

Minutes of a Draft Environmental Impact Meeting held by the Town Board of the Town of Riverhead at Town Hall, 200 Howell Avenue, Riverhead, New York, on Wednesday, August 28, 2002, at 3:00 p.m.

**Present:**

Robert Kozakiewicz,	Supervisor
Edward Densieski,	Councilman - arrived at 3:14 p.m.
Barbara Blass,	Councilperson
Rose Sanders,	Councilperson

**Also Present:**

Barbara Grattan,	Town Clerk
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**Absent:**

James Lull,	Councilman
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Supervisor Kozakiewicz: "Okay. Good. Come to order, the time being 3:09 p.m. and we are here for the hearing that was posted and published to be convened at 3:00 p.m. and, Barbara, would you read the affidavits of publishing and posting with respect to same."

Public Hearing opened: 3:09 p.m.

Barbara Grattan: "I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall, Riverhead, New York, on August 28, 2002, at 3:00 p.m. regarding the consideration of the draft environmental impact statement for the special permit petitions of Route 58, LLC, Riverhead Marquee Plaza."

Supervisor Kozakiewicz: "I'm going to ask the Planning Director, Rick Hanley, to do a brief introductory and we'll get right into it rather than delay."

Rick Hanley: "Thank you, Bob. Rick Hanley, Planning Director. In May of 2002, this Board adopted a final scope of issues on this petition which the Clerk has described in the notice. That final scope of issues essentially what was provided to the town by the applicant as a draft scope as well as some additional comments the Town Board made on their own having to do with specifically talking about the amending the environmental setting to describe a history of contamination of the site by others."

Also we asked that they look at some of the new stormwater regulations that are being published by the United States EPA as a guide and employ on this particular site. We expect that we will be responsible come next year to employ those on our own. We thought it would be a good idea to start with this project. And the third was an alternative development on this site with respect to some of the recommendations of the master plan.

The Town Board then accepted the draft EIS. We have communicated with all involved agencies, sent them a copy. The purpose of the hearing is to get comments from parties of interest and the public on the draft. All comments made by involved agencies and the general public will be responded to by the applicant. We will formulate a final impact statement and then prepare a findings statement.

So with that said, I think we could go ahead with the hearing, unless there's any questions from the Board or others."

Supervisor Kozakiewicz: "Not with the process so I appreciate that Rick Hanley and at this point anybody who wishes to address the Board with respect to the draft environmental impact statement? I'm not sure if anyone has filled out cards or wishes to address the Board. Nobody? Wow. I think this is a rarity. I can close it, Rick, or should I leave it open for written comment for a period of time?"

Councilwoman Blass: "(inaudible) -- the applicant questions, then?"

Supervisor Kozakiewicz: "Oh, absolutely, yes."

Councilwoman Blass: "If that's okay."

Supervisor Kozakiewicz: "If no one has questions, certainly turn it over to yourself. Who would want to get up? Would that- would it be environmental issues, ask Chick- Chick Voorhis. Okay."

Councilwoman Blass: "I just on the content-- have some- "

Charles Voorhis: "I'll just indicate for the record, my name is Chick Voorhis of Nelson Pope and Voorhis. Our firm prepared the draft environmental statement that's before you today and, you know, as comments are made, we certainly understand that they have to be responded to in writing. We would offer to assist the Town in responding to comments and the Town then would be responsible for the

acceptance of the final EIS. So I'll make note of any comments, answer any where I can and we'll respond in the FEIS."

Councilwoman Blass: "Thanks, Mr. Voorhis. First, I'd just like to comment that the document itself is very well organized and reads quite well. But I did have some questions maybe about the section in particular on cumulative impacts. I thought perhaps is somewhat inadequate because although we talk about and I- let me see, it's Section- let's see, I wrote it down here, 3- one of my paper clips here has it. Well, I'll just continue with my comment until I actually find the section itself. Here we go, 3.8. The first sentence actually says that you're going to assess cumulative impacts with other pending projects in the area, and I don't find any record of any mention of other pending projects at least with respect to the restaurant use that we have several other pending applications. So I'm not certain that you actually have followed through with what you thought the intent of that section was supposed to cover- or the full range of information covered in that section.

And to be quite honest, I'm a little concerned that although you talk about the development of this parcel or the site as being 17 point some odd acres, 6 acres, I guess, out of an entire 66 acre site, and that this section was going to adequately address the impacts associated with full development of the site, I think it falls quite short of that. I mean, we could all make general statements that, you know, stormwater runoff will be handled, and, yes, there will be an increase in clearing and you would expect additional nitrogen and whatnot but you can't really say to what extent because there's no plan put forth at this time for the balance of the site, and I'm wondering not only about the segmentation issue but there are at least six or seven references throughout the document that there's potential residential or use of-- residential use considered for the balance of the site.

You are fairly clear in saying that that's something that you're looking fairly strongly at and if that indeed is the case, then I think it's appropriate to ask you to describe what that potential residential use is. We-- I know it's not currently allowed in the Industrial A zoning which is why again you allude to future applications requiring a change of zone. Again, to me this all begs the question of segmentation and I'd like someone to address that."

Charles Voorhis: "Okay. First of all, Stuart Stein is here, but I acknowledge the comment that the document is well organized and we certainly will check with the Planning Department again on other --

any other pending applications in the area. Just to make sure that that's been covered. Certainly that's the intent of cumulative impacts. And with respect to the balance of the property, I think best able to speak to that is Mr. Stein."

Stuart Stein: "Good afternoon, ladies and gentlemen. I'm Stuart Stein. I'm one of the principals of Route 58 Riverhead LLC. When we retained Nelson Pope Voorhis to do the impact statement, we told them to be as broad and as open as possible. I think that's the way they operate in any event.

Right now we do not have a firm use or a firm intent for the undeveloped property. We understand that the town is considering a master plan. The master plan may adopt what could be called the luxury apartment zone. If the plan adopts a luxury apartment zone, then, I guess, there will be some level (inaudible), planning or a Town Board level to determine whether it's four units per acre or six units per acre, however many it is and what are the requirements for site planning.

If that all falls into place, we would be very interested in using this property for that type of use but since the use doesn't exist and the property is not zoned for it, and we don't know how many units per acre will be intended under the zone, we don't know how much pervious and impervious cover will be permitted. We don't know what landscaping requirements are. I don't think we could meaningfully begin to address any of the environmental topics.

So what we'd like the Board to consider is that we've been as open as we could be on what we know we are doing, what we're going to be seeking your permission through a special use permit to do, and when we have a firm view of what we're going to do with the rear of the property, then we will certainly come to you again and-- as we have now, and give you as much as we have."

Councilwoman Blass: "I appreciate that comment and I understand the awkwardness of trying to somehow anticipate what would or would not be allowed under some future zoning amendment, but my read of what the recommendations are as they stand today were that preferred land uses in this destination retail center included perhaps assisted living type of facility but I never saw it to my- in my read of it, any discussion of luxury apartments, so I'm curious as to where that information came from.

But even aside from that, if we talk about consistency with these

recommendations, certainly the cinema is a preferred land use. The restaurants, of course, are not listed as preferred land use but they are currently permitted as a special permit use under the current zoning.

We are kind of taking those parts of the recommend- the future master plan or the recommendations and using those that support the current application and sort of maybe not necessarily incorporating those, for example, the site design standards, are not necessarily respected in the site plan, if you will, that you have submitted. So it's sort of one from Column A, one from now, one from the future, depending upon how it best fits the current application.

If I could just say one more thing. I- in light of the comment that you just made about being speculative- the residential use being somewhat uncertain at this time, I then do have difficulty with the summary- bullet if you will, on the summary page S5 that actually lists the residential use as a mitigating factor. You're listing it as one of your mitigation for this plan and that would really- that troubles me. I don't think it should be listed there at all. It's not even an allowable use now and to say at some point if future residential use is allowed here, we would consider it as a mitigation for this project. I don't think that's an appropriate- "

Stuart Stein: "I think the final impact statement if the Board so desires would (inaudible) to that as a mitigating factor. And I appreciate your comment.

I apologize if we've given the appearance of one from Column A and one from Column B. Frankly, I don't think we're that clever. I think what we tried to do is to say under the current zone, with special use permits, are allowed, restaurants and the movie theater and that's really what we're looking for and at this point nothing more. And as to site design criteria, this is the special use permit stage. In fact, this is the environmental stage prior to special use. When we come to the site plan stage, then, of course, the Town will have complete say and use whatever criteria it deems appropriate for us to design the stormwater, traffic, parking flow, everything else. We will comply with what the Town prefers at that time.

So we're not picking and choosing at this stage. We won't do it at a later stage either. We'll comply with what the Town asks us to comply with. But this is an environmental report in connection with the special use application and so we haven't really finalized the design work yet."

Councilwoman Blass: "Okay. Then I guess there are certain sentences in here that talk about how it is strongly consistent with the proposed plan and I'm not so sure that you can really say that, make those kinds of statements."

Stuart Stein: "I think we- "

Councilwoman Blass: "If you're not- "

Stuart Stein: "I think-- your point is well taken. We (inaudible) in the final impact statement as well."

Charles Voorhis: "Well, I think that was really in response to one of the comments that the Board and staff made for acceptance of the document."

Councilwoman Blass: "Right. Okay."

Charles Voorhis: "To look at how it conforms or does not conform to the various recommendations that are currently pending."

Councilwoman Blass: "Okay. So then on that point I don't find that this plan as presented is indeed strongly consistent. So we either acknowledge that there are some divergent or concerns relative to conflicts perhaps, or we don't make a strong- a statement as that which you have made here."

Charles Voorhis: "Or perhaps, and I think this is what we did in the document, is to look at the various elements and break down each of the recommendations and provide some discussion as to whether it conforms, whether it doesn't conform, or modifications could be made. And I think that's what Mr. Stein is referring to as well. Things like screening, parking, setting buildings back, things like that, to maintain the corridor effect would be taken up as part of the site plan. And we've actually indicated that there are ways that the plan can be improved and we may do so as part of the FEIS as well in response to this comment and any others."

Councilwoman Blass: "Okay. I'll let it go at that. Thank you."

Supervisor Kozakiewicz: "I have a more generalized question. In light of the comprehensive plan, the analysis that's got to be employed here as far as the entire site would be under the existing zoning I presume. Is that correct? My question is more for the

Planing Director at this point, that we have to confine ourselves to what's on the books now."

Rick Hanley: "Yeah. I think what's happened with this whole idea of alternatives, in the case law all the time has been reasonable alternative- "

Supervisor Kozakiewicz: "Reasonable- that's correct."

Rick Hanley: "That is within the zoning district that exists. I think we went a little further, however, on this one because of the pending comprehensive plan, we asked them to provide an alternative which would conform to what's being proposed for the site under the proposed comprehensive plan, which is the designation commercial district and that's what the discussion is. Possibly they could give us both."

Councilwoman Blass: "But you- but it should include the 66 acres. Is that yes or no?"

Rick Hanley: "I never said that."

Councilwoman Blass: "Okay. And can I ask you why you don't think we need to- "

Rick Hanley: "Well, you raise an interesting point about segmentation and I think we have to deal with that as a Board in the acceptance of the final."

Councilwoman Blass: "Okay."

Rick Hanley: "Segmentation in my view is any action of the Board that's designed to split a project into more than one project to avoid the preparation of an EIS. I guess one could take the position that any future development of the site beyond the 15 acres or 17 acres, we would pos dec, so it wouldn't be segmenting it then but I get your point. I think we have to discuss it because it has ramifications to any future challenge, clearly, by aggrieved parties as we've seen in the past."

Councilwoman Blass: "Thank you."

Charles Voorhis: "If I could, one quick point on segmentation. As I read the law, Part 617, in my mind, does contemplate actions that are pending. Speculative things as you've said just in your

introductory comments, we can't really assess the impacts if we don't have anything pending and, you know, genuinely in my interviews with the applicant, my client, there is nothing pending at this time.

Also segmentation is used very often at hearings, I hear it all the time. Again, it's clear that it is discouraged, it is not prohibited. So I don't think we have a segmentation issue here. We're certainly not trying to piecemeal a project in any way and just looking at that interpretation of how they define segmentation could be useful in the deliberations on the FEIS."

Councilwoman Blass: "I understand what you're saying but I guess I get a little concerned even just taking some very specific aspect like clearing. When you talk about the removal of vegetation on the site as not being significant, it only represents "x" percentage of the site being the 17 acres, well, sure, that may not be significant, but if you add that together with the- and you say that there is minimal impact and that's not something you have to mitigate, but if you added that clearing to the clearing-- a percentage whatever it may be to the balance of the site, then you would have something that may require mitigation. But if you choose to just deal with the 17 acres you say that particular action is not- doesn't have significant impact, well, if you are looking at it from a segmented point of view, yes, that's true. But if you group the two together perhaps it would have a different threshold. That's all. That's the kind of thing that I'm talking about."

Charles Voorhis: "Yeah-- the discussion-- I guess I don't consider the balance of the site different than maybe an adjacent site that, you know, is under separate ownership and I see where- that's where the Town comprehensive plan and the zoning comes into play, you know, what the Town contemplate what is permitted. That really is accounted for through the comprehensive plan. We don't have any control over the balance of the property or the adjacent site at this time because we don't have any use proposed."

So I guess, again, the discussion is useful but it's ultimately up to this Board and we thank you for the opportunity."

Councilwoman Blass: "Okay. Thank you, Mr. Voorhis."

Supervisor Kozakiewicz: "Anybody else? Anybody in the audience who would like to approach the Board in light of those comments? No? If not- "

Rick Hanley: "Mr. Supervisor, I just took a look at the regs and clearly it says that if you were- the intent to close the hearing today there is a minimum 10 day comment period after the close of the hearing so if that's your thought, then you should at least allow for the 10 days for written comment."

Supervisor Kozakiewicz: "Fine. Any objection by the Board? Okay. That's - follow that lead. We'll close the public hearing, allow for a 10 day written comment period. And I want to thank everybody for being here this afternoon, the time being 3:27. Thank you, Barbara."

Hearing closed: 3:27 p.m.

*Barbara Lutton*  
*Court Clerk*