

2011-31

RESOLUTION ADOPTING A FINDINGS STATEMENT PURSUANT TO SEQRA FOR ZONE CHANGE APPLICATION #2006-ZM-363, TRIANGLE EQUITIES (KENSINGTON ESTATES), REQUESTING TO CHANGE THE ZONE FROM R-40 RESIDENCE DISTRICT TO R-RM RETIREMENT COMMUNITY DISTRICT IN THE TOWN OF HUNTINGTON AND R1-1A DISTRICT TO RMF-10 DISTRICT IN THE TOWN OF OYSTER BAY FOR PROPERTY LOCATED ON THE SOUTHEAST CORNER OF JERICHO TURNPIKE AND PLAINVIEW ROAD, WEST HILLS/WOODBURY.

Resolution for Town Board Meeting dated: January 11, 2011

The following resolution was offered by: **COUNCILWOMAN BERLAND**

and seconded by: **COUNCILMAN MAYOKA**

WHEREAS, Triangle Equities 496 West Jericho Turnpike LLC, 30-56 Whitestone Expressway, New York 11354, submitted application #2006-ZM-363 for a change of zone from R-40 Residence District to R-RM Retirement Community District in the Town of Huntington and R1-1A District to RMF-10 District in the Town of Oyster Bay for property located on the southeast corner of Jericho Turnpike (NYS Route 25) and Plainview Road, West Hills/Woodbury, and designated as 0400-226-01-001 on the Suffolk County Tax Map and 13-D-114 & 115 on the Nassau County Tax Map; and

WHEREAS, the Commissioner of the New York State Department of Environmental Conservation declared the Huntington Town Board to be Lead Agency for review of the proposed action in accordance with SEQRA, §617.6(b)(5); and

WHEREAS, the Huntington Town Board issued a Positive Declaration for the proposed action on November 7, 2007, and a Draft Environmental Impact Statement (DEIS) dated December 2009 was accepted as complete on April 13, 2010; and

WHEREAS, the Huntington Town Board held simultaneous public hearings on May 17, 2010 and written public and agency comments were accepted through June 21, 2010 to gather public comment on the DEIS in accordance with Section 617.9(a)(4) of the SEQRA regulations, and to consider adopting Local Law Introductory No. 7-2010 amending the "Amended Zoning Map of the Town of Huntington", as referenced in Chapter 198 (Zoning), Article II (Zoning Districts; Map; General Regulations), §198-7 of the Huntington Town Code, thereby rezoning from R-40 Residence District to R-RM Retirement Community District the property designated on the Suffolk County Tax Map as 0400-226-01-001; and

WHEREAS, the Huntington Town Board adopted a Final Environmental Impact Statement (FEIS), dated July 2010, as complete on December 14, 2010, and the Notice of Completion of the FEIS was filed as required by SEQRA, §617.12; and

WHEREAS, the Department of Planning and Environment has prepared a Findings Statement that considers the environmental impacts identified in the FEIS and the consistency of the application with the Comprehensive Plan, and identifies mitigation measures that should reduce or avoid adverse impacts from the project; and

WHEREAS, since SEQRA does not change the jurisdiction of involved agencies, it does not limit the ability of each agency to make its own determinations or establish its own conditions of approval related to impacts identified in the FEIS in accordance with the SEQRA regulations, §617.3(b);

NOW THEREFORE BE IT

RESOLVED, that the Town Board hereby adopts the Findings Statement prepared by the Department of Planning and Environment and directs the Department to file the Findings Statement with the appropriate agencies in accordance with SEQRA, §617.12(b)(1); and

BE IT FURTHER

RESOLVED, that the adoption of the Findings Statement completes the environmental review process required by SEQRA and in no way commits the Huntington Town Board or any other agency having jurisdiction to grant approval of the zone change application or any of its associated actions.

VOTE: AYES: 3 NOES: 2 ABSTENTIONS: 0

Supervisor Frank P. Petrone	NO
Councilwoman Susan A. Berland	AYE
Councilman Mark A. Cuthbertson	NO
Councilwoman Glenda A. Jackson	AYE
Councilman Mark Mayoka	AYE

THE RESOLUTION WAS THEREUPON DECLARED DULY ADOPTED.

ENACTMENT: ADOPT LOCAL LAW INTRODUCTORY NUMBER 7-2010 CONSIDERING ZONE CHANGE APPLICATION #2006-ZM-363, TRIANGLE EQUITIES (KENSINGTON ESTATES), TO CHANGE THE ZONE FROM R-40 RESIDENCE DISTRICT TO R-RM RETIREMENT COMMUNITY DISTRICT FOR PROPERTY LOCATED ON THE SOUTH SIDE OF JERICHO TURNPIKE, EAST OF PLAINVIEW ROAD, WEST HILLS.

Resolution for Town Board Meeting dated: January 11, 2011

The following resolution was offered by: **COUNCILWOMAN BERLAND**

and seconded by: **COUNCILMAN MAYOKA**

WHEREAS, Triangle Equities 496 West Jericho Turnpike LLC, 30-56 Whitestone Expressway, New York 11354, submitted application #2006-ZM-363 for a change of zone from R-40 Residence District to R-RM Retirement Community District in the Town of Huntington, and also submitted an application for a change of zone from R1-1A District to RMF-10 District in the Town of Oyster Bay for property located on the southeast corner of Jericho Turnpike (NYS Route 25) and Plainview Road, West Hills/Woodbury, and designated as 0400-226-01-001 on the Suffolk County Tax Map and 13-D-114 & 115 on the Nassau County Tax Map; and

WHEREAS, the proposal currently being considered consists of an 80-unit senior housing development with access from Jericho Turnpike and three (3) single-family homes along Plainview Road on 18.6 acres of land, of which 13.5 acres are in the Town of Huntington; and

WHEREAS, said application was forwarded to the Planning Board by the Town Board for study and recommendation under the applicable provisions of Huntington Town Code §198-127, and pursuant to the New York State Environmental Conservation Law, Article 8, State Environmental Quality Review Act (SEQRA), 6 NYCRR Part 617; and

WHEREAS, the Commissioner of the New York State Department of Environmental Conservation declared the Huntington Town Board to be Lead Agency for review of the proposed action in accordance with SEQRA, §617.6(b)(5); and

WHEREAS, the Huntington Town Board issued a Positive Declaration for the proposed action on November 7, 2007, and a Draft Environmental Impact Statement (DEIS) dated December 2009 was accepted as complete on April 13, 2010; and

WHEREAS, the Huntington Town Board held simultaneous public hearings on May 17, 2010 to gather public comment on the DEIS in accordance with Section 617.9(a)(4) of the SEQRA regulations, and to consider adopting Local Law Introductory No. 7-2010 amending the "Amended Zoning Map of the Town of Huntington", as referenced in Chapter 198 (Zoning), Article II (Zoning Districts; Map; General Regulations), §198-7 of the

Huntington Town Code, thereby rezoning from R-40 Residence District to R-RM Retirement Community District the property designated on the Suffolk County Tax Map as 0400-226-01-001, and

WHEREAS, a Final Environmental Impact Statement (FEIS), dated July 2010, was accepted as complete on December 14, 2010, and the Town Board adopted a Findings Statement on January 11, 2011, identifying mitigation measures that should reduce or avoid adverse impacts from the project, and

WHEREAS, by resolution dated March 10, 2010 the Planning Board concurred with the determination of the Town Board that the project may pose significant effects on the environment and therefore warranted a Positive Declaration, recommended that the Town Board schedule a public hearing on the application, and recommended the subject property as an appropriate location for higher density attached townhouses with the following conditions placed on any approval:

- (1) A maximum limit should be placed on the number of dwelling units allowed to be built on the property, and
- (2) An additional ten (10) feet of land along Jericho Turnpike shall be dedicated to the New York State Department of Transportation to provide space for future road widening, and
- (3) All landscaping shall be managed organically to prevent groundwater, pond, and wetland contamination, and
- (4) The Town of Huntington shall not be responsible for maintaining the function or appearance of the manmade pond and drainage system, and

WHEREAS, by letter dated May 17, 2010 the Suffolk County Planning Commission determined that the application is a matter for local determination; and

WHEREAS, the determination of the Town Board on this zone change application is distinct from the determination of the Town Board of the Town of Oyster Bay on its zone change application, since SEQRA does not change the jurisdiction of involved agencies, and it does not limit the ability of each agency to establish its own conditions of approval related to impacts identified in the FEIS in accordance with the SEQRA regulations, §617.3(b);

NOW THEREFORE THE TOWN BOARD

RESOLVES, that this Local Law shall not be filed with the Secretary of State by the Huntington Town Clerk or be deemed effective against the subject property until the Covenants and Restrictions identified in this Resolution are approved by the Town Attorney as to form and content, and the applicant provides proper proof of filing with the

2011-32

Suffolk County Clerk to the Department of Planning and Environment, Town Attorney, and Town Clerk; and

FURTHER RESOLVES that no site plan shall be approved by the Planning Board or signed by the Director of Planning and Environment unless the plan is in full compliance with the requirements of this Resolution, the Covenants and Restrictions, and any additional condition, restriction, or limitation established by the Planning Board during site plan review; and

HEREBY ADOPTS

Local Law Introductory No. 7-2010, amending the Code of the Town of Huntington, Chapter 198 (Zoning), Article II (Zoning Districts, Map, General Regulations), as follows on the terms and conditions as set forth herein.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF HUNTINGTON AS FOLLOWS:

LOCAL LAW NO. _____ - 2011
AMENDING THE CODE OF THE TOWN OF HUNTINGTON
CHAPTER 198 (ZONING)
ARTICLE II (ZONING DISTRICTS; MAP; GENERAL REGULATIONS)
SECTION 7 (ZONING MAP)

Section 1. The Code of the Town of Huntington, Chapter 198 (Zoning), Article II (Zoning Districts; Map; General Regulations), Section 7 (Zoning Map) is conditionally amended as follows:

CHAPTER 198 (ZONING)
ARTICLE II (ZONING DISTRICTS; MAP; GENERAL REGULATIONS)

* * *

§ 198-7 Zoning Map

The boundaries of the districts enumerated in §198-6 of this Chapter are hereby established as shown on the map designated as the "Amended Building Zone Map of the Town of Huntington." The said map, together with all notations, references and every other detail shown thereon shall be as much a part of this chapter as if the map and every other detail shown thereon was fully described therein. Section 198-55 contains symbols on the map for the aforesaid districts.

The premises located on the south side of Jericho Turnpike, east of Plainview Road, West Hills, designated on the Suffolk County Tax Map as 0400-226-01-001, to be rezoned from R-40 Residence District to R-RM Retirement Community District, more particularly described as:

2011-32

BEGINNING at a POINT on the southerly side of Jericho Turnpike, the following courses and distances east of the intersection with the easterly side of Plainview Road: 1) North 88 degrees 22 minutes 50 seconds East, 265.16 feet, thence 2) South 1 degree 43 minutes 13 seconds West, 14.46 feet,

THENCE from said POINT OF BEGINNING North 88 degrees 03 minutes 55 seconds East, 524.39 feet,

THENCE South 00 degrees 25 minutes 50 seconds East, 93.17 feet,

THENCE South 00 degrees 21 minutes 10 seconds East, 450.40 feet,

THENCE South 03 degrees 17 minutes 30 seconds East, 226.72 feet,

THENCE South 00 degrees 52 minutes 50 seconds West, 376.77 feet,

THENCE North 87 degrees 45 minutes 00 seconds West, 568.47 feet,

THENCE North 01 degree 43 minutes 13 seconds East, 522.88 feet,

THENCE North 88 degrees 03 minutes 50 seconds East, 124.32 feet,

THENCE North 01 degree 56 minutes 10 seconds West, 232.47 feet,

THENCE South 88 degrees 03 minutes 50 seconds West, 109.46 feet,

THENCE North 01 degree 43 minutes 13 seconds East, 351.29 feet to the POINT OF BEGINNING.

Such change of zone shall be specifically conditioned upon the filing by the applicant of the following Covenants and Restrictions in a form acceptable to the Town Attorney. Such Covenants and Restrictions shall be filed at the applicant's own cost and expense in the Office of the Suffolk County Clerk.

- (1) All mitigation measures recommended by the Final Environmental Impact Statement and Findings Statement shall be provided, including but not limited to the conditions listed below; and
- (2) The maximum number of housing units to be built on the combined Huntington and Oyster Bay parcels shall be 83, with 80 of those units restricted for senior housing, and a minimum of 9 of those senior units in the Town of Huntington will be affordable in accordance with the current Town of Huntington Zoning Code; and

- (3) Land along Jericho Turnpike shall be dedicated to the New York State Department of Transportation upon their request to provide space for road widening and/or improvements; and
- (4) All landscaping shall be managed organically to prevent groundwater, pond, and wetland contamination, and a plan indicating how this will be done must be submitted and approved by the Planning Board during the site plan review process; and
- (5) The Town of Huntington shall not be responsible for maintaining the function or appearance of the manmade pond and drainage system; and
- (6) The developer must submit a soil management plan, which shall be reviewed by the Town's consultants at the developer's expense, and which shall require the approval of the Planning Board before site plan approval will be granted, and if on-site burial of contaminated soils is implemented, prospective and future owners shall be notified of the burial locations in the HOA prospectus and property deeds; and
- (7) The development must be connected to the Nassau County public sewer system; and
- (8) Buildings along the eastern perimeter of the property shall be oriented so that their shortest side faces east in order to reduce the amount of building façade facing the adjacent residences to the east; and
- (9) Natural areas shown on the proposed site plan shall remain natural in perpetuity, with no clearing or grading, and no cutting or soil disturbance except for the removal and/or replacement of dead or diseased vegetation, and with the exception of supplemental plantings that will be shown on the landscape plan for the property; and
- (10) Native aquatic plantings shall be added to the manmade pond and wetland area and a landscape buffer shall be provided along the eastern side of the property; and
- (11) The dwelling units shall not be subject to the provisions of New York State Real Property Tax Law Sections 580 and 581 or New York State Real Property Law Section 339-Y, however, this shall not prevent the dwelling units built as one-story stacked flats (with another dwelling unit above or below) from being owned as condominium units not subject to the above laws; and
- (12) All refuse generated on-site will be disposed of at the Town Resource Recovery Facility. Should the developer, HOA, or the residents of the development choose to contract with a company other than the Town-assigned carter for their neighborhood, they will still be responsible for paying the appropriate taxes to the Townwide Refuse District.

*

*

*

Section 2. Severability

2011-32

If any clause, sentence paragraph, subdivision, section or other part of this Local Law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair, or invalidate the remainder of this local law, and it shall be construed to have been the legislative intent to enact this local law without such unconstitutional or invalid parts therein.

Section 3. Effective Date

This Local Law shall take effect immediately upon filing in the Offices of the Secretary of State of New York.

* * * INDICATES NO CHANGE TO PRESENT TEXT.

ADDITIONS ARE INDICATED BY UNDERLINE.

DELETIONS ARE INDICATED BY [BRACKETS].

VOTE: AYES: 3 NOES: 2 ABSTENTIONS: 0

Supervisor Frank P. Petrone	NO
Councilwoman Susan A. Berland	AYE
Councilman Mark A. Cuthbertson	NO
Councilwoman Glenda A. Jackson	AYE
Councilman Mark Mayoka	AYE

THE RESOLUTION WAS THEREUPON DECLARED DULY ADOPTED.