

10/28/2004 minutes

Minutes of a Special Town Board Meeting held by the Town Board of the Town of Riverhead at Town Hall, 200 Howell Avenue, Riverhead, New York on Thursday, October 28, 2004 at 2:54 p.m.

Present:	Philip Cardinale	Supervisor
	Edward Densieski	Councilman
	Barbara Blass	Councilwoman
	Rose Sanders	Councilwoman
	George Bartunek	Councilman

Also Present:

	Barbara Grattan	Town Clerk
	Dawn Thomas	Town Attorney

Supervisor called the meeting to order at 2:54 p.m.

Supervisor Cardinale: I would like to open the special Town Board of meeting of Thursday, October 28, which we have called to consider among other things the zoning statutes for the downtown area. I would like to begin the meeting by giving allegiance to the flag.

(Pledge being said.)

Supervisor Cardinale: we are going to consider at this special meeting, resolutions 998 through 1004, which are the zoning districts for the downtown, D1, 2, 3, 4 and 5, the bulk schedule for the districts and the maps. We also have a resignation of a town employee and the hiring of a town of employee and a setting of a budget for the removal of the Irma Murphy diner down on West Main Street. And finally we have the appointment of five new police officers who will be attending the academy as of Monday. This will finally bring the Town up to full strength. I would like to take comment on any of those resolutions. Marty.

10/28/2004 minutes

Martin Sendlewski: A couple of quick comments on the zoning. One is one the DC2. You still have the retail stores listed under prohibited it uses. So we still have it permitted and it wasn't struck under prohibited.

Supervisor Cardinale: Thank You

Councilwoman Blass: Thank You.

Martin Sendlewski: Also, I just wasn't sure about this and I would just figure I would bring into your attention so someone could explain exactly how that works on the DC3 through 5. Where you took out the provision of the waiver on the yard setbacks. Is that something that doesn't include the zoning board-you don't have to go for a variance for that if you didn't want to?

Supervisor Cardinale: show us the page and you are alluding to, please.

Martin Sendlewski: The-

Supervisor Cardinale: -if you have it in front of you

Martin Sendlewski: say on DC3

Supervisor Cardinale: OK

Martin Sendlewski: page two of four

Supervisor Cardinale: two of four, correct?

Martin Sendlewski: actually I was on DC4, I can't find the correct page...."

Supervisor Cardinale: the town board shall have discretion during site plan approval to vary front setbacks?

Martin Sendlewski: does that mean that there is no variance required? That you don't have to go to the zoning board? The town board can actually issue a variance to the yard setback?

Supervisor Cardinale: no, Barbara and I have discussed that the language was specific not to indicate that we were going to issue variances because we do not have the legal authority to do so. However, what they wanted to do with that, and I think Barbara will complete this because she is more familiar then I, that we would have discretion during the site plan approval process to vary the front setbacks based on the contextual pattern of adjacent properties so as to maintain a unified brick wall pattern within that discretionary window that we have. We are trying to pass legislation that would have preferred actually very precise and say, you know whenever the setback is we could vary it up to 30 percent or something Barbara you may want to speak to them.

10/28/2004 minutes

Councilwoman Blass: Actually I think Rick can articulate it better than I could.

Rick Hanley: First of all, we did remove that one reference to the variance.

Supervisor Cardinale: Right so we're not intending to give variances but what are we intending? That is a good question.

Rick Hanley: There is a design standard for the front of a building- that's what we were trying to do here- maybe the language isn't clear enough but what we were trying to do is allow discretion with site plan review to vary. If the front of the building is to commensurate with other buildings in the vicinity. But it would still need to meet yard requirements- you can't vary that.

Supervisor Cardinale: But is there a setback requirement under the bulk schedule....

Rick Hanley: There is a front yard requirement, right

Supervisor Cardinale: And what is that front yard requirement?

Rick Hanley: It depends on the district

Supervisor Cardinale: So the easy way to say it is if that's what you mean- is to vary from the, you can vary it within, so long as it's within the front yard requirements

Rick Hanley: That's right

Supervisor Cardinale: So maybe we should say just that- that is what our intention is because what you have is varied front setbacks which is just the reverse.

Rick Hanley: why don't we work on some language changes while you are considering that?

Supervisor Cardinale: well it has to be quickly because we intend to pass these in the next twenty minutes.

Rick Hanley: Right

Supervisor Cardinale: So, maybe could you take a look at that, and maybe come back to us with some proposed clarification.

Rick Hanley: Very Good.

Supervisor Cardinale: And maybe have Dawn Thomas look at it with you.

Councilwoman Blass: Rick, there was also the section that talks about not including the depth of a bay window and certain other architectural features in the certain-

Rick Hanley: certain districts, yes. Allowing for the invasion of a front yard..

10/28/2004 minutes

Councilwoman Blass: Isn't that what this was supposed to be referring to?

Rick Hanley: I'll take a look at it

Councilwoman Blass: I think that's what it was- in other words, they are not currently counted towards that setback and that would be the Town Boards prerogative to, well in this case the setback, um, this site plan including a bay window is appropriate even though that bay window may encroach in a front yard setback. Isn't that- I think that was the section..

Rick Hanley: That's possible- I will have a look at it one more time just to be sure.

Councilwoman Blass: Ok, thanks.

Supervisor Cardinale: I have a suggestion. For language- however the town board shall have discretionary site plan approval to vary front setbacks within the required stated setback limit.

Rick Hanley: I think what we are doing with these porches is the intent is to allow porches and bay windows to invade the front yard.

Supervisor Cardinale: well that is different also

Rick Hanley: well what I think the zoning it is doing is suggesting that this is not a structure. It is a portion of a structure it is an over hang.

Councilwoman Blass: because there is a section of the code that says that in certain areas you don't count that a structured with in a front yard - a bay window for example.

Rick Hanley: we are just stating what we already do.

Supervisor Cardinale: So would you- the question is one area that I have asked as well-

Rick Hanley: right

Supervisor Cardinale: we certainly cannot grant variances

Rick Hanley: no you cannot

Supervisor Cardinale: that is for legislative not us. If we are saying it and that we want the authority that we are saying that is site plan approval we can vary the front set backs so as to maintain a unified street wall pattern within the required stated set back limits. Let's say that.

Rick Hanley: Ok

Supervisor Cardinale: if we are saying that is true but we also want to exclude Porch or bay window over hearings lets add that

10/28/2004 minutes

Rick Hanley: we say that already in the other districts.

Supervisor Cardinale: so if we have already stated that right beneath the exemptions, we don't need to.

Rick Hanley: right

Supervisor Cardinale: so will we are really saying it is that if we have a 5ft. setback or whatever let's say very it and make them all 7ft. if that's the street walk

Rick Hanley: exactly

Supervisor Cardinale: a K. so let's just put that something into verify.

Rick Hanley: ok

Supervisor Cardinale: I have within the required setbacks limit...(inaudible) Marty?

Martin Sendlewski: also the discussion before about the DC1 height reverses the FAR...

Supervisor Cardinale: yes

Eric unknown: that was three through five

Martin Sendlewski: I think it really dovetails with that note N2 on the schedule. The issue with the FAR and the height- they understand exactly what you are doing but the way it is written in the schedule is probably not as clear as it could be because the FAR the 6.2 does not really get you to 62ft. that would for example if you had 1,000 ft lot six times would be 6,000ft. So that would be the full lot times six. FAR times and 6.2 would be 6,200 which you could achieve so there really should be something on the height as well as the FAR. In other words the way it is written...

Supervisor Cardinale: what would you suggest?

Martin Sendlewski: I would just say that are under the FAR whether you do it in a footnote or whatever that if it is the intended to go six floors it should be six because that would be 100 percent build out times six floors instead of the 6.2 and there should be a footnote that the height can increase to 10ft.

Supervisor Cardinale: inaudible...10 ft.

Martin Sendlewski: the 'cause it if not the way it's written you are allowed the FAR of 6.2 but the height limit is still 52ft. based on the actual

Supervisor Cardinale: I know that is not the intention but

Martin Sendlewski: that may not be the intent but

Supervisor Cardinale: I think you may be misreading of it

10/28/2004 minutes

Martin Sendlewski: actually if you read the way it is written it's still it doesn't say anything about increasing the height it talks about increasing the FAR so the height is still 52.

Supervisor Cardinale: Let's look at that. I think we can do just what you said. You could make it six and in a footnote that this would encompass a 10ft. height increase.

Councilwoman Blass: but Marty, you could get to 62 if you were at buying floor area to for 100 percent coverage and go to the extra floor the first floor is twelve and the subsequent floors are ten each and you are at 100 percent footprint you're going to get 6.2.

Martin Sendlewski: no, no because actually

Councilwoman Blass: it's going to be 6,200

Martin Sendlewski: no, no you are having height verses area

Councilman Bartunek: yeah but if you look at the fifth column there, Marty

Supervisor Cardinale: you are still going to be six

Martin Sendlewski: it's still going to be six

Supervisor Cardinale: it's got to be

Councilman Bartunek: yet but if you look at the fifth column there you are going to 100 percent coverage TDR and then if you're going to the sixth floor that would bring you up to 6.2

Martin Sendlewski: no that would just bring you up to six. 100 times six is

Supervisor Cardinale: that's what confused me. Think about this for a second. If you have a thousand square foot lot you go 100 percent coverage you're never going to have more than a ratio of six to one ever.

Martin Sendlewski: Right . Exactly if you have a thousand feet times six floors would be 6,000ft. There's the six

Supervisor Cardinale: you'll never have more than six to one but you have to make clear that you want to go up one extra flight.

Martin Sendlewski: right but in here is still says that the 52ft. height but it has the higher FAR's so the FAR should be six and the height should be increased to 10ft. the 62 you're thinking of is in a vertical dimension. Right.

Supervisor Cardinale: right so we can make the 6.2 six and make an N3 at that point an N3 which would be after the six which is the maximum floor ratio inclusive of a.....

Martin Sendlewski: or it can be under the 52 on the height with a

10/28/2004 minutes

footnote would be

Supervisor Cardinale: and at the 52 that we talked about before

Martin Sendlewski: put an N3 there and it can be increased to 62

Supervisor Cardinale: just put 62 with 6.0 floor coverage. With 6.0 FAR

Martin Sendlewski: and that all ties in with the TDR thing

Supervisor Cardinale: 62ft. height with 6ft. FAR

Martin Sendlewski: and one other question the parking requirement in the especially DC1 and DC2. I am assuming that that only refers to lots that are outside of the parking district.

Supervisor Cardinale: You're assuming right. I had the same question.

Martin Sendlewski: OK, since I am on a roll, can we have cellular antennas in permitted uses in the DC1? I seem to be on a roll here so....

Supervisor Cardinale: Ah what the heck, 2 for 3 isn't bad Marty

Martin Sendlewski: for the last one would be offices on the first floor in DC1 right now there are a lot of offices on the first floor- what does that mean if the tenant moves out they couldn't have another office on the first floor? In an existing building? Just a question.

Councilwoman Blass: I think we covered in this (inaudible)

Supervisor Cardinale: we were thinking originally of the excluding offices. We were speaking to some developers who suggested that real estate offices notably and some professional offices are a good part of main street in some of the town's we would like to emulate like palm beach and west Hampton. And we included real estate and professional offices as possible ground floor space.

Councilwoman Blass: Marty, we changed that "but we even get the change into the text so it does not reflect the change. You're right it's not in here. That was one of them. This is in DC1.

Supervisor Cardinale: What happened, Marty, if you look at DC1, they put on the prohibited uses in a prohibited with the exception of real estate offices or other professional offices and on the front page when they permitted it they said offices and professional offices on upper stories. The OK and that should not say on upper stories any more. Real estate offices and offices are a permitted use. The permitted use is real estate offices and other with professional offices, in the permitted use.

Councilman Bartunek: why not just word that professional offices and then when we have prohibited uses you could just have public offices and services offices would be prohibited. Could you do that?

Supervisor Cardinale: Then why don't we take off the ground floor to

10/28/2004 minutes

begin with? There are public offices and service offices with the exception of the ones we permitted.

Councilman Bartunek: I thought the idea was we were trying to eliminate public offices? That's what we were trying to do. Public and service

Supervisor Cardinale: ground floor offices are prohibited

Councilman Bartunek: but I thought you did want to have professional offices on the ground floor?

Supervisor Cardinale: Yeah but we did that didn't we. If you look at number nine it would indicate under permitted uses state and professional offices are permitted any way OK? It's just not on upper stories anywhere. Real estate and professional offices are permitted anywhere."

Councilman Bartunek: Yeah, we'll just leave it professional offices.

Supervisor Cardinale: yes but all offices are permitted on the upper stories. Are they not?

Councilman Bartunek: I thought you wanted to have that on the ground floor. Why don't we just eliminate offices on upper stories? And then you just have professional offices and leave it up to the discretion of the business? Then they can decide if they want it on the second floor or basement or whatever.

Councilwoman Sanders: so we are just going to specify professional offices and real estate offices?

Councilman Bartunek: I don't even know if you have to specify real estate do you? Isn't it understood that a real estate office is a professional office?

Supervisor Cardinale: the intention is to have professional offices and real estate offices on in the ground floor and any offices you want on the upper floors. So you're going to have to do that.

Councilwoman Blass: On the real estate and the professional offices, on the ground floor of DC1, we had removed with -we had addressed it in the prohibited uses section that say the ground floor public offices and service offices, with the exception of real estate offices or other professional offices are prohibited. Correct?

Supervisor Cardinale: Right. That's fine. That language is-

Rick Hanley: With an exception they are no longer prohibited.

Councilwoman Blass: With the exception, should we just take that out and put it into the permitted section? Leave the prohibition for the others.

Rick Hanley: I wouldn't because I think it's better to have the public that offices are prohibited except for those. Because it is very clear if it is prohibited it is prohibited. There is no gray area there is no

10/28/2004 minutes

room for debate. I think it if you put it as a permanent use you leave yourself open for debate on various. Why is this office allowed and not the other one? You can talk to your lawyer about it because it is a function of zoning when something is prohibited it is going to look stronger on the part of the town-

Councilwoman Blass: in the confusing is that under permitted uses we list offices and professional offices on upper stories.

Rick Hanley: Yes we are prohibiting the ground floor office except for professional office

Supervisor Cardinale: (inaudible)

Rick Hanley: buy would leave it the way it reads. I think it reads properly.

Supervisor Cardinale: I don't think it does.

Rick Hanley: OK

Supervisor Cardinale: the permitted use says offices and professional offices on in the upper floor, right? That is you are permitted use.

Rick Hanley: the intent is to prohibit offices on the ground floor.

Supervisor Cardinale: yes, but not professional offices.

Rick Hanley: with the exception of real estate offices and a professional offices.

Supervisor Cardinale: we are just looking at the language

Rick Hanley: ok

Supervisor Cardinale: under permitted uses one of the uses is offices and professional offices on the upper floor. You're going to permit offices and professional offices on the upper floor. That's true.

Rick Hanley: yes

Supervisor Cardinale: but you're also going to permit professional offices on the lower floor and that is not clear.

Rick Hanley: OK, so we are going to have to work on the language then. This was as of this morning so we did the best

Supervisor Cardinale: it's just the inability of your draftsman to - it's not a policy issue it is an issue of language, which can be easily resolved. Make sure your statute reflects your policy. Your policy is that you don't want any offices on the first floor except for professional offices.

Rick Hanley: That is why it is in prohibited.

Councilwoman Blass: to really understand what you can and can't do you really have to look in the permitted the uses.

10/28/2004 minutes

Rick Hanley: Yeah.

Councilwoman Blass: This is what we are saying; actually it's just easier to look in the permitted uses.

Councilman Densieski: question . Would psychiatric facilities, drug/rehab facilities are they classified as professional offices?

Rick Hanley: No. We'd define professional offices in our code.

Councilman Densieski: so they would not be permitted.

Rick Hanley: No.

Supervisor Cardinale: the prohibited offices are ground floor offices, public offices and service offices. Those are the prohibited uses. And the permitted uses are professional offices, and real estate offices on the ground floor and any office on an upper story. So my suggestion is to do the following. Do you have your statute there?

Councilwoman Blass: This is one of the reasons it is very helpful to set aside the time so that everyone can review. We picked up as much as we could but everybody really needs to look these over.

Rick Hanley: We are DC1, correct? Permitted uses?

Supervisor Cardinale: Yes. Permitted uses are- were you have offices, professional offices, on the upper stories should read professional offices and a real estate offices on ground floor. That's permitted.

Rick Hanley: so you want a second permitted use? An additional permitted use?

Supervisor Cardinale: Yeah we are going to add number fifteen which is any Orpheus use on the upper floor.

Rick Hanley: we have presently offices and professional offices on upper stories. That is the permitted use.

Supervisor Cardinale: Right. Strike that been and simply say professional offices and a real estate offices on the ground floor are a permitted use.

Rick Hanley: ok.

Supervisor Cardinale: Professional offices and real estate offices on the ground floor. Then add 15, which is any office use on an upper floor as a permitted use.

Rick Hanley: How about we make it number 10 and re-number?

Supervisor Cardinale: that's fine

Rick Hanley: Ok, what was it again, Phil?

Supervisor Cardinale: Any office use on upper floor

10/28/2004 minutes

Rick Hanley: Any office use on upper floor.

Supervisor Cardinale: Ok. Then if you go to your prohibited, all you have to do is -

Rick Hanley: Prohibited uses- just take out ground floor offices, right?

Supervisor Cardinale: Ground Floor offices with the exception of real estate offices and professional offices. Is that true?

Rick Hanley: Yes.

Supervisor Cardinale: all ground floor offices are prohibited with the exception of real estate and professional offices.

Rick Hanley: ok. Very good.

Supervisor Cardinale: Ok. Stick around if you would

Rick Hanley: yes.

Supervisor Cardinale: Is there any- Eric you had a question or a comment.

Eric unknown: Thank you Mr. Supervisor and members of the Board. First of all, I would just like to thank everybody- you, your board, then planning staff, your planning director, you did an excellent job and a lot of hard work went into this and it is very evident. I just have one question and that is relating to the special permits. Is there another section of the code that says that the special permit is granted by the Town Board, the planning board or the Zoning Board? It just says Special Permit for the following uses. So, should it say Special Permit by the Town Board, or by the Planning Board or by the Zoning Board? And, if that being said, that there are criterion that you want to establish is that is in another section of your code then just note that you have to comply with that. That is the only question or comment I have.

Supervisor Cardinale: ok,

Eric unknown: This is unclear who is authorizing the special permit.

Supervisor Cardinale: Rick-the Town Board issues exclusively Special Permits but is that in another section of the code?

Rick Hanley: yeah, we just amended our ordinance not too long ago to revise our special permit procedures. All Special Permits are issued by the Town Board. There is no other entity, then are no exceptions by the Zoning Board of Appeals, there are no Special Permits by the ZBA. So that section of the code authorizes exclusively the Town Board to grant Special Permits. With all the conditions there under.

Supervisor Cardinale: great.

Rick Hanley: ok?

10/28/2004 minutes

Supervisor Cardinale: ok? Are there any other comments from the public? Larry.

Larry Oxman: Good afternoon. Larry Oxman.

Supervisor Cardinale: SO nice to see you back, Larry. Are you sure you don't have a court appearance today? I'm only kidding.

Larry Oxman: I know you are only kidding. You have addressed actually most of the issues with regard to office because I had spoken to Shelly Gordon this morning and he was fairly concerned about not having offices on the ground floor, because some of his buildings are mixed use- some are retail in front, but in the back it is office space. So you seem to have addressed that fine. The FAR. Just so that it is very clear, when someone wants to go that extra story, but they are not occupying the full building lot, just because design wise they want to go up 6 stories, they do that by buying a development right? Or the use of development right? Because now you can go to 62 ft?

Supervisor Cardinale: if you want to go more than 5.2, uh, 5-floor area coverage, if you want to go more than 5, you are going to have to buy development rights.

Larry Oxman: Right. But,

Rick Hanley: It's very clear, Larry, if you look at the zoning use district that is attached.

Supervisor Cardinale: You must have looked at it- do you have it?

Larry Oxman: I, I do, yeah. But what if you didn't want to buy the maximum floor area ratio, but you wanted to go higher?

Supervisor Cardinale: Oh, oh, I see

Councilwoman Blass: higher

Supervisor Cardinale: No, his point is a good one. His point is, is what about if don't want to go, fill your....you want to go 5, not 6 you are only going 5, but you are going up, not out. Do you have to pay for that?

Rick Hanley: yes

Supervisor Cardinale: How do you see that?

Rick Hanley: (inaudible)

Supervisor Cardinale: yes, but that is not the question. You could build at 80% of your lot coverage and go up 5 on 6 floors.

Larry Oxman: right, or half of your lot coverage

Supervisor Cardinale: So, if you did that, do you have to pay under this plan, that you layed out here, you would not have to pay.

10/28/2004 minutes

Rick Hanley: I don't understand the question (inaudible)

Supervisor Cardinale: yeah, I know

Rick Hanley: It doesn't matter how many floors there are- it is the FAR that dictates whether rights are purchased.

Supervisor Cardinale: Well, let me see if I understand you. If you built on 80% of your lot, and did 6 floors, what would be your floor/area ratio, your concept of floor/area ratio?

Rick Hanley: 80%- why don't we do by size of the lot? 10,000 square ft at 80% coverage would achieve a footprint- it is 8,000 feet. Each floor then would be 8,000 ft.

Supervisor Cardinale: right

Rick Hanley: up to 52ft

Supervisor Cardinale: no, 52 is height, ok, yeah, right...

(inaudible)

Rick Hanley: up to 52 ft. If you exceed the 52ft you will see the floor area coverage.

Councilman Densieski: suppose you did 50% lot coverage?

Supervisor Cardinale: But you are not doing, you're not- look at your, look at your, his question is- look at your bulk schedule.

Councilman Densieski: Rick, I think the question is can you use floor area ratio higher if you are less than your, you know, your foot print.

Rick Hanley: you mean a variance?

Councilman Densieski: No, without buying TDR's.

Supervisor Cardinale: right.

Martin Sendlewski: I think the height is what he wanted (inaudible)

Councilman Densieski: That's the question.

Supervisor Cardinale: Lets look at this- it says floor/area ratio- maximum with transfer of development rights is 6.00, ok? Now it's changed to 6.0, weren't you around?

Councilwoman Sanders: we just did that

Supervisor Cardinale: because you can't ever have a floor/area ratio of more than 6. If you have 1000 ft lot, and you build 100%, you go up 6 floors; the floor/area ratio has got to be 6. All right, so it's 6. Now, the question we are raising is with the floor/area ratio of 6, we know you are going to pay for the development rights. But what about if you want to cover 80% of the lot, and it's 8,000 square feet on a

10/28/2004 minutes

10,000 square feet lot, and you go up 6 floors 8 times 6 is-

Councilman Densieski: to what length?

Supervisor Cardinale: to 6 floors, to 62 ft. So, you are only going to have- your floor/area ratio is going to be 4800.

Rick Hanley: (inaudible)

Supervisor Cardinale: Well, that's his question, and you answered him wrong the first time, but keep going and you get the right answer.

Rick Hanley: yes, we keep going and get it right.

Supervisor Cardinale: And his question is even more deep than that. Is that intended? Why aren't you paying? He's really not asking that, but that's simplicity in his question.

Larry Oxman: If the intent was only to go up to 52,

Supervisor Cardinale: See, and that goes, that gets us...we are into this thing, that when I looked at this at 4 o'clock last night I am looking at all this stuff, I said, "Why are we defining, in terms of floor area, your development right downtown because they don't really want the floor area so much as they want the height downtown.

(inaudible)

Supervisor Cardinale: That would require a different note. Because we can get it. First of all there is an argument that says we should not be requiring development rights for 62, which is a position I actually espouse. Because you want development down there.

Councilman Densieski: (inaudible) it says go up.

Supervisor Cardinale: So I am perfectly happy to keep it the way it is, because it gives a little edge- because I was prepared to give an edge to the 62 feet without development rights. But, let's all know what we are doing, is the point. Larry is just pointing out something valuable. A guy can say, "You know, I don't need 100% lot coverage, but I do need the height- I'm going up and I'm not paying."

Councilwoman Blass: But I also think that we want a max- I'm sorry.

Martin Sendlewski: I think Rick is at a disadvantage because he wasn't in the room when we changed things.

Councilwoman Blass: 6.2, yes, he knows that now.

Martin Sendlewski: (inaudible)

Supervisor Cardinale: Well, the N3 note is simply saying that the number 5.2- the maximum height of building is 52, it goes to 62, but we are saying that, if I recall correctly, and I have it on this piece of paper that I wrote it on, that 5.2 is your highest floor/area ratio. 5.0 it should be, right?

10/28/2004 minutes

Councilwoman Blass: it's 5.2

Martin Sendlewski: (inaudible) 62

Supervisor Cardinale: the maximum height is 52 and then I see we say 62 ft height with a 6 floor/area ratio. But that doesn't answer the question he is posing. We should also have a note that says, if you imply to, which I am not, you would say that anything over 52 ft you have to pay for the extra

Rick Hanley: that's possible. We did not think about it that way. We were thinking in terms of floor/area ratio.

Councilwoman Blass: right

Supervisor Cardinale: I am perfectly willing to do what he says

Councilwoman Blass: we would-do we want 62-foot buildings downtown, or 60 foot buildings? Do we actually want to do that? We were prepared to go to 52 feet.

Supervisor Cardinale: As indicated.

Rick Hanley: 52 feet.

Councilwoman Blass: right. So the question is, so we want to encourage additional height with transfers or maybe they should just increase the coverage to 100% as opposed to- regardless of what the footprint says do we want 62-65 foot buildings downtown?

Councilman Bartunek: In other words, limit it to 52 feet, and if they want to increase the coverage to 100%, of the lot-

Councilwoman Blass: do that through TDR

Councilman Bartunek: then they would have to buy the development rights.

Larry Oxman: Marty would know better but I think in the city, not that we are building skyscrapers, but very often as you go up, the floor area gets reduced.

Councilwoman Blass: Right, but we also don't want, you know, spires downtown, either. I just think that is a consideration that we have to

Martin Sendlewski: I think that we missed that in the discussion. Originally, Rick, was that you have the FAR 6, and you have the height (inaudible- interruption.) ...zoning board because the height was still limited to 52, where you would need the 62, so then there was a note that you could increase it to the 62, but I guess the question is that going to be enough, with the FAR, then just make it 62. Just make the height 62 and it's done.

Rick Hanley: Do you want- is it the policy of the board to have the development paid for (inaudible).

Supervisor Cardinale: There is a division on the board about that, but

10/28/2004 minutes

the policy of the board is to do so, yes. The majority of the board, yes.

Rick Hanley: Then we have to redraft this.

Supervisor Cardinale: Now don't get carried away- we did it right in the first place. We could certainly redraft the certain things that have been brought up and resume this meeting tomorrow morning and pass it, and have an opportunity to better proof read it, and I think that is a good idea, but, we don't need to go any longer than mid-day to pass this. So what you are suggesting is your height is 52, and the maximum height is 52, then you want, apparently, you want to have 52 as the height, but you can go to 62 with a purchase. And what Larry is pointing out is that under this language, you would not- you can go to 62 with the purchase of development rights, it is possible to go to 62 without the purchase of development rights, so we need to tighten this up.

Rick Hanley: ok

Supervisor Cardinale: ok. I think that is what the sense is. And we have a series of other changes, which we have already done, which I will give you.

Rick Hanley: (inaudible)

Supervisor Cardinale: fine. There are one or two other things. Would you like to make any other comment, Larry?

Larry Oxman: yes, please. Can we- how is flea markets defined? I say that because I was recently approached by a person who wanted to do a series of retail stores kind of an arts and crafts, and I will tell you what I told her. We can't call it a flea market because they aren't allowed, but maybe we can call it a retail incubator.

Supervisor Cardinale: Is there a flea market definition in our code? I asked the same question of Barbara earlier. You don't want a flea market in the sense of a garage sale. On the other hand, certain towns, strictly tourist Towns, have really nice, how shall we call this, cooperative, Sag Harbor being one of them, cooperative outlets. And unless we define, if we exclude things, flea markets, I think I know what you are excluding but we should probably define it and exclude from that definition what we might want to invite. I am particularly concerned about DC1, because I want anything but empties down there- is what I want. So, I don't want to make it too difficult for exciting ideas to germinate. So, let's define what we really mean when we say 'flea market' because there are retail centers that are really classy. And very, very successful. So, anything else, Larry?

Larry Oxman: no, that was it. Thank you.

Supervisor Cardinale: Marty.

Martin Sendlewski: just one additional thought relative to the uses. I know this is a real tough one, but I was looking at the DC1, and it allows churches. There are a couple of existing churches as of right. That's- not to discourage that. There is that issue with the church

10/28/2004 minutes

versus the liquor license and if somebody decided to rent a store front, and you know, they were legally a church organization, they could stop a lot of restaurants coming downtown. That is a real tough one, but I don't know how we address it.

Supervisor Cardinale: Well it is, it's tougher than you probably know. Yesterday, I was up for 3 hours late, looking at something that Dawn gave me on the religious land use law- the federal law; you cannot exclude religious institutions but there is a conflict in the establishment clause- you can protect the establishment of religion, and the freedom of religion clause, but you can't basically exclude out churches, uh, with impunity. So I think that's why you included it, because you were mindful of that- you CAN limit them with Site Plan considerations, but you can't do what you can do with like sand mining. You're out. You can't do that to churches- and I think you have to permit it virtually in every zone with the other constraints- like Site Plan constraints and other constraints. I think that was what she was talking about, but we'll look at it. But we have churches in downtown that we are going to have to deal with anyway.

Martin Sendlewski: yeah, it's just that if others pop up, and somebody wants to do a restaurant, they can't get a liquor license, that's a real problem.

Supervisor Cardinale: yeah, you are right about that.

Councilwoman Blass: Mr. Supervisor, can I just make a comment? These are all very good suggestions, and I think this whole process- I think we can all recognize- it's tedious and very difficult and will all do respect we are trying to stick to this schedule and goals to adopt these in a reasonable period of time, but I think you could recognize that now maybe more than ever it is very time consuming so even though we only have a few districts left after these, the committee would really appreciate it when we request additional time to review this and make sure that everyone is comfortable we get to this point. I would hope that you would be willing to grant us that additional time so we don't subject everyone to these last minute rewrites- had we had some more time, to review this-

Supervisor Cardinale: Well, I would have hoped that you would have caught these, but um, I think the public is also adding to the process by making the suggestions, and I've already indicated that I think that the carefulness of the review this afternoon and tomorrow and then passing the revised language tomorrow is a better idea than making it from the bench here today. Because we are under- because we could do a better job in the amendment of the language.

Councilwoman Blass: And again, if it's not tomorrow, we have a weekend to digest this, and we could do it at our town board meeting on Wednesday, also, which is an afternoon meeting. I'm also mindful of the fact that next week we were supposed to be considering the balance of the districts that can't reasonably happen, and I would just like to make sure that we all understand that we need the appropriate amount of time to do this task properly, and inclusively.

Supervisor Cardinale: I think that that is true, in fact, that's why we extended from September 30th until October 30th the passage, and now

10/28/2004 minutes

into November 3rd, and if in fact we have 3 or 4 districts left on November 3rd, and we have to go to November 10th, I think I am the one that indicated it's more important. When we moved the October 30th I indicated it's more important to do it right than to do it by September 30th. It's also more important to get it right than to do it by October 30th. But, I think it's good to keep plunging on. Let's- I think, if you are asking, let's say subtly and politely, as you are, that you would like to have until November 3rd to get this language straight, that's fine. Let's put these 5 statutes on for November 3rd, the Wednesday afternoon meeting. Let's have the language right. Let's um...we have about 4 or 5 more districts that I should also add to the public and the press that we are waiting a supplemental study on the TDR, are we not, Barbara? That statute.

Councilwoman Blass: That we are.

Supervisor Cardinale: we will probably have that not before November 10th

Councilwoman Blass: Probably not

Supervisor Cardinale: So the TDR statute is going to wait until at least that date to do it right, which is what- which is the primary goal. We will be passing the 5 statutes, along with the language we have discussed today on Tuesday, and I want to take additional comment from anybody out there who is persistent enough to keep coming to these meetings to talk about statutes. Anybody have any further comment? Marty or Rick? Or Larry? Or anyone else? Yes. Vince.

Vince Tria: It says here that places of worship, which would mean a church,

Supervisor Cardinale: right

Vince Tria: Is a place of worship the same thing?

Supervisor Cardinale: no

Vince Tria: So a storefront could be a place of worship?

Supervisor Cardinale: correct

Vince Tria: so we are talking about a liquor problem. So is a place of worship (inaudible)

Supervisor Cardinale: yes,

Vince Tria: How?

Supervisor Cardinale: Well I shouldn't say yes, I believe that even what is commonly referred to as storefront-church, you must meet that distance issue under the state liquor authority. I think that is accurate.

Vince Tria- Inaudible

Supervisor Cardinale: yeah

10/28/2004 minutes

Vince Tria- it's a place of worship.

Supervisor Cardinale: Right, and they have plenty of them in the city, too.

Vince Tria- so that any storefront or store on Main Street could be a place of worship- and you can't really stop that.

Supervisor Cardinale: Well, it's worth looking at.

Vince Tria: yes

Supervisor Cardinale: yes, as he says it is a difficult issue, but it's worth looking at- I think since we are going to have a few days we'll talk to Dawn about that as well as get her input as our counsel as to the language changes- whether it is possible to exclude it in a very small strip of Main Street, and include it everywhere else seems to me to be reasonable. But that's a good point.

Vince Tria: people have been talking to me about restaurants, and that is we aren't careful, we'll be weeding them out.

Supervisor Cardinale: we are talking about restaurants, did you say?

Vince Tria: yes, on Main Street

Supervisor Cardinale: what were they saying?

Vince Tria: someone was talking about a tie; someone was considering a Mediterranean restaurant. My point is that they all have to.

Supervisor Cardinale: yes, in other words, your point is broadening what Mr. Sendlewski was making. It's not just the bars that you are excluding; you are excluding restaurants with liquor license.

Vince Tria: (inaudible)

Supervisor Cardinale: ok, well, we'll look at that- whether it is possible to do that in the DC1 area. No other questions, let's look at the a, the a, if we exclude the zoning statutes, because we want to incorporate the comments we have heard today, and pass them on the regular meeting on Wednesday, if we exclude those, we have to go to a-

Councilwoman Blass: Mr. Supervisor, I would request that we Table those resolutions, right, we would have to table them in order to be able to go beyond them.

Barbara Grattan: unless you just renumber them 998-

Supervisor Cardinale: we'll just table them and take them off the floor, well that's an interesting question, then we would have to amend, etc. Ok, let's just not reach them, and renumber them, and go to the next one. And that would mean we would have to consider-the first one we are going to consider is 1000..

Barbara Grattan: the first one would be 1005, which would be..

10/28/2004 minutes

Councilman Bartunek: 998, right

Supervisor Cardinale: is there what?

Councilwoman Blass: comment

Supervisor Cardinale: oh, yes. I'm not trying to cut off comment, I'm just trying to- and I would agree with you...you want to say something, feel free. What numbers are they? 1000-

Barbara Grattan: 1005, 1006...1007

Supervisor Cardinale: ok 1006, 7 are going to be 998, 999 and 1000. Anybody have any comment on any of the resolutions we are- we have asked you to consider with us?

Joan Griffin: Joan Griffin, Baiting Hollow, #1005. On page 4 I believe it is, is health insurance. I'm a little confused by item number 1. If an employee is- if the Town is going to pay on the employees behalf 100% of either the individual or the family coverage for hospitalization under the Town's health insurance, even if that employee only ends up working for the Town for 14 months-

Supervisor Cardinale: No, you have to- that is a restitution of a contractual obligation I believe, but you have to be a retired employee as it says there, which means you have to be vested, which means you have to be how many years, 5? You have to be an employee of the Town for the necessary time to vest, which would be 10 years, but apparently now is less.

Joan Griffin: Ok, thank you. Oh, and aren't we supposed to have a Town Attorney here? At a pub- at a regular meeting?

Supervisor Cardinale: yea, thank you for reminding me. I think because it was a special, she didn't come in.

Joan Griffin: also, all the dialogue that went on between the audience and the town board, would that make the minutes because it wasn't up here at the microphone where it could be heard? Will it be going in as inaudible?

Supervisor Cardinale: That what was said for the microphone, through this system, will it pick up the comment- yes. Yes, it should be, but it is better form for them to come to the microphone.

Joan Griffin: Ok, thank you.

Supervisor Cardinale: Thank you for coming up. Why don't we have the Town Attorney come in? If she is available. Even though it's a special, it's always good to have her here, and naturally now we are going to have to explain to her all the things we talked about. I think she is working on an appeal. If there is no other comment, Jeff, anyone else? Then what we'll do just as we said we'll in deference to the a- we are going to check and see if the Town Attorney is available. Then we are going to pass these, and then we are going to go back to the work session. And then we have to be out of this room by 5 o'clock

10/28/2004 minutes

because and we have to leave the room by 5 because they have a big citizen group coming in. Sunken Pond homeowner association. Fill up the room, which we apparently don't do. We were filled up this morning, I think we had 100 kids in here.

Barbara Grattan: but they did not stay long

Supervisor Cardinale: But they didn't stay long. We started the work session, and they groaned and said this is boring and left. School kids. Before leaving they asked if I had any candy. I said, "Candy? What does that have to do with government?" They said its Halloween, why don't you have candy?

Councilwoman Sanders: We're lucky they aren't old enough to vote.

Supervisor Cardinale: They came in my office-there were 50 kids in the office and they are standing there, we got a picture, it's a good picture in fact- I'm surrounded by these kids, and the guy says, "You have candy?" and I said, no I don't have candy, I have some candy at home, and he said but it's Halloween. So I said, "No, it's Halloween on Sunday, it's not Halloween now." So he says- he looks at me- what, is he a 3rd grader? And he says, "I am extremely disappointed." I said, "I'm sorry I disappointed you!"

John Stefans: He also asked you if you got free food at Wal-Mart.

Supervisor Cardinale: He also wanted to know if the board got free food at Wal-Mart when they go there. And I said, "No, no one gets free food. Just free advice." Not free food. Although I eat pretty good at the dinners around town. Um, is she coming, or no?

Councilman Densieski: yes, she is.

Supervisor Cardinale: she really is? Ok. We lost Rick. I guess he is out there revising the statutes.

Councilwoman Blass: Did you realize that we had some great candidates for police officers?

Supervisor Cardinale: yes, the candidates that are on this third resolution, actually, on this third resolution, we passed, they are really good candidates. They have been very closely vetted. Interviews, exams, so.

Councilwoman Blass: how did they reach the others that are up here on the list? They were all really good. They all have an awful lot to offer.

Supervisor Cardinale: Ok, I think I am going to, ah, not wait much longer cause I think there is- oh, there she is, she is coming. Do we have- appoints officers....How are you? You missed the good parts. We didn't pass the resolutions yet, and we didn't want you to feel like you missed something. We are not going to pass the zoning resolutions because we wanted some rewording on a couple of items we felt- Barbara wanted to do it carefully. That is the best way to do legislation. So we are going to do 1005 and just renumber 998, 1006 which is renumber to 999, and 1007 which is renumbered 1000. And 1008 which is

10/28/2004 minutes

renumbered 1001. And 1009 which is 1002 now, so with that, will someone move 998, please?

Councilwoman Blass: That's you, George.

Councilman Bartunek: Ok, Sets Terms and Conditions for Legislative Secretary. So moved.

Councilwoman Blass: and seconded.

Supervisor Cardinale: moved and seconded. Vote please.

All voted yes- Resolution 998 is adopted.

Resolution 999

Councilman Densieski: Irma Murphy Open Space Acquisition Budget Adjustment. So moved.

Councilwoman Sanders: and seconded.

Supervisor Cardinale: moved and seconded. Vote please.

All yes, resolution 999 is adopted.

Councilwoman Blass: Resolution 1000 Ratifies an appointment of a Part time recreation aide in the teen center. So moved.

Councilman Bartunek: and seconded.

Supervisor Cardinale: moved and seconded. Vote please.

All yes, Resolution 1000 is adopted.

Resolution 1001

Councilwoman Sanders: Accepts resignation of a Maintenance Mechanic II Operator. So moved.

Councilman Densieski: and seconded.

Supervisor Cardinale: moved and seconded. Vote please.

All yes, Resolution 1001 is adopted.

Resolution 1002

Councilwoman Blass: Appoints Police Officers to the Riverhead Police Department. So moved.

Councilman Bartunek: and seconded.

Supervisor Cardinale: moved and seconded. Vote please.

Councilwoman Sanders: I just think it is wonderful that we finally got to the point where we are able to fill the five vacancies for quite some time- it has been long overdue. Yes.

10/28/2004 minutes

Supervisor Cardinale: yes, and they are starting Monday, it being Thursday today, in the Academy, Jim Welsh, Kevin Bradish, Charles Cichanowicz, Jonathan Devereaux and Brian Clemans and we wish them well. And we could use their help. I vote yes.

All yes, resolution 1002 is adopted.

Supervisor Cardinale: Ok, we have passed the resolutions we can reach today, we are now going to complete the work session

Councilwoman Sanders: Motion to adjourn?

Supervisor Cardinale: Motion to adjourn? Everyone agrees?

Councilman Densieski: yeah

Councilman Bartunek: well, that wasn't too subtle.

Meeting adjourned at 3:50 p.m.