FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT

for the

MONTAUK HIGHWAY CORRIDOR STUDY & LAND USE PLAN FOR MASTIC & SHIRLEY PHASE II

as a

SUPPLEMENT

to the

GENERIC ENVIRONMENTAL IMPACT STATEMENT for the

MONTAUK HIGHWAY CORRIDOR AND LAND USE PLAN FOR MASTIC AND SHIRLEY, NY

Hamlets of Mastic and Shirley, Town of Brookhaven Suffolk County, New York

NP&V Project No. 05132

September 2010

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Hamlets of Mastic and Shirley, Town of Brookhaven Suffolk County, New York

Brookhaven Town Board (as SEQRA Lead Agency)
Supervisor, Hon. Mark Lesko
Deputy Supervisor Kathleen A. Walsh
District 1 Councilman Steve Fiore-Rosenfeld
District 2 Councilwoman Jane Bonner
District 4 Councilwoman Constance Kepert
District 5 Councilman Timothy Mazzei
District 6 Councilman Daniel Panico

Prepared by:

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This document, together with the Draft SGEIS c	concerning this proposal, represents a Final SGEIS. Copies are
available for public review and comment at the of	fice of the Lead Agency. Comments on the Final SGEIS should
be submitted to the Lead Agency listed above by _	to be included in the public record and considered
in the Findings Statement.	
Date Final SGEIS Accepted:	





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SECTION 1.0 INTRODUCTION





1.0 <u>INTRODUCTION</u>

1.1 Purpose of this Document

This document is a Final Supplemental Generic Environmental Impact Statement (Final SGEIS) prepared for the Montauk Highway Corridor Study & Land Use Plan for Mastic & Shirley, Phase II. The Draft SGEIS was prepared as a supplement to the GEIS for the Montauk Highway Corridor Study & Land Use Plan for Mastic & Shirley (the 2004 Plan), which was adopted by the Town Board of the Town of Brookhaven in 2004. Background with respect to the Phase I Plan is as follows: On June 3, 2004, the Brookhaven Town Board accepted the Draft GEIS for the above noted actions as complete with respect to scope and content, commenced public review and circulated the document to interested agencies for comment. A public hearing was held on July 13, 2004 and public comments received through July 23, 2004. The Town accepted a Final GEIS on August 3, 2004 and the Findings Statement was adopted on August 23, 2004.

The Montauk Highway Corridor Study & Land Use Plan for Mastic & Shirley Phase II Plan furthers the goals of the 2004 Plan and provides more specific recommendations with regard to land use, zoning, transportation, parking, pedestrian mobility and safety, and recreational/open space for the entire study area analyzed in the 2004 Plan. The Draft SGEIS analyzed the potential environmental impacts related to the recommended actions of the Phase II Plan.

This Final SGEIS represents the penultimate step in the New York State environmental review process, which is intended to provide the public and government agencies with information regarding the proposal under review, as well as analyses of its potential environmental effects. This Final SGEIS incorporates the Draft SGEIS by reference, so that the combination of these two documents constitutes the entire Montauk Highway Corridor Study & Land Use Plan for Mastic & Shirley Phase II SGEIS. This document fulfills the State Environmental Quality Review Act (SEQRA) requirements for a Final SGEIS.

The Draft SGEIS for the Phase II Plan was accepted as complete by the Town Board on May 18, 2010 (as lead agency under SEQRA). A Town Board public hearing was held on the Phase II Plan, the local laws associated with the Plan and the Draft SGEIS, on August 12, 2010, and the lead agency accepted written public and agency comments through August 22, 2010. As required by SEQRA, this document addresses all substantive comments provided by the public and agencies during the hearing and comment period. **Appendix A** contains Town Board resolutions and notices related to the DGEIS and local laws.

After acceptance of the Final SGEIS by the lead agency, there will be a minimum 10-day period for preparation and adoption of a Findings Statement, prior to a decision on the adoption of the Phase II Plan and adoption of local laws.





1.2 Organization of this Document

Section 2.0 of this document presents all of the substantive comments on the Draft SGEIS that were provided verbally at the hearing and/or in written form received by the lead agency, along with a response to each. The comments provided verbally at the August 20th hearing were reviewed on the Town Clerk record of the hearing on digital video recording (DVD). Substantive comments were summarized from this hearing record. **Table 1-1** provides a summary of comment(s) by speaker, identification number, and section where a response may be found in this document.

Table 1-1 Summary of Public Comments/Response Section

Commenter	Comment (as paraphrased from review of DVD recording)	Comment Number	Response Location
Speaker 1	In favor of the plan; asks if possible to restrict construction of new banks and drug stores as there are too many at this time.	DVD-1	Sec. 2.1
Speaker 2	Commercial property owner, under the impression that the property in the TA was being rezoned and concerned about loss of value of J-2 property.	DVD-2	Sec. 2.2
Speaker 3	Purchased property in the area 8 years ago – concerned about loss of value from the rezoning of the property. Question if the J-2 rights will be lost when the property is sold	DVD-3	Sec. 2.2
Speaker 4	If you are within the area are the design standards optional? Concerned that the adoption of Transitional Area Overlay District (TAOD) will result in new requirements.	DVD-4	Sec. 2.3
-	When I sell the property, will the right to the existing use be lost?	DVD-5	Sec. 2.2
	Questions about screening for existing uses – do existing uses have to comply with the standards?	DVD-6	Sec. 2.3
Speaker 5	If you want to add a second story office, which conforms to the TAOD standards, do you have to comply with all the standards? Is there any flexibility?	DVD-7	Sec. 2.4
Speaker 3	How will the tax incentives be implemented? Is it automatic?	DVD-8	Sec. 2.5
	If there is a J-2 use in place and the property is sold, will the new owner be able to change the use under the J-2 permitted uses.	DVD-9	Sec. 2.2
Speaker 6	Family has a piece of J-2 property and a piece of A-1 property next to it. Asked if he would be able to apply for a change of zone for the A-1 property on Montauk Highway?	DVD-10	Sec. 2.6
Speaker 7	Concerned about that losing rights to the uses permitted under J-2 – concerned about selling in the future – agrees with the concept of upgrading the look of the corridor	DVD-11	Sec. 2.2





Appendices B-1 and B-2 contain the written comments received by the lead agency from governmental entities. No written comments from the public were received. All responses are provided in **Section 2.0**. Each comment has been delineated and numbered sequentially. The numbering system includes a letter code that indicates the source of the comment, followed by a number that is assigned to each consecutive comment from that source. As a result, the identity of the commenter can easily be determined. In addition, the subsection of **Section 2.0** where the response can be found is provided adjacent to each comment. There were a total of 11 separate comments from the public hearing and responses are provided in the sections identified in **Table** 1-1 (comments DVD-1 through DVD-11). Because several of the comments are similar, these were grouped together, so that only one response would be necessary for each grouping. As a result, only 6 different groups of comments were made for public comments - addressed in Sections 2.1 to 2.6 of this document. In addition, Appendix B-1 contains the letter from the Suffolk County Planning Commission (SCPC) with three comments regarding the Land Use Plan, (SCPC-1 through SCPC-3) and **Appendix B-2** contains a letter from the SCPC regarding the adoption of the Transitional Area Overlay District (TAOD) as an amendment to the Town Zoning Code with 5 comments (SCPC-4 through SCPC-8), all which are addressed in Section **2.7**.

Each response provides the information necessary for the Lead Agency (the Brookhaven Town Board) and other involved agencies to make informed decisions on the specific impacts of the project. This document fulfills the obligation of the Lead Agency in completing a Final SGEIS based upon Title 6, New York Code of Rules and Regulations Part 617.9 (b)(8).





SECTION 2.0 COMMENTS AND RESPONSES





2.0 COMMENTS AND RESPONSES

2.1 Concern Regarding Specific Uses

Comment DVD-1:

Speaker indicated concern that the number of banks and drug stores in the community may be excessive, and inquired if there was the potential for restricting future banks and drug stores in the area.

Response:

The comment reflects a concern about the abundance of two specific uses within the area, specifically, drug stores and banks. Drug stores and banks are both permitted uses in the J-2 Business zoning district, however, either of these uses with a drive through window would require a special permit from the Planning Board and a public hearing.

Because the new overlay district, the Transitional Area Overlay District for Mastic and Shirley (TAOD) retains the underlying zoning of the property, J-2 uses will still be permitted for those parcels within the area that are at least 75% (by area) zoned J-2. Based on the existing Town zoning code, Section 85-8(7)¹ of the code requires that a property have at least 75% of its area within the J-2 District to permit J-2 uses on the property. Therefore, drug stores will continue to be permitted within the TAOD if the underlying zone of the property is J-2; however, for those properties zoned A-1 Residence or partially J-2 (less than 75% in area), no retail uses will be permitted under the TAOD provisions.

However, as banks are considered financial offices and satisfy the intent of the TAOD, this use is permitted within the TAOD, regardless of the underlying zoning district. Although there are multiple banks in the area, a banking institution could chose to establish a branch in this area, and this remains a factor of a free market economy. The Town code does not regulate the number of specific types of uses within a specified use classification. Accordingly, there is no Town code provision that would authorize a denial of a requested use based upon a saturation of a specific use within an area; this will be determined by market factors.

Additional review is required for a drive through window and the use must meet the special permit criteria under §85-51 of Town Code. A public hearing would be required for a drive through and there would be additional opportunity for public comment at that time.

¹ §85-8(7) Interpretation of District Boundary (updated 8-11-03)



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2.2 Clarification Regarding Transitional Area Overlay District

Comments DVD-2, DVD-3, DVD-5, DVD-9 and DVD-11:

Property owners and representatives expressed their concern regarding loss of flexibility and value that is associated with a J-2 Business zoned property. The speakers were concerned that they would lose the rights that are currently under J-2 (including permitted uses and dimensional provisions). Speakers were concerned about the loss of the existing zoning if the property were to be sold in the future.

Response:

The adoption of the TAOD is not a change in the zoning district; the underlying zone of the property will be retained. If the property owner chooses to develop or redevelop their property under the underlying zoning, this can still occur after adoption of the TAOD.

The TAOD should be viewed as an incentive zone, which will allow greater flexibility in uses for those properties within the area that are either zoned for residential use only, or are split zoned. It is noted that there are many parcels within the proposed TAOD that are zoned both A-1 and J-2. Depending on how much of the property is zoned A-1/J-2 [pursuant to 85-8(7)], the property might only be able to be developed under the A-1 District. The TAOD provides incentives for these properties to develop or redevelop in a manner that is less intensive than J-2, but with greater flexibility than provided under the A-1 Residence District.

For properties zoned J-2 Business within the TAOD, a property owner may conform to all of the requirements under J-2 and develop uses permitted in a J-2 zone.

If the property owner chooses to develop the property utilizing the incentives permitted under the TAOD, including additional second story office space with relaxed parking requirements, the uses will be limited to those permitted under the TAOD list of permitted uses.

The establishment of the TAOD will not result in a change in the underlying zoning. The sale of a property will not affect the underlying zoning of the properties within the area.

2.3 Application of Transitional Area Overlay District Requirements

Comments DVD-4 and DVD-6

Speakers questioned whether the adoption of the TAOD will result in new requirements for existing uses, such as for screening and landscaping. It was also questioned whether the standards are optional.

Response:

Existing properties within the TAOD area will not be required to conform to the design standards to be established with the new overlay district code. The design standards will be employed for new development or redevelopment within the TAOD area. The design standards will be





required for those new uses that take advantage of the incentives provided with respect to increased density and additional uses allowed within the district.

2.4 Transitional Area Overlay District Flexibility

Comment DVD-7:

Speaker questioned whether there would be flexibility in the requirements.

Response:

The speaker questioned whether there would be flexibility in the requirements, for example, if a property owner within the TAOD wanted to add a second story office, but was not able to comply with all of the standards, would there be flexibility.

It is noted that the code was written to incentivize redevelopment within the corridor to improve the aesthetics and provide distinction for the two Main Street Business Districts (MSBDs) of Shirley and Mastic that are at either end of the study area corridor. Deviation from the dimensional requirements for new structures would require relief from the Zoning Board of Appeals, although if redevelopment were to occur within the footprint of a pre-existing nonconforming structure and not increase the degree of nonconformity, no relief would be required. In addition, the Town Planning Board has flexibility to vary the dimensional requirements of the code by 10% [see proposed §85-481(A)(1)]; and, with respect to site design, there will be flexibility for the Town Planning Board to approve variations on a site specific basis. The code was written in consideration of the built nature of the corridor and keeping in mind that creative design should be encouraged. Thus, the standards encourage parking in the rear and side yards, but do not require this configuration, as in some cases, the existing development may not allow access to the rear of the property. Standards for design provide flexibility for property owners to select uses, styling, architecture and site layout for improved corridor aesthetics in keeping with the needs of property owners and/or tenant businesses.

2.5 Application for Tax Incentives

Comment DVD-8:

Speaker questioned how the tax incentives recommended in the Phase II Plan would be implemented?

Response:

The tax incentives will be available for property owners within the TAOD through a program implemented by the Suffolk County Industrial/Commercial Incentive Board. Projects that cost over \$50,000 are eligible for tax incentives. When the Certificate of Occupancy is issued, property owners would need to request benefit of the Industrial Commercial Incentive Program (ICIP); this can be accomplished through the Town Assessor's office. The program provides





real property tax relief on the amount of improvements for the first 10 years. The ICIP recommends that the exemption schedule be applied as provided in **Table 2-1**².

Table 2-1 Exemption Schedule

Year of	Percentage of
Exemption	Exemption
1	50%
2	50%
3	50%
4	40%
5	30%
6	20%
7	10%
8	10%
9	10%
10	5%

2.6 Change of Zone Applications

Comment DVD-10:

Speaker's family owns two properties on Montauk Highway in the proposed TAOD. One of the parcels is zoned A-1 Residence. Speaker is concerned that the establishment of the TAOD will preclude the right to re-zone the property to J-2.

Response:

The establishment of the TAOD will not preclude the property owner's right to submit an application for a change of zone to the Town Board; moreover, the TAOD permits incentive uses that may negate the need for a change of zone.

2.7 Suffolk County Planning Commission (SCPC) Comments on the Phase II Plan and Local Law

On May 5, 2010, the SCPC voted to recommend approval of the proposed Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley, Phase II, subject to three comments. The comments were presented by the Chief Planner for the SCPC and some deliberation followed. The SCPC largely saw this phase of the Land Use Plan (LUP) as just that, the next phase, intended to refine those aspects of the previous LUP from 2004 that were not implemented, strengthen the recommendations in some respects, and provide recommendations for the area along CR 80 between the two J-6 MSBDs of Shirley and Mastic. These three

² Actual exemption schedule may vary.



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comments (SCPC-1 through SCPC-3) are all directed toward the proposal for a TAOD; comments and responses are provided in **Section 2.7.1** and a copy of the SCPC's letter is provided in **Appendix B-1**.

In addition, the SCPC separately reviewed the Town's application for amending Chapter 85 (Zoning) to establish the Transitional Area Overlay District for Mastic and Shirley. The SCPC approved the application on September 1, 2010 subject to five comments, which are included in the letter dated September 2, 2010. The comments (identified herein as SCPC-4 through SCPC-8) and responses are provided in **Section 2.7.2** and a copy of the approval letter is provided in **Appendix B-2**.

2.7.1 Suffolk County Planning Commission Comments on the Phase II Plan

Comment SCPC-1:

The proposed Transitional Area Overlay District in conjunction with the underlying J Business 2 District (Neighborhood Business) may undermine the successful creation of the two Neighborhood Centers. Uses permitted in the J-2 district are similar to those in the J-6 district and would tend to lessen this type of development pressure in the Neighborhood Centers. The J Business 2 District permits retail sales, take out restaurants, offices, banks, personal service shops, health clubs, schools, bars/taverns/night clubs (special permit), restaurants (special permit), theaters (special permit) and other general categories of uses that are also permitted in the J-6 District. In addition, competition from the Mastic Beach Neighborhood Road Central Business District should not be discounted.

Response:

This comment expresses a concern that the uses permitted are too similar to those of the J-6 District and thus will result in competition for the downtown centers the 2004 Plan sought to create, as well as the Mastic Beach Central Business District (CBD).

It is noted that the history of this land use effort resulted in an adopted plan that recommended three J-6 Districts along the Montauk Highway corridor. The areas that were not recommended for J-6 rezoning were recommended to be rezoned to J-Business, a less intense business district. There was an outcry of public sentiment to the rezoning of the transitional parcels, and this opposition was a factor in the Town Board's decision to postpone rezoning the area between the Shirley and Mastic Main Street Business Districts (MSBDs). The challenge became to provide incentives for property owners to invest in the area and to encourage non-retail uses, so as to not detract from the newly created J-6 areas nearby. As the establishment of an overlay district is proposed instead of rezoning the area, it is acknowledged that retail uses will still be permitted if the underlying parcel is zoned J-2. However, in the creation of the TAOD, the Town has provided a creative alternative to rezoning the area that provides more options for property owners. Non-retail uses that conform to the TAOD will receive incentives to encourage such development, including additional floor area, reduced parking requirement for the second floor, expedited review, and real property tax relief.





Comment SCPC-2:

While the Phase II plan alludes to "opportunities for alternative land uses and site design incentives" for development of low intensity land uses, there is no specific recommendation in the Implementation Strategies section of the Phase II Plan in either the Brookhaven Town Board or Planning Board sections. If it is the intent to channel less competing uses to the Transitional Area Overlay District by way of incentives, this section of the plan needs significant revision.

Response:

The incentives for redevelopment in a manner consistent with the goals of the plan will be through the establishment of the TAOD code. Incentives for development or redevelopment of property that is consistent with the code requirements and design standards will receive incentives including additional floor area, reduced parking requirement for the second floor, expedited review and real property tax relief.

Comment SCPC-3:

The area designated as the Transitional Area Overlay District in the Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley Phase II should be rezoned to a less intense use category or the permitted uses in the J-2 zone should be revised to reflect its evolving "transitional" status as a land use district where the nodal development pattern in the Town progresses. Uses permitted in the Overlay should not compete with the J-6 District.

Response:

The establishment of the TAOD as an overlay and not by a prescriptive zoning district will encourage flexibility and creativity on the part of applicants to establish less intensive use than provided under J-2 Business by providing incentives for conforming developments. The scope of the Phase II Plan is directed towards a specific study area centered on the Montauk Highway corridor of Mastic and Shirley. As the J-2 Business District is present throughout the Town, the recommendation to revise the permitted uses within this zoning district would potentially affect land uses throughout the Town (which is definitively not an intent of the proposed action). Any changes in the allowed uses in the J-2 District will need to be considered in a town wide analysis of the zoning district.

2.7.2 Suffolk County Planning Commission Comments on the Local Law

Comment SCPC-4:

It is suggested that the Town consider alternatives that would further reduce the build out of the transition portion of the corridor, especially for retail uses. The build out proposed does not appear to be sustainable given access restrictions to Sunrise Highway and the area south of the LIRR tracks. Alternatives could include:

a. Revisiting the 2004 plan with regard to the recommendations to modify the underlying business zoning (J-2) within the transition area and shifting to a less intense underlying district.





- b. Creating a transfer of development rights program to shift density from the transition area to the two nodes.
- c. Consider other incentives to encourage the conversion of potential retail sites to appropriate non retail uses. One such incentive might be expedited permit review for non retail projects.

Responses:

- a. With the adoption of the Phase II Plan, the Town Board has made known their intent to reduce the amount of retail within the TAOD. With respect to density, it is noted that the goal of the Phase II Plan is not to substantially reduce density within the TAOD; the goal is to provide visual definition for the two J-6 areas, reduce some of the land use intensity by reducing the amount of retail use and improve the visual quality of the area. However, even though major reduction in density was not the stated goal for the Phase II Plan, when compared to the build out potential of the 2004 Plan for this area, there is a significant reduction in potential floor area (17.1%). The original vision included in the 2004 Plan recommended a third J-6 MSBD centered at Titmus Drive and rezoning for the areas to the east and west of the third node to J-Business. Property owner input was considered when the Town Board opted against the then-proposed rezoning of the third node and transitional parcels to the less intense J-Business zone. Part of the impetus for the preparation of the Phase II Plan was to consider land use and zoning along Montauk Highway between the Shirley and Mastic J-6 areas. The challenges presented by this area included a predominately built-out area (very few vacant parcels), numerous splitzoned parcels and an area with a 50-foot wide right of way dedicated for parking. The creation of the TAOD is a compromise that will achieve visual improvements by providing incentives to property owners to invest in their property, regardless of the overlying zone. The reduction of retail potential is not a specific goal of the TAOD; however, it is in keeping with the results of the market study, which recommended directing new retail uses to the MSBD areas.
- b. As noted above, the goal of the TAOD was not to shift density to another location. The corridor is nearly fully developed; the TAOD will incentivize redevelopment and will achieve higher visual definition between the two MSBDs on the corridor.
- c. The TAOD code provides incentives which allow expedited (administrative) review of conforming applications, additional floor area and reduced parking requirements for second story area. To conform to the TAOD, proposed use must be a non-retail use.

Comment SCPC-5:

The Town should take note of NYS Town Law Section 261-b. Incentive zoning. Specifically:

a. 261.b.3.(d)" ... Any zoning ordinance or local law enacted pursuant to this section shall provide that any applicant for incentives or bonuses shall pay a proportionate share of the cost of preparing such environmental impact statement, and that such charge shall be added to any site specific charge made pursuant to the provisions of section 8-0109 of the environmental conservation law, "





b. 261.b. 3.(g) "Prior to the adoption of the zoning ordinance or local law pursuant to this section to establish a system of zoning incentives or bonuses the town board shall evaluate the impact of the provision of such system of zoning incentives or bonuses upon the potential development of affordable housing gained by the provision of any such incentive or bonus afforded to an applicant or lost in the provision by an applicant of any community amenity to the town. Further, the town board shall determine that there is approximate equivalence between potential affordable housing lost or gained or that the town has or will take reasonable action to compensate for any negative impact upon the availability or potential development of affordable housing caused by the provisions of this section."

It is suggested that the town inventory the amount of housing and specifically affordable housing presently within the transition area. If such housing is present, strategies to retain or replace this housing should be implemented.

Responses:

- a. The Town Attorney is aware of the above referenced section of NYS Town Law. However, the Town does not plan to seek reimbursement for environmental impact analysis prepared for the establishment of the TAOD. The SEQRA review performed for the Phase II Plan included a review of impacts to resources related to all aspects of the Phase II Plan, which included recommendations unrelated to the establishment of a TAOD. Thus, to identify the exact expenditure made by the Town to perform analysis of the TAOD and divide equitably by future applicants under the TAOD would be subjective and difficult to implement. The Town is seeking to encourage investment in the corridor and redevelopment that conforms to the goals of the plan; thus, the Town would not provide an addition financial burden upon applicants.
- b. The Town Attorney is aware of the above referenced section of NYS Town Law. Although there are some parcels within the area zoned for single family use, this area is, and is expected to remain, a commercial corridor and no existing affordable housing will be displaced by the adoption of the overlay district. In addition, the establishment of the TAOD does not change the availability or potential of affordable housing in area. In fact, there is a provision of the TAOD code to permit second story residential use as it is currently permitted within the J-2 District by special permit (with adequate sanitary density); this provision will provide new opportunities for residential use, particularly those types of units that are smaller and more affordable.

Comment SCPC-6:

A parking fund is proposed to be created as part of a Payment in Lieu of Parking (PILOP). It is suggested that the fees for this program be established in a uniform manner either in the proposed code or by separate town board resolution.





Response:

The Town's current policy to collect a payment of \$900 per parking stall will apply; this is consistent with all other areas of the town.

Comment SCPC-7:

The overlay district provides for a 25 foot landscaped front yard setback for structures with the idea of placing buildings close to the road in a more pedestrian oriented configuration (a good idea). It is suggested that the Town consider requiring a "build to" line (25') that holds buildings in this line so that buildings are not placed to the back of the lot with parking located between the 25' landscape front yard and the building.

Response:

The intent of the TAOD design standards is for parking to be located to the rear or side of structures. The proposed code language, contained in §85-482(b), reads, "All parking shall be located to the greatest possible extent in the rear and or side yard areas of structures fronting Montauk Highway". There is flexibility in the language, to allow for redevelopment of those sites where rear or side yard parking is not feasible and would deter an otherwise acceptable redevelopment proposal from occurring.

Comment SCPC-8:

The Suffolk County Department of Public Works should be contacted to determine if the potential 12.4% increase in build out can be accommodated by the County road system (C.R. 80) in terms of traffic safety and in terms of level of service. If it cannot be accommodated, density build out should be reduced.

Response:

The SCDPW evaluated the capacity needs for CR 80 in 2004 in the Design Report/Environmental Assessment (PIN 0756.68) for the Reconstruction of County Road 80 (Montauk Highway) from County Route 46 (William Floyd Parkway) to Mastic Road. The analysis contained within the document includes an evaluation of capacity needs. The major findings of the analysis revealed several needs related to continuous pavement and sidewalks, Americans with Disabilities Act compliance, drainage improvements, a new traffic signal at Mastic Road and alleviation of excessive congestion at the intersection of CR 46 and CR 80 (which the County resolved by introducing jug handles for left turns from CR 80 onto CR 46).

The analysis contained in the Suffolk County Design Report recognized the Town's 2004 Plan, including the Town's plans to revitalize the corridor through the establishment of (at the time) three MSBDs. The analysis found that little, if any additional demand was anticipated as a result of further development abutting the corridor. As the proposed TAOD will result in a reduction in the potential build out (floor area) by 17.1%, there will be less demand than what was contemplated at the time the County performed their assessment of the CR 80 reconstruction design.





APPENDICES





APPENDIX A

BROOKHAVEN TOWN BOARD RESOLUTIONS/NOTICES



ADOPTED

BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2010-450 MEETING: May 18, 2010

ACCEPTANCE OF THE DRAFT
SUPPLEMENTAL GENERIC
ENVIRONMENTAL IMPACT
STATEMENT (DSGEIS) FOR
MONTAUK HIGHWAY CORRIDOR
STUDY & LAND USE PLAN FOR
MASTIC & SHIRLEY PHASE II AND
SETTING A PUBLIC HEARING

WHEREAS, at its March 23, 2010 meeting by the passage of Resolution 2010-281, the Town Board of the Town of Brookhaven adopted a Positive Declaration in connection with Draft Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley, Phase II; and

WHEREAS, by separate resolution the Town will set a public hearing to consider acting on the adoption of such plan; and

WHEREAS, in connection with such action, the Town has prepared a Draft Supplemental Generic Environmental Impact Statement (DSGEIS) and hereby deems it adequate and complete; and

WHEREAS, the Town deems that a public hearing is necessary pursuant to 6 NYCRR Part 6.17.9;

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven that the DSGEIS is hereby deemed to be adequate with respect to its scope and content; and be it further

RESOLVED that the DSGEIS is hereby accepted by the Town Board as complete and is available for public review; and be it further

Public Hearing August 12, 2010 @ 6:30 PM

RESOLUTION SUBMISSION

MEETING OF: May 18, 2010

RESOLUTION NO. 2010-450

MOVED BY COUNCILMEMBER: Daniel Panico

REVISION: May 11, 2010

SHORT TITLE: ACCEPTANCE OF THE DRAFT SUPPLEMENTAL GENERIC ENVIRONMENTAL IMPACT STATEMENT (DSGEIS) FOR MONTAUK HIGHWAY CORRIDOR STUDY & LAND USE PLAN FOR MASTIC & SHIRLEY PHASE II AND

SETTING A PUBLIC HEARING

DEPARTMENT: PELM

REASON: To accept the DSGEIS in accordance with SEQRA regulations and set a

public hearing

PUBLIC HEARING REQUIRED:

DEPARTMENT OF FINANCE APPROVAL: YES NO

DOLLARS INVOLVED: \$

SEQRA REQUIRED:

DETERMINATION MADE: POSITIVE NEGATIVE

FEIS/FINDINGS FILED:

EXECUTION OF DOCUMENT REQUIRED: No

CJP:dm

Present	Absent		Motion	Aye	No	Abstain	Not Voting
		Councilmember Fiore-Rosenfeld					
		Councilmember Bonner					
		Councilmember Walsh					
		Councilmember Kepert					
		Councilmember Mazzei	9				
		Councilmember Panico	1				
		Supervisor Lesko					

RESOLVED, that a public hearing shall be held in conformance with 6

NYCRR Part 6.17 for the DSGEIS on August 12, 2010 and public comment accepted through a period of ten days following the close of the public hearing; and be it further RESOLVED, that the Department of Planning, Environment and Land Management is hereby directed to undertake all appropriate steps in filing a notice of completion of this DSGEIS in conformance with 6 NYCRR Part 617.9 and 12.

NOTICE IS HEREBY GIVEN that pursuant to Section 64 of Town Law and

6 NYCRR Part 6.17, a public hearing will be held by the Town Board of the Town of

Brookhaven at the Town Board Auditorium at One Independence Hill, Second Floor,

Farmingville, New York, on August 12, 2010 at 6:30 P.M. to solicit public and agency

comments on the Draft Supplemental Generic Environmental Impact Statement with

regard to adoption of the Montauk Highway Corridor Study and Land Use Plan for

Mastic and Shirley Phase II which encompass the study of the area defined as that

portion of Montauk Highway bordered by the William Floyd Parkway to the west,

Sunrise Highway to the North, the Forge River to the east and the LIRR to the South.

As per the map attached hereto as Schedule "A", the study area encompasses

approximately 887 acres, covering a 1.8 mile segment of Montauk Highway in the

hamlets of Shirley and Mastic. The DSGEIS is available for public inspection in the

Division of Planning during normal business hours and is also available on the Town's

website at www.brookhaven.org Specific tax map parcels are listed in the DSGEIS and

the plan which are additionally on file in the Town Clerk's office as well as the Town's

website.

At said public hearing, any persons interested shall be given the

opportunity to be heard.

Dated: May 18, 2010

Farmingville, New York

PATRICIA A. EDDINGTON,

TOWN CLERK

TOWN OF BROOKHAVEN

ADOPTED

BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2010-605 MEETING OF: MAY 18, 2010

SETTING DATE FOR SPECIAL TOWN BOARD HEARINGS ON AUGUST 12, 2010 TO CONSIDER ADOPTING THE MONTAUK HIGHWAY CORRIDOR STUDY AND LAND USE PLAN FOR MASTIC AND SHIRLEY PHASE II; TO HAVE A PUBLIC HEARING IN CONNECTION WITH THE DSGEIS; AND TO CONSIDER ADOPTION OF LOCAL LAWS TO PROVIDE FOR A TRANSITIONAL AREA OVERLAY DISTRICT IN CONNECTION WITH SAID LAND USE PLAN

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Brookhaven hereby sets Thursday, August 12, 2010 as Special Town Board Hearing to be held in the Town Board Auditorium, One Independence Hill, 2nd Floor, Farmingville, New York 11738 at 6:30 p.m. to consider the adoption of the Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley Phase II; to have a public hearing in connection with the DSGEIS; and to consider adoption of local laws to provide for a Transitional Area Overlay District in connection with said plan; and be it further

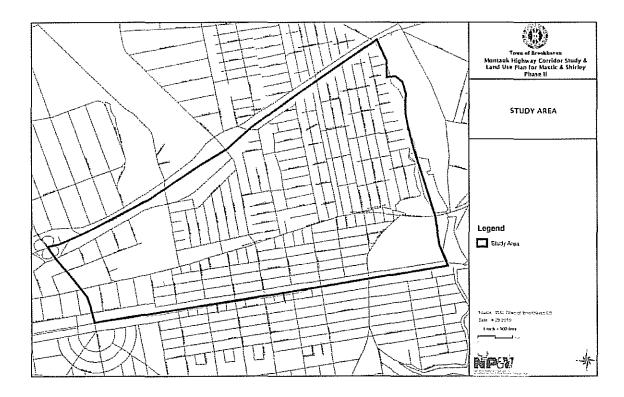
RESOLVED that decisions related to the matters being held on August 12, 2010 may be made by the Town Board that evening.

NOTICE IS HEREBY GIVEN that pursuant to Sections 264 and 265 of Town Law, a public hearing will be held by the Town Board of the Town of Brookhaven at the Town Board Auditorium at One Independence Hill, Second Floor, Farmingville, New York, on August 12, 2010, at 6:30 P.M. to consider the adoption of the Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley Phase II which study area is defined as that portion of Montauk highway which is bordered by the William Floyd Parkway to the West, Sunrise Highway to the North, the Forge River to the east and the LIRR to the South. Per the map posted below as "Schedule A", it encompasses approximately 887 acres, covering a 1.8 mile segment of Montauk Highway in the hamlets of Shirley and Mastic. The specific tax map parcels within the study area are included in plan which is on file in the Town Clerk's Office.

A copy of the plan is on file at the office of the Town Clerk and may be examined during regular office hours by any interested person.

At said public hearing, any persons interested shall be given the opportunity to be heard.

SCHEDULE A



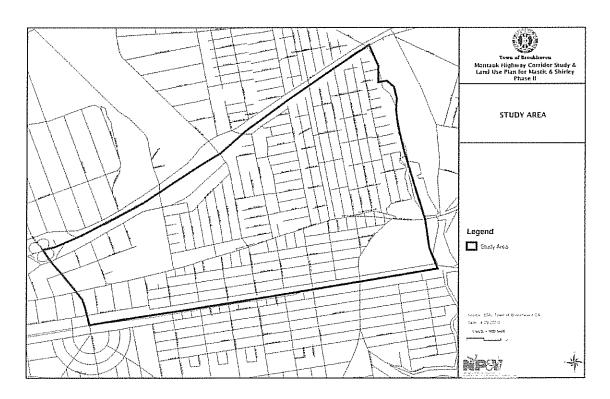
Date: May 18, 2010 Farmingville, NY PATRICIA A. EDDINGTON, TOWN CLERK TOWN OF BROOKHAVEN

NOTICE IS HEREBY GIVEN that pursuant to Sections 264 and 265 of Town Law, a public hearing will be held by the Town Board of the Town of Brookhaven at the Town Board Auditorium at One Independence Hill, Second Floor, Farmingville, New York, on August 12, 2010, at 6:30 P.M. to consider the adoption of the Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley Phase II which study area is defined as that portion of Montauk highway which is bordered by the William Floyd Parkway to the West, Sunrise Highway to the North, the Forge River to the east and the LIRR to the South. Per the map posted below as "Schedule A", it encompasses approximately 887 acres, covering a 1.8 mile segment of Montauk Highway in the hamlets of Shirley and Mastic. The specific tax map parcels within the study area are included in plan which is on file in the Town Clerk's Office.

A copy of the plan is on file at the office of the Town Clerk and may be examined during regular office hours by any interested person.

At said public hearing, any persons interested shall be given the opportunity to be heard.

SCHEDULE A



Date: May 18, 2010 Farmingville, NY PATRICIA A. EDDINGTON, TOWN CLERK TOWN OF BROOKHAVEN

NOTICE IS HEREBY GIVEN that pursuant to Section 64 of Town Law and 6 NYCRR Part 6.17, a public hearing will be held by the Town Board of the Town of Brookhaven at the Town Board Auditorium at One Independence Hill, Second Floor, Farmingville, New York, on August 12, 2010, at 6:30 P.M. to solicit public and agency comments on the Draft Supplemental Generic Environmental Impact Statement with regard to adoption of the Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley Phase II which encompass the study of the area defined as that portion of Montauk Highway bordered by the William Floyd Parkway to the west, Sunrise Highway to the North, the Forge River to the east and the LIRR to the South. As per the map below hereto as Schedule "A", the study area encompasses approximately 887 acres, covering a 1.8 mile segment of Montauk Highway in the hamlets of Shirley and Mastic. The DSGEIS is available for public inspection in the Division of Planning during normal business hours and is also available on the Town's website at www.brookhaven.org Specific tax map parcels are listed in the DSGEIS and the plan which are additionally on file in the Town Clerk's office as well as the Town's website.

At said public hearing, any persons interested shall be given the opportunity to be heard.

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SCHEDULE A

Dated: May 18, 2010

Farmingville, New York

PATRICIA A. EDDINGTON, TOWN CLERK TOWN OF BROOKHAVEN



APPENDIX B-1

LETTER FROM SUFFOLK COUNTY PLANNING COMMISSION ON THE PHASE II PLAN



COUNTY OF SUFFOLK



STEVE LEVY

SUFFOLK COUNTY EXECUTIVE OWN CLERK

TOWN OF BROOKINAMENA. ISLES, A.I.C.P.

DIRECTOR OF PLANNING

May 5, 2010

DEPARTMENT OF PLANNING

Town Brookhaven 1 Independence Hill Farmingville, New York Att: Patricia A. Eddington, Town Clerk

Re: Application of "Montauk Highway Corridor Study

and Land Use Plan for Mastic & Shirley Phase II"

SCPC File No.: BR-10-05

Dear Ms. Eddington:

Pursuant to the requirements of Sections A14-14 thru A14-25 of the Suffolk County Administrative Code, the Suffolk County Planning Commission on May 5, 2010 reviewed the above captioned application and after due study and deliberation resolved to Approve it subject to the following comments:

The Town Board should further address the noted inconsistencies found by the Suffolk County Planning Commission related to the following:

- 1. The proposed Transitional Area Overlay District in conjunction with the underlying J Business 2 District (Neighborhood Business) may undermine the successful creation of the two Neighborhood Centers. Uses permitted in the J-2 district are similar to those in the J-6 district SCPC-1 and would tend to lessen this type of development pressure in the Neighborhood Centers. The J Business 2 District permits retail sales, take out restaurants, offices, banks, personal service shops, health clubs, schools, bars/taverns/night clubs (special permit), restaurants (special permit), theaters (special permit) and other general categories of uses that are also permitted in the J-6 District. In addition, competition from the Mastic Beach Neighborhood Road central business district should not be discounted.
- 2. While the Phase II plan alludes to "opportunities for alternative land uses and site design incentives" for development of low intensity land uses, there is no specific recommendation in SCPC-2 the Implementation Strategies section of the Phase II Plan in either the Brookhaven Town Board

or Planning Board sections. If it is the intent to channel less competing uses to the Transitional Area Overlay District by way of incentives this section of the plan needs significant revision.

3. The area designated as the Transitional Area Overlay District in the Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley Phase II should be rezoned to a less intense use category or the permitted uses in the J-2 zone should be revised to reflect its evolving "transitional" status as a land use district where the nodal development pattern in the Town progresses. Uses permitted in the Overlay should not compete with the J-6 District.

Very truly yours,

Thomas A. Isles
Director_of Planning

Andrew P. Freleng Chief Planner

APF:ds



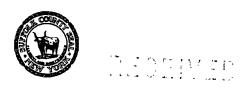
APPENDIX B-2

LETTER FROM SUFFOLK COUNTY PLANNING COMMISSION ON THE LOCAL LAW



COUNTY OF SUFFOLK





STEVE LEVY 11 SEP 9 11 10 28

DEPARTMENT OF PLANNING

TO WHO DEED THOMAS A. ISLES, A.I.C.P DIRECTOR OF PLANNING September 2, 2010

Town of Brookhaven
Office of the Town Clerk
One Independence Hill
Farmingville, NY 11738
Att: Ms. Patricia A. Eddington, Town Clerk

Re: Application of "Town of Brookhaven Local Laws Amending Chapter 85 in Regards to Montauk

Highway Transitional Overlay District for

Mastic and Shirley"

SCPC File No.: BR-10-05

Dear Ms. Eddington:

Pursuant to the requirements of Sections A14-14 thru A14-25 of the Suffolk County Administrative Code, the Suffolk County Planning Commission on September 1, 2010 reviewed the above captioned application and after due study and deliberation have resolved to **Approve** the application subject to the following comments:

- SCPC-4 1. It is suggested that the
 - It is suggested that the Town consider alternatives that would further reduce the build out of the transition portion of the corridor, especially for retail uses. The build out proposed does not appear to be sustainable given access restrictions to Sunrise Highway and the area south of the LIRR tracks. Alternatives could include:
 - a. Revisiting the 2004 plan with regard to the recommendations to modify the underlying business zoning (J-2) within the transition area and shifting to a less intense underlying district.
 - b. Creating a transfer of development rights program to shift density from the transition area to the two nodes.
 - c. Consider other incentives to encourage the conversion of potential retail sites to appropriate non retail uses. One such incentive might be expedited permit review for non retail projects.
- SCPC-5 2. The Tov
- 2. The Town should take note of NYS Town Law Section 261-b. Incentive zoning. Specifically:
 - a. 261.b.3.(d) "...Any zoning ordinance or local law enacted pursuant to this section shall provide that any applicant for incentives or bonuses shall pay a proportionate share of the cost of preparing such environmental impact statement, and that such charge shall be added to any site specific charge made pursuant to the provisions of section 8-0109 of the environmental conservation law."
 - b. 261.b. 3.(g) "Prior to the adoption of the zoning ordinance or local law pursuant to this

section to establish a system of zoning incentives or bonuses the town board shall evaluate the impact of the provision of such system of zoning incentives or bonuses upon the potential development of affordable housing gained by the provision of any such incentive or bonus afforded to an applicant or lost in the provision by an applicant of any community amenity to the town. Further, the town board shall determine that there is approximate equivalence between potential affordable housing lost or gained or that the town has or will take reasonable action to compensate for any negative impact upon the availability or potential development of affordable housing caused by the provisions of this section."

It is suggested that the town inventory the amount of housing and specifically affordable housing presently within the transition area. If such housing is present, strategies to retain or replace this housing should be implemented.

SCPC-6

3. A parking fund is proposed to be created as part of a Payment in Lieu of Parking (PILOP). It is suggested that the fees for this program be established in a uniform manner either in the proposed code or by separate town board resolution.

SCPC-7

4. The overlay district provides for a 25 foot landscaped front yard setback for structures with the idea of placing buildings close to the road in a more pedestrian oriented configuration (a good idea). It is suggested that the Town consider requiring a "build to" line (25') that holds buildings in this line so that buildings are not placed to the back of the lot with parking located between the 25' landscape front yard and the building.

SCPC-8

5. The Suffolk County Department of Public Works should be contacted to determine if the potential 12.4% increase in build out can be accommodated by the County road system (C.R. 80) in terms of traffic safety and in terms of level of service. If it cannot be accommodated, density build out should be reduced.

Sincerely,

Thomas A. Isles, Director Department of Planning

TAI:jc



APPENDIX C

INTRODUCTORY LOCAL LAW TRANSITIONAL AREA OVERLAY DISTRICT FOR MASTIC AND SHIRLEY



LOCAL LAW # OF 2010

AMENDING THE TOWN OF BROOKHAVEN CODE CHAPTER 85, ENTITLED, "ZONING" BY ADDING NEW ARTICLE XXXX ENTITLED, "MONTAUK HIGHWAY TRANSITIONAL AREA OVERLAY DISTRICT FOR MASTIC AND SHIRLEY"

<u>Section 1.</u> Legislative Intent. It is the intent of this local law, in conjunction with companion local laws, to implement the Transitional Area Overlay District for Mastic and Shirley as recommended in the Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley Phase II.

<u>Section 2.</u> Text Amendment. The Code of the Town of Brookhaven Chapter 85, entitled "Zoning", is hereby amended by adding new Article XXXX, entitled "Montauk Highway Corridor Transitional Area Overlay District for Mastic and Shirley" by adding the words underlined as follows:

Article XXXX

Montauk Highway

Transitional Area Overlay District For Mastic and Shirley

85-476. Legislative purpose and intent.

It is the intent of this legislation to create and implement herein, a "Transitional Area Overlay District" ("the District"), consistent with the recommendations of the Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley Phase II. ("the Plan"). This legislation is specifically enacted to effect the District which will cover that portion of the Montauk Highway Corridor lying between the two Main Street Business District centers in Shirley and Mastic. The Plan, which has identified this portion of said corridor as a major transportation route has recommended the adoption of the District to enhance the aesthetic and visual character of this corridor, creating and providing visual definition for this an area

The area lying within the District, has long been recognized as an area in need of revitalization. Adoption and implementation of this overlay district, would encourage and allow the application of enhanced land use standards which would promote the coordinated orderly development of the parcels included within it and reduce the

unintended effect of urban sprawl. The overall intended goal is to encourage and promote improved architecture, landscaping and setbacks, through the use of incentives. The incentives, provided as a voluntary option for those parcels within the District, such as an expanded list of permitted uses, greater FAR and reduced parking requirements for second story uses, would allow for the ability to increase allowable and perhaps better suited uses than those provided in the underlying zoning. In addition, added site design and development standards intended to provide greater setbacks and buffering along Montauk Highway, would improve aesthetics and enhance values between the Main Street Business Districts of Shirley and Mastic. As this incentive based district is promoted yet voluntary, the subject parcels retain the option for development under the existing zoning.

It is anticipated that the district, intended to supplement the regulations of the underlying zoning districts while providing incentives for more creative design and compatible development along the Montauk Highway corridor, will allow existing businesses to reinvest in improvements while promoting alternative and economically viable uses which improve the aesthetics and function of this transitional portion of the corridor.

The specific objectives of the District are to provide incentives which will encourage design and use features deemed via the Plan to be more desirable which will:

- 1. Support the area between the hamlet centers as a transitional area, encouraging a mix of new non-retail compatible uses, while continuing to allow uses permitted based upon the underlying zone of the property.
- 2. Promote alternative uses to general retail business including office, service oriented and neighborhood businesses and second story residential and/or office use.
- 3. Provide stability to existing business interests and incentives for compatible renovation and redevelopment opportunities to promote a more defined transitional area.
- 4. Reverse the appearance of commercial and suburban sprawl in the district through predictable setback, buffering and development criteria.
- 5. Enhance aesthetics and improve safety through a visually improved landscape environment, a streetscape with sidewalks and appropriate lighting and enhanced site design standards.
- 6. Promote the safe and efficient use of the roadway network for motorists, pedestrians and bicyclists along the corridor by reducing movements and curb cuts onto Montauk Highway.
- 7. <u>Improve the appearance, function and availability of parking areas throughout the corridor.</u>

- 8. <u>Improve visual appearance by establishing uniform sign criteria, thereby reducing visual distraction</u>
- 9. Provide opportunities to retain and create open space in the transitional area of the corridor for its visual benefits, and community recreational opportunities and/or passive recreation.
- 10. <u>Utilize the opportunity created by the 50 foot common strip of land north of Montauk Highway, beginning 300 feet east of Park Avenue along both Montauk Highway and Hoover Court and extending east to Titmus Drive, to create coordinated parking and access design along Hoover Court and improved aesthetics along Montauk Highway, where possible.</u>

85-477. Designation of the Montauk Highway Corridor Transitional Area Overlay District.

- A. The provisions contained in this Article shall apply to all properties within the Montauk Highway Corridor Transitional Area Overlay District as shown herein and as set forth in the Montauk Highway Corridor Study and Land Use Plan for Mastic and Shirley Phase II.
 - 1. Parcels within the Transitional Area Overlay District.

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See also: "Map Attachment" at end of this Article

B. Uses permitted in the underlying zoning without incentives will continue to be permitted. With the enactment of this Article, and through the use of this overlay district, as well as other companion laws, uses identified in the Plan as appropriate for a transitional area (set forth herein as "Incentive Uses") will now be permitted in the underlying zoning districts. This will allow for expanded development opportunities for the District parcel owners, by providing development incentives set forth below. In an effort to realize the goals and objectives of the Town in creating this district, as opposed to changing the zoning designation of the underlying parcels, a parcel exercising the option to avail itself of the incentive

uses will be subject to development which meets the setback, design and landscape standards as set forth herein.

85-478. Incentives offered in this Article.

- A. In order to effectively promote the goals and intent of the Montauk Highway Corridor Study and Land Use Plan for Mastic Shirley Phase II without the more pervasive effect of actually changing the zoning classifications on the parcels deemed to be located within the District, this Article seeks to obtain the desired goals through the means of incentives as opposed to mandates which due to pre-existing development may be too onerous. While compliance with the enhanced standards is ultimately the objective of the District, it is anticipated that as property owners are able to cost effectively re-develop their properties in conformance herewith by virtue of the expanded or incentive uses or other such incentive that they will do so.
 - B. The incentives which have been identified as most effectively achieving the Town's goals while mutually benefiting the property owners and which are offered herein are:
 - 1. <u>Expanded Permitted ("Incentive") Uses</u>
 - 2. Increased Floor Area Ratio and
 - 3. Relaxed parking for second-story uses

85-479. General procedures.

- A. Landowners and developers of land within the Montauk Highway Corridor Transitional Area Overlay District may pursue development for uses in conformance with the existing zoning of sites or may follow the procedure outlined herein to pursue a development consistent with the goals of this chapter.
- B. A yield map may be prepared to establish the maximum allowable density under the current zoning (illustrating conforming building, parking and landscaping). In the Hoover Court Area, use of the parking easement area may be used to establish yield as is customary in this area and shall be used in lot area in calculating Floor Area Ratio (FAR).
- C. <u>Upon receipt of an application for development within the Montauk Highway Corridor Transitional Area Overlay District, the Planning Commissioner or his/her designee, shall review and consider the proposed development.</u>
- D. In review of an application, the Planning Commissioner or his/her designee shall determine whether the project is eligible to receive incentives as outlined herein. Such eligibility shall be determined upon the project's compliance with the design

- standards set forth herein and in compliance such project shall be deemed to meet the intent of this section.
- E. A project deemed by the Planning Commissioner or his/her designee to meet the intent of this section shall have an administrative review by said Commissioner or his designee
- F. If the maximum building size allowable under these standards is less than allowable by the yield map, the applicant may petition the Planning Board to relax this standard by a maximum of 10 percent and the Planning Board is herein empowered and authorized to relax said standard up to said maximum upon a finding that it is the minimum amount necessary to permit the alternative development.

85-480. Site development review standards.

A. Purpose and Intent. In order to promote the goals of the Plan and intent of this Article and enhance the visual experience and functional operation along the corridor, incentives, as set forth below, in the form of enhanced requirements have been created for use in reviewing land use applications and project design.

85-481. Enhanced Dimensional Requirements.

- A. Minimum front yard setback.
 - 1. The setback for structures, vehicular movement, and vehicular parking areas shall be twenty-five (25) feet, with the exception of permitted curb cuts and access drives (only where necessary) and the Hoover Court area (see below). Upon Petition, review and approval of the Planning Board previously developed lots, may seek relief from this section up to 10% and the Planning Board herein is empowered and authorized to grant such relief upon a finding that it is the minimum amount necessary to permit the alternative development and accomplishes the goals set forth herein, and provided all other landscape and buffer requirements are met.
 - 2. For through lots (lots with frontage on parallel streets) and corner lots facing existing side roads, the secondary front yard setback shall also be a minimum of 25'.
 - 3. Except as otherwise provided herein, the minimum required landscaped front yard shall be twenty-five (25) feet.

4. Hoover Court: The area on the north side of Montauk Highway, beginning 300 feet east of Park Avenue, along both Montauk Highway and Hoover Court and extending east to Titmus Drive¹, (from herein to be known as the Hoover Court Area) contains a 50 foot (as well as 25' along the west side of Bonny Drive) strip of land which is neither Town owned nor privately owned, but exists for the common use of the adjoining parcels. Only in areas where this common land is present, the building setback from the private property line along Montauk Highway may be reduced to a minimum of one (1) foot in order to maintain landscaping along the Montauk Highway side of the parcels, within the common area and to provide coordinated parking to the north of the uses with access from Hoover Court.

B. Required side yard setback.

1. The minimum side yard setback shall be 10'.

C. Required rear yard.

1. The minimum rear yard setback shall be 25'.

D. Floor Area Ratio (FAR)

- 1. The maximum FAR within the Transitional Area Overlay District shall be 35% except in the Hoover Court area where it shall be 30%.
- 2. <u>In the Hoover Court area, the lot area and resulting FAR calculation</u> should include the 50' wide common area described above.
- 3. Front porches which enhance the residential style of a building may be excluded from the FAR.

E. Height.

- 1. Maximum height may not exceed 35' or 2½ stories.
- 2. The maximum height of accessory structures may not exceed 18' in height.

F. 2nd Story Residential Density

1. <u>Must conform to Suffolk County Sanitary Code or as approved by SCDHS BOR for additional density.</u>

85-482. Enhanced Parking and Access Standards.

A. Parking requirements shall be based upon the requirements of §85-353 with the exception of mixed use buildings containing office space or residential use on the

¹ With the exception of the parcel identified as SCTM# 200-852-1-063.1 which does not include the strip of land designated for parking.

- 2nd floor where a reduced parking rate may be applied. Required parking for the 2nd floor portion of mixed use buildings within the Transitional Area Overlay District shall be based upon 1 stall per 500 square feet of floor area.
- B. All parking shall be located to the greatest possible extent in the rear and or side yard areas of structures fronting Montauk Highway as determined by the Planning Board or the Planning Commissioner.
- C. Parking lots for passenger vehicles, permitted prior to the adoption of the District, may be permitted in a required front yard, provided that said parking area is located to the rear of a twentyfive foot landscape buffer area. The intent is to ultimately relocate all front yard parking behind the actual building setback. The Planning Board, upon consideration of the existing character of the site and of the surrounding community and land uses, may waive or modify said requirement provided the intent to provide the maximum possible landscaping along Montauk Highway is met.
- D. In the Hoover Court Area, parking shall be permitted in the required front yard which faces Hoover Court provided that a minimum 20' landscaped area is established adjacent to Hoover Court right of way. No parking is to be located in the required setback area fronting Montauk Highway.
- E. Coordinated access is encouraged. To the extent allowable, any property within the Transitional Area Overlay District shall be coordinated with adjacent properties and shall attempt to eliminate curb cuts onto Montauk Highway in favor of access from side streets, inter-connection between parking lots and shared curb cuts with cross-access agreements. To the extent allowable by law, the Planning Board or the Planning Commissioner, as part of site plan review, may request the consent of the applicant/owner for future access to or from an adjoining property to allow inter-connection between parking lots and shared curb cuts. In such cases, where it has been agreed to or required the applicant/owner shall file a cross-access agreement in a form satisfactory to the Town Attorney. The above cross-access agreement shall not apply to single or two-family residences.
- F. Where proposed parking is insufficient, the Planning Board is hereby empowered to consider shared parking to the extent of up to a 10% deficiency where cross-access agreements between adjoining property owners ensure that adequate parking is provided. In the alternative, or in addition thereto in order to achieve the purposes of this Article, where deemed appropriate by the Planning Board, said Board may, in the alternative to meeting the parking requirements herein, give credit for Payment in Lieu of Parking (PILOP) by contributing funds on a per parking stall basis. PILOP payments will be deposited to a designated account for use in creating parking opportunities within the area of the Montauk Highway Transitional Area Overlay District.

85-483. Enhanced Design Standards.

- A. For projects being developed in accordance with this Article, The Planning Board and Planning Commissioner or his designee, shall consider architectural appearance as part of site plan review. The following shall apply to new structures, including additions to existing structures or those undergoing rehabilitation of greater than 50% of their assessed value.
 - 1. Residential style architectural elements are encouraged and include: traditional siding (brick, clapboard, shingle, board and batten of wood or wood-like synthetic materials), gables, dormers, interrupted roof lines, residential style window treatments, shutters, front porches, chimneys, steeper roof pitch and related structural elements.
 - 2. Orientation of structures should favor reduced apparent mass as viewed from the street. This could include reduced width of buildings fronting Montauk Highway as compared with depth, gabled roofs oriented with the ridge perpendicular to Montauk Highway and/or other creative elements to reduce the apparent mass.
- B. Architectural plans including elevation plans, proposed materials, color and related architectural information shall be submitted in connection with site plan review. If design and material of all elements of the building comply with these guidelines, the Commissioner or his designee can approve the architectural plans in lieu of the Planning Board.

85-484. Enhanced Site Lighting Requirements.

- A. For projects being developed in accordance with this Article, architectural lighting shall be recessed under roof overhangs or generated from a concealed source of low-level light fixtures.
- B. Site lighting shall be of low-intensity from a concealed source, shall be of a clear white or amber light, and shall not spill onto adjoining properties, buffers or roadways. All development plans must show the relationship of light to adjacent properties and the roadway corridor. Overhead lights shall utilize "cut off" refractors as controls.
- C. <u>Decorative</u>, low-level intensity non-concealed source, pole-mounted lighting that defines vehicular and or pedestrian ways shall be acceptable for that purpose, and traditional styling and fixtures is strongly encouraged.
- D. No backlighting of signs is permitted.

85-485. Enhanced Landscape Requirements.

- A. For projects being developed in accordance with this Article, a landscape plan compatible with the specifications contained herein shall be submitted in conjunction with the any project. Such plan shall be drawn to scale, include dimensions and distances, and clearly delineate all existing and proposed vehicular, bicycle and pedestrian movement, including parking. The location, size and description of all landscaping materials shall be indicated. Landscape Plans shall be reviewed for adequate screening and buffering of residential uses.
- B. For Hoover Court area, a 20' landscape buffer is required from the Hoover Court right of way.
- C. The following requirement shall apply:
 - 1. For those pre-existing nonconforming uses which contain outdoor storage areas in front yards along the corridor, an evergreen hedge or buffer of at least 42" in height shall be planted to shield outdoor storage areas from view to the maximum extent practicable, and must be designed so as not to impede sight distance at access points, including adjacent side streets on corner lots.
 - Existing "significant" trees shall be preserved where feasible. Noteworthy
 trees were inventoried as part of the Land Use Plan for Mastic & Shirley
 Phase II and a figure illustrating the location of significant trees is included in
 the report.

85-486. Enhanced Sign requirements.

- A. Purpose and Intent. The purpose and intent of this Section is to: enhance the use of publicly visible displays/signs within the District; to enhance property values and the character of this arterial highway; and to protect the health, safety, and welfare of the public in use of these roadways. The regulations contained in this Section are intended to provide fairness for all uses along the corridor, and permit signs to be clearly visible, while controlling sign clutter, improving the aesthetic appeal of signs, minimizing visual distractions to motorists, promoting convenience for passersby and ensuring a reasonable level of visibility for businesses along the corridor.
- B. Standards

- 1. All signs shall conform to the requirements of Chapter 57A-4 of the Town Code.
- 2. Applicants for new or replacement signs in the District shall apply to the Planning Commissioner, for conformance review prior to submittal for a building permit.
- 3. <u>Individual rate signs or price signs shall be prohibited. Motor vehicle fuel and service stations shall be allowed to integrate fuel and price information into one freestanding, detached business identification sign.</u>
- 4. Free standing portable signs, on or off the premises are prohibited.
- 5. Temporary signs are prohibited, however, a special permit for the use of temporary signage for a limited time period may be obtained from the Building Department as per §57A-9 provided that certain requirements are met and arrangements are provided for removal of the signs.
- 6. <u>Materials, colors and shapes of proposed or replacement signs shall be compatible throughout the District. Wood or wood-like signs with direct lighting shall be required throughout the District.</u>
- 7. No new freestanding signs shall be permitted within the District. All existing legally permitted and conforming freestanding signs shall be landscaped with a clustering of plant species.
- 8. No blinking, flashing, or rotating signs shall be permitted. No wind toys or fluttering devices are permitted.
- 9. Any sign located on property that is unoccupied for a period of sixty (60) days or more, shall be deemed abandoned. The owner of the sign or the owner of the property shall remove an abandoned sign. If the owner or lessee fails to remove the sign, the Town shall give the owner thirty (30) days written notice to remove the abandoned sign. Upon failure to comply with this notice, the Town may initiate such action as may be necessary to gain compliance.

85-487. Enhanced Screening of outdoor storage.

Outdoor storage is permitted only in industrial zones, and is considered incompatible with the area located in the District. As a result, only legally pre-existing, non-conforming uses with outdoor storage are recognized and shall be entitled to the statutory protection offered to such uses. Pre-existing, non-conforming uses may not be expanded or modified; however, owner/operators of sites with such storage are encouraged to provide visual screening of outdoor storage from the public right of way, internal

roadways and adjacent properties. Vegetative landscape screening may be installed without the need for full site plan review, provided landscaping is installed pursuant to a landscape plan authorized by the Commissioner. Screening which involves fencing is also encouraged, but must meet the requirements of the Building Code and Building Department.

85-488. Incentive Uses permitted within this District.

- A. <u>Purpose and Intent. The uses herein shall be permitted on any parcel within the defined Montauk Highway Corridor Transitional Overlay District which meets the enhanced standards set forth herein.</u>
- B. Development pursuant to all uses identified herein as incentive uses, shall comply with the Site Development Review Standards contained in this part or except as previously and specifically addressed within this Article. The following uses have been determined to be low intensity uses in terms of trip generation, etc. and appropriate uses for the form desired along the transitional area i.e. residential in style.
 - 1. Single family and two-family dwellings.
 - 2. Home office.
 - 3. Office (charitable, administrative, financial, business and professional).
 - 4. Art galleries, framing shop, museum or nonprofit cultural centers or artist studios.
 - 5. Bank (without drive-through).
 - 6. Day care facility (including licensed day care in private homes.)
 - 7. Personal services, including but not limited to barbershops, beauty parlors, shoe repair shops, jewelry and watch repair, repair of musical instruments, small appliance/computer repair, tailor shops, day spa, interior design showroom, animal grooming, and business support services.
 - 8. Health Club.
 - 9. <u>Indoor Recreation.</u>
 - 10. <u>Churches or similar places of worship, cultural services, libraries or municipal buildings or uses.</u>
 - 11. <u>Undertaking establishments.</u>

- 12. Bed and Breakfast uses which conform to the requirements of Chapter 85, §85-67.
- 13. <u>Take-out restaurant (containing no more than 2,000 SF such as coffee shops and cafés).</u>
- 14. Non-degree granting school tutoring center, art school, dance school.
- 15. Retail sales incidental to any permitted uses above.
- 16. <u>Veterinarian provided that all activities take place inside the building.</u>

85-489. Planning Board Incentive Special Permits.

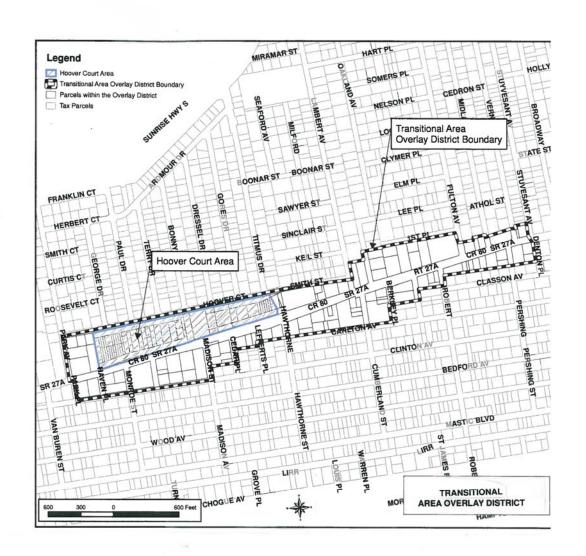
- A. The Planning Board shall be authorized to permit where appropriate, specific Special Permit Incentive Uses within the District; subject to the criteria as set forth in Article VIA, § 85-51, in addition to the criteria contained herein. Similar to the incentive permitted uses, the intent is to encourage, promote and provide incentives for alterative uses to general business, in a manner that establishes less intense uses and improved aesthetics between the more established hamlet centers in Shirley and Mastic. The following uses, while achieving the goals of this part, may be construed as more intense than the permitted uses, and are more appropriate as uses which require an Incentive Special Permit from the Planning Board.
 - 1. Restaurants (not including fast-food, and not involving a drive-through facility).
 - a. Paved areas, including parking and parking aisle areas,
 shall be screened from view, with landscaping or natural areas
 and/or decorative fencing to the satisfaction of the Planning Board.
 - b. Planning Board shall approve all signs displayed. Portable or mobile signs are prohibited.
 - c. Outdoor loudspeakers shall be prohibited within 1,000 feet of a residential district.
 - d. No outdoor storage shall be permitted.
 - e. Outside display shall be prohibited.
 - f. Outdoor seating is permitted for food service purposes only.
 - g. Service areas, storage areas and refuse enclosures shall be oriented away from public view and screened from public areas.

- 2. Bank with a drive-through facility subject to the following:
 - a. Drive-through facilities may only be located to the rear or the side of the principal building.
 - b. Rear yard drive-through facilities shall have no direct roadway access.
 - c. Side yard drive-through facilities shall have a one-way access exiting the site for only the drive-through facility.
 - d. Drive-through facilities shall not traverse through any front yard.
 - e. Queuing shall be provided pursuant to Town Code standards.
 - 3. Private or public automobile parking field or garage for automobiles and commercial vehicles with a gross vehicle weight rating of less than 10,000 pounds.
 - a. All paved areas shall be screened from view, with landscaping or natural areas and/or decorative fencing to the satisfaction of the Planning Board.
 - b. There shall be no overnight storage of registered vehicles.
 - c. The Planning Board shall approve all signs displayed. Portable or mobile signs are prohibited.
 - d. No outdoor storage shall be permitted.
 - e. Cross access to contiguous parcels shall be required.
 - f. Special consideration shall be given to areas where vehicular routes cross pedestrian circulation paths. A change in paving materials, textures or colors can be provided to emphasize the conflict point, im0rove visibility, enhance safety and provide added aesthetic appeal.
 - 4. Mixed-use building which involves ground floor nonresidential use as permitted herein, combined with residential use as an apartment or condominium on the second floor.
 - a. Service areas, storage areas and refuse enclosures shall be oriented away from public view and screened from public areas.
 - b. Special consideration shall be given to areas where vehicular routes cross
 pedestrian circulation paths. Change in paving materials, textures or colors
 can be provided to emphasize the conflict point, improve visibility, enhance
 safety and provide added aesthetic appeal.
 - c. All parking areas shall be screened from view with landscaping or natural areas and/or decorative fencing to the satisfaction of the Planning Board.

85-490 Severability. If any part or provision of this chapter or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be limited in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances, and the Town Board of the Town of Brookhaven hereby declares that it would have passed this chapter or the remainder thereof had such invalid application or invalid provision been apparent.

85-491. Authority. The Town is vested with the authority to make these amendments pursuant to Municipal Home Rule 10 Section 10(1)(i) and Section 10(1)(ii)(a)(14) and Statute of Local Governments Section 10(6) of the State of New York. It is the intent of this legislation to supersede, pursuant to Municipal Home Rule Law Section 10(1)(ii)(d)(3), the provisions of Town Law Section 261-b3(d) of Article 16 as it relates to pass along fees.

MAP ATTACHMENT



<u>Section 3.</u> Authority. The Town Board is vested with the authority to make these local law amendments to the Town Code pursuant to Town Law Sections 264 and 265.

<u>Section 4</u> Effective date. This Local Law shall become effective upon filing with the Secretary of State.