these. Access to the beach shall be limited to the single structure within ten foot line easement on lot one to serve all residents of the subdivision. The structure shall be designed and constructed in a manner that will result in the least disturbance of the stability of the bluff and that proposed access is along the west side of lot one.

Another condition for approval, the subdivider shall acknowledge in writing to the planning board that the creation of this subdivision in no way commits either the town or the County of Suffolk to any program to protect this property from bluff and shoreline erosion through the construction of engineering and other works.



The subdivision shall be redrawn so that the proposed panhandle portion of lot one to be used as common driveway is replaced with a 50 foot wide right-of-way designated to provide safe vehicular access so to all lots. This right-of-way may be improved with a 12 to 18 foot country lane or common driveway that is designed to accommodate vehicular entering and leaving the property at the same time. Furthermore, the angular bend of the dog leg turn, right here, of the panhandle depicted on the proposed map in lot four, in front of lot four, shall be replaced with a horizontal curve to ensure that 50 foot wide right-of-way will be capable of accommodating emergency and surface vehicles.

The proposed map by the Commission definition is a major subdivision and the map shall be amended and the word minor shall be replaced with the word major so that map name and clearly stated as a major cluster subdivision. And finally, whether or not the town purchasing development rights to lot five the applicant should be required to file covenant and restriction prohibiting its future subdivision, thank you.

**MR. FRELENG:**

That last comment was an add-on, right.

**MR. KLEIN:**

Yeah, that was an add on to the packet we sent you.

**MR. MARTIN:**

Are there any comments? The motion is in order.

**MR. CARACCIOLO:**

Motion to accept the staff's recommendation.

**MS. HOLMES:**

Excuse me. I just wanted to ask a question, when you are talking about flagging the top of the bluff would that be the coastal erosion hazard mark because I'm puzzled I don't see any coastal erosion hazard designation on that bluff area.

**MR. KLEIN:**

That would be the top of the bluff the highest point of the bluff before it goes down towards the landward portion of the property.

**MS. HOMES:**

Yeah, and that's what you're saying to be established so that it conforms to that. Okay, thank you.

**CHAIRMAN MARTIN:**

Would you like to second it Linda.

**MS. HOLMES:**

Yes, I will second.

**CHAIRMAN MARTIN:**

All in favor. Signify by saying aye. Contrary minded. Abstentions. So carried

**MR. CARACCIOLO:**

I abstain.

**CHAIRMAN MARTIN:**

Who made the motion, John?

**MR. CARACCIOLO:**

I made the motion. . **(Vote: 9-0-1-1 Abstain: Caracciolo, Absent: O'Dea)**

**MR. ISLES:**

Okay, while Ted is setting up the next board I realize we're running a little bit late on this meeting so maybe I'll just summarize the application and ask Ted to provide the recommendation, the staff recommendation. This is property also located in the Town of Southold it's on Middle Road which is also CR 48 at the intersection with Depot Road. It's in the vicinity of the Southold landfill; the parcel was the subject of a rezoning by the town board on motion earlier this year. The parcel is zoned industrial and what you have before you is a subdivision creating a total of 12 lots in conformance with the existing zoning. There was a prior subdivision in 1992, but here again with the rezoning that's occurred there is an entitlement to a greater yield the property. Staff, Ted, has identified two issues, two primary issues with the application, one being the subdivision design of creating dog bone dual cul-de-sac arrangement which he can point out and the second being that there's no alternate or emergency access. So he has summarized in his reports some of those issue that are describing those a little bit further; some of the issues with the recharge basin. So we are recommending approval of the application; at this point I'd like to ask Ted just to summarize your recommendations that are conditioned on that approval.

**MR. GODEK:**

Okay. These are staff recommendations; we recommend approval subject to the following conditions that are deemed necessary for good planning and land use. The subdivision shall be redrawn so that the proposed cul-de-sac are only temporary tap streets and shall be established to connect both the north and south terminus of Commerce Drive. This is the north and south. We're proposing tap streets which will be paper streets to the adjacent parcel. This modification design would enable the connection of future roads in the development of these similar zoned parcels those are similar zoned to the east and to the northeast. Hence design of the subdivision shall account for the coordinated access with adjacent lands to eliminate these cul-de-sacs and provide for alternative access to the proposed lots within the subject subdivision.

Temporary emergency access easement or special right-of-way shall be created to connect one of the existing roadways to Commerce Drive to ensure access by emergency vehicles in the case of the sole means of access from Corporate Road is

blocked. So we're proposing like an easement either to Depot or to Middle will be, you know, special right-of-way for emergency vehicles. All lots within -- condition three all lots within the subdivision are to conform to the minimum lot requirement of the zoning district in which it is situated. All necessary variances shall be obtained prior to final approval. And four, to discourage any attempt to subdivide the over side lots which would be lots three four and five within the proposed subdivision, the subdivider shall be required to file a covenant restriction prohibiting future subdivision of these lots. And the staff offers one comment; a revised copy of the drainage plan and recalculation of the storm water run off storage capacity should be submitted to the town for review.

**CHAIRMAN MARTIN:**

Any comments? Motion?

**MR. THORSEN:**

I move the staff report.

**MS. PETERSON:**

Second.

**CHAIRMAN MARTIN:**

All in favor signify by saying aye. Contrary minded. Abstention. So carried. **(Vote: 10-0-0-1 Absent: O'Dea)**

**MR. NEWMAN:**

Today we have three zoning actions on the agenda; the first is from the Town of Smithtown. This is application to rezone a 35 acre parcel of land from a one acre category, a half acre category and light industrial category to town house category for the purpose of erecting 176 units at a density of five to the acre on lands on the west side of Lawrence Road north of old Northport Road at Kings Park. The area -- the area being considered is indicated in yellow on the aerial. The preliminary of the 35 acres two-third approximately two-thirds of the subject property is zoned for single family residence purposes and that is the yellow area on that colored map here. The single family portion is in through here the these two portions are zoned light industrial; so two-thirds are zoned for single family purposes about a third is zoned for light industrial purpose.

The preliminary site plan for this site calls for the erection of 33 two-story buildings,, 704 parking space one point of vehicular access via Lawrence Road and two points of vehicular access through adjoining land to the west and south extending to Old Northport Road. A clubhouse recreational amenities in connection to a sewerage treatment plant on adjoining lands to the south and sewerage treatment plant you can see on this area here. The adjoining lands to the south and west this portion adjacent to the property to the south and to the west. The property as previously mentioned is to be developed jointly with adjoining lands to the west and south. That area I just described to you is where they intend to erect an additional 124 townhouse units on 25.9 acres also a density of five to the acre in connection with a pending change of

pending changes zone that parcel there's a change of zone on that parcel there's a change of zone pending from R 21 and LI to R6. That was deemed the matter for no jurisdiction by the staff in February 2002 and that application is still pending in the Town of Smithtown; no action is taken on that at all. All of the lands that are being considered for the rezoning have been formally used for sand mining purposes and I think you can see it on aerial. Also the property used for the deposit of numerous piles of construction and demolition debris. The property is bounded on the north and east by lands that are single family zoned. And to the south by commercial transfer station of recycling facility and pre-cast concrete sand and gravel operation all in L I district. And west across King Park Road which is on an open King Park Road is situated in this area on the site plan; that road is entirely unopened and that's bounded on the west. The subject property bottom (inaudible) in the L I zone. The L I zone is all indicated in blue on that colored map on the site plan. Is it believed the staff that this proposal appears inappropriate as the property is remotely situated and possesses limited amenities desired for multi-family resident purposes. It appears incongruous with remaining nearby industrial zone lands. It constitutes the unwarranted inappropriate noncomprehensive alteration of zoning patterns in the area. It will adversely affect vehicular circulation patterns in the area through the abandonment of Kings Park Road.

The staff considers that an absolutely necessary north south road way to serve exiting and future development. As you can see on the site plan they tend to abandon it limits; it's also consistent with the town plan even though it's a very old town plan in the Town of Smithtown. In 1961 plan designated this area for single family residence purpose; the Town of Smithtown is now in the process of preparing an update to their comprehensive plan. The staff recommendation if for disapproval in this case the staff would probably prefer to see all lands reclassified for half acre and clustered. Alternatively, if that didn't work we would entertain consideration of an R6 category on only the LI portion as a reasonable and fair trade off and then taking the yield on the single family portions and cluster all the unit protecting those units from the remaining surrounding industrial zoned land. We're recommending disapproval.

**CHAIRMAN MARTIN:**

Any other comments? Hearing none a motions in order.

**MR. TANTONE:**

Move to staff.

**SPEAKER:**

(inaudible)

**CHAIRMAN MARTIN:**

Second by Linda, all in favor, signify by saying aye. Contrary minded. I abstain. So carried. **(Vote: 9-0-1-1 Abstain: Martin, Absent: O'Dea)**

**MR. THORSEN:**

I have one question this looks. This looks like a good brown bag or Brownfields kind of opportunity. In other words, if the town were to do a comprehensive plan here maybe you could come in with some smart growth notes; use some of the industry for jobs and create a little business center there that would take care of that aspect of it. Have you thought of that?

**MR. NEWMAN:**

I think the town's objective here is to eliminate the industrial zoning; it's in a marginal area and they're trying to effectuate that. The question is how do you effectuate it when – you have to have to a trade-off, probably an R 6 would be a fair trade-off to me for only industrial zoned portions. The master plan has not been updated and completed as far as this area is concerned; discussions I've had with town officials indicate that they have some concerns with this application.

**CHAIRMAN MARTIN:**

There was a motion and a second voted on. It was unanimous and I abstained. Thank you.

**MR. NEWMAN:**

Applications number two and three are very similar; they're applications to the Babylon Zoning Board of Appeals and they both involve an increase in dwelling unit density for multi-family residence purposes. The first application is from the Town of Babylon it involves variances to diminish the side yard from 40 to 16 feet. The total side yard from 43 feet and to increase the maximum number of units from 37 to 75 and this is in connection with the erection of 75 multi-family residence units. All one bedroom on a 3.74 acre parcel of land with a density of 20 to the acre affecting lands situated on east side of Deer Park Avenue north of Lombardi Street in a multi-resident district that only permits at this time single family multi-family residences of one bedroom a ten to the acre. So what the petitioner is asking, in this case, is double the number of units. The site planning calls for five two story buildings varying length and they're considerable lengths from 159 to 265 feet. There'll be one point of vehicular access via each of the adjoining roadways; there'll be 158 parking spaces. To the north of the property is a shopping center so the staff feels that this site is an excellent site for multi-family residence purposes. To give you just a brief summary of how this property evolved with the rezoning application to the ZBA, it was rezoned by the town board from Business E and C to MR on in 8/10/04. The site plan approved by the Planning Board on 10/18/04; both of those approvals were predicated on the SBA granting any variances associated therewith and with 20% of the units, in this case, 15 set aside for workforce/affordable housing purposes, thereby both boards were accepting this higher density.

Correspondence that the staff received from the Town of Babylon Planning Director indicated they're in the process of reviewing and preparing an ordinance and I think this has been an involving effort for approximately two years this whereby there would be increasing densities in the MR District and then would be a concurrent affordable housing component. However, nothing has been finalized yet and they're still working

on it. The planning director indicated that they are supportive of this request; however they realize the procedure is somewhat unusual. The petitioner also indicated that the increase from 10 units to the acre allowed in the MR to 20 is still under the Town of Babylon requirement for senior citizen purposes of 25 to the acre.

It is the belief of the staff that this proposal appears inappropriate as sufficient information has not been submitted to do demonstrate compliance with applicable variance criteria. As previously mentioned by Counsel for the petitioner the grant and area variance the Zoning Board of Appeals has to consider a balancing test. That balancing test should consider whether or not the benefit to the applicant is to the detriment of the community. The staff does not believe this proposal has a detriment to the community, however there are also other considerations in accordance with law that have to be considered and there's five considerations. Of the five the staff believes the petitioner has not demonstrated compliance with three of them. The first one is whether the benefit can be achieved by another means feasible to the applicant; if he's allowed ten to the acre he could provide an affordable component in accordance with the existing density of ten to the acre.

Number two, whether the request is substantial the staff beliefs any request to increase the number of units to double the number of units is significantly substantial. Number three, whether the alleged difficulties is self created the petitioner preceded this application with full knowledge of the MR District requirements. The bottom line on this is the staff believes that the intent and objective of the town and applicant is a good one. Our primary focus of concern is the procedure being utilized going to the Zoning Board of Appeals. We further believe that it would substantially under mind the effectiveness of the zoning ordinance; the property can be reasonably developed in accordance with existence zoning when the affordable housing component as previously mentioned. It would establish a precedent for further such dwelling density increases in existing MR as well as proposed MR classifications throughout the town through the SBA applications.

And finally and most importantly any contemplated increase in multi-family density should only be effectuated through an enacted amendment to the zoning ordinance with standards for affordable/workforce housing purposes. We're recommending disapproval primarily on the grounds that the procedure being applied here is inappropriate; the Town of Babylon for two years has been studying this when the staff originally received this application as well as the next one discussion with town officials are they were going to amend the zoning code and that's why they we're asking to double the number of units. I never realized that they would be going to the ZBA and asking them for this increase. So it's entirely procedural and we're recommending disapproval.

**CHAIRMAN MARTIN:**

Before we do anything, can we hear both of them because they're all one, right?

**MR. NEWMAN:**

Pardon me.

**CHAIRMAN MARTIN:**

They're all the same.

**MR. NEWMAN:**

Application number three also from the Town of Babylon is virtually a carbon copy of application number three so you could consider both of them because the staff has similar comments and similar concerns all entirely procedural. The intent and objectives are good; we thought that the code amendments would be enacted and the Commission wouldn't even be seeing these if the town board had enacted the code amendments.

**CHAIRMAN MARTIN:**

Let me ask you a question. All we talk about whether it's here or public forums or whatever even the thing the other night let say the most responsible thing to do is to provide some affordable housing. Nine out of the ten towns or 10 out of the 10 towns have very little space they can do that. Hearing the 20,000 square foot minimums the water -- here's a town that's trying to overcome that, don't you think we should leave it to their determination whether the procedure is correct or not correct and let them in their wisdom and they face the people Election Day not you or I let or anybody else, let them try to put in affordable housing at the best yield that they feel is possible? I don't know the demand there; the same in my town I know it would never pass because of the pressure. You have to work with the towns; we can't just say no, we're saying you have to do it and they we turn around and guy comes in and we say no.

**MR. NEWMAN:**

I think it's possible her that the town is sending a trial balloon for these to see how these work out and if it does these work out they're going to enact amendments to the zoning code to effectuate what they're proposing to do here.

**CHAIRMAN MARTIN:**

So wouldn't it better if we sent it back for local determination?

**MR. NEWMAN:**

You could send it back. Our concerns are primarily procedural, it's all procedural. We don't object to affordable housing.

**MR. ISLES:**

Linda had her hand up after Lou.

**CHAIRMAN MARTIN:**

Okay. Lou?

**MR. DIETZ:**

In speaking with the Supervisor's Office and the Planning Commission at the planning office yesterday they're not asking for approval that's not what they're asking for.

They're -- everyone sitting at this table knows the need for affordable housing; everyone at this table also knows that there's a lot of people don't want affordable housing in any area. There're major concern about this whole thing is that tomorrow in one of the newspapers or whatever it's going to come back Suffolk County Planning Commission goes against affordable housing. We know that's not really the case, we know the reason, but then they're going to have to explain why that in fact happened because by denying it you are in fact saying you're going against, again, you're not, but you are and that's their major concern that it's going to show up in one of the newspapers someplace and the people that are against it why are they having this ongoing process. Mr. Casserly in his letter stated that it will be -- the change will have been made before a CO is issued or anybody moves into these places. So with that in mind Jerry's report and everything is great as they always are, but again, it's just a concern whether the perception is going to be that we voted against something which they're trying put in that everyone knows we need, but again a lot of people don't want it in their area. So with that in mind I'd like to make a motion to send it back to the town for local determination; let them do what they want to do with it.

**MR. LONDON:**

Second.

**MS. NOLAN:**

I want to second it.

**CHAIRMAN MARTIN:**

It's unanimous that everyone wants to second it back for local determination.

**MS. PETERSON:**

I have one question. He's asking to double the density, but yet he's not willing to give all that extra density over for Workforce housing; he's still sticking to his 20%.

**CHAIRMAN MARTIN:**

I don't think we're doing that. What we're trying to say here is that the town knows best.

**MS. PETERSEN:**

I understand what you're saying.

**CHAIRMAN MARTIN:**

I don't think we're arguing that; I think what we're trying to say here is that the town knows best.

**MS. PETERSEN:**

I understand what you're saying.

**CHAIRMAN MARTIN:**

And if we send it back with the comments that you work it all out maybe the town won't work it even with that number. The town is not saying that's the number to go on. The



applicant is asking for their hearing; if we deny it like Mr. Lou Dietz said then there's no argument. Well, Suffolk County unanimously denied an application.

**MR. DIETZ:**

When it goes to the zoning board which we all know they could in fact say it's going to be more than 20%. They haven't made a determination yet so it has to go to their zoning board. The village board -- the town board and the planning department approved it with that amount of units, but the zoning board is still going to have to grant it and there's no way of knowing, you know, they don't have to so that's where that's at. They just didn't want, again, I'm repeating myself, and they didn't want it in the tabloids tomorrow stating that this organization went against affordable housing that it could be used while they're trying to rectify this problem that we all at this table know is very well much needed in this County.

**MR. ISLES:**

Okay. Just speaking on behalf of the staff, we obviously respect it's your decision we fully respect that. As we've indicated we support substantively what they're doing. We actually congratulate the town for being so forward on this; our point is strictly as Jerry indicated procedural which sounds kind of technical, but it's I think it's a very poor precedent on the town's part in terms of applicants basically, going around the legislative process in terms of zoning process to increase density. And today we're seeing on a very worth while project no doubt, but we just think it's a highly a very poor practice and we've express that and certainly I don't want to belabor the point, but we do stand on our recommendation to you today.

**CHAIRMAN MARTIN:**

All right.

**MR. NEWMAN:**

I would suggest that if it is sent back for local determination that the town expedite enactment of the zoning code so these applications no longer appear before the Board of Appeals again because that's the inappropriate body to consider something like this; the town board really should enact this. We might not even see this today if these things were enacted previously.

**MR. ISLES:**

Jerry's point is well taken and just there may be a deluge of applications coming to the Town of Babylon Board of Appeals with all the other multiple family zoning out there.

**CHAIRMAN MARTIN:**

Why don't we send it back to local determination with that comment based on that you will act in accordance --

**MR. NEWMAN:**

Did they expedite enactment of a code amendment that'll effectuate these procedures so the ZBA doesn't see these in the future?

**MS. HOLMES:**

As we used to say --

**CHAIRMAN MARTIN:**

Wait a minute, Laure is supposed to speak.

**MS. HOLMES:**

Okay.

**MS. NOLAN:**

Could I just ask one question? This did however go already to both the town board and to the planning board, correct?

**MR. NEWMAN:**

That's correct.

**MS. NOLAN:**

And both understood the number of units involved I think that's important point here. This is not something that's setting a precedent in terms of just going to the Zoning Board of Appeals and ignoring the planning board or the town board.

**CHAIRMAN MARTIN:**

They're gone the way they should go, right.

**MR. NEWMAN:**

Right.

**MS. HOLMES:**

As we used to say at the state planning level zoning by variance is not a good idea, but as you pointed out it appears as if the town and planning boards approved this idea; the guide just seems to be jumping the gun by going to the ZBA, is that what he's doing?

**MS. NOLAN:**

No.

**MR. NEWMAN:**

I don't know exactly what's going on this.

**CHAIRMAN MARTIN:**

I'd like to take the vote only for one reason is that he's done all his paperwork; the town could turn him down. We haven't changed the town's view of it and I think they should make the decision they're the elected officials something of this nature. Anything you put in that's clustered or not you get variances; that's part of the game of clustering or getting its more units per acre. Variances are part of the game; why they went to the Board of Appeals first, maybe he wanted to make sure all the things were in a row.

**MR. ISLES:**

Mr. Chair, if we could recognize Mr. Freleng he just has a comment?

**CHAIRMAN MARTIN:**

Sure.

**MR. FRELENG:**

I was just going to clarify for the record that there's a motion on the floor and it's been seconded; I just want to make sure this is on both applications?

**MR. NEWMAN:**

Yea, we can do it on both.

**CHAIRMAN MARTIN:**

All in favor signify by saying aye. Contrary minded? Abstentions? So carried. **(Vote: 10-0-0-1 Absent: O'Dea)**

**MR. ISLES:**

That's a duplicate resolution. Jerry, the next meeting which I'm sorry you're not going to be there that's in Hauppauge, right?

**MR. NEWMAN:**

Yes.

**MR. ISLES:**

Just so we know 12 o'clock.

**MR. NEWMAN:**

Merry Christmas and Happy New Year.

**CHAIRMAN MARTIN:**

Merry Christmas everybody.

**MR. DIETZ:**

Make a motion to adjourn.

**CHAIRMAN MARTIN:**

Second. All in favor? Opposed? Carried? **(Vote: 10-0-0-1 Absent: O'Dea)**

**(\*The meeting was adjourned at 11:52 A.M.\*)**

**{ } Denotes Spelled Phonetically**