Proposed Amendments to the Town of Hempstead Building Zone Ordinance
Baldwin Mixed-Use Overlay District
Grand Avenue Corridor, Baldwin
Town of Hempstead, Nassau County, NY

PREPARED FOR

Town of Hempstead Town Board
1 Washington Street
Hempstead, NY 11550

PREPARED BY

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100 Motor Parkway – Suite 350
Hauppauge, NY 11788

December 2019
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FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT

PROPOSED AMENDMENTS TO THE TOWN OF HEMPSTEAD BUILDING ZONE ORDINANCE
BALDWIN MIXED-USE OVERLAY DISTRICT
GRAND AVENUE CORRIDOR, BALDWIN
TOWN OF HEMPSTEAD, NASSAU COUNTY, NY

PROJECT LOCATION: Approximately 87± acres in a three quarter-mile mixed-use corridor running along Grand Avenue from the intersection of Florence Street/Milburn Avenue to the north and Merrick Road to the south, hamlet of Baldwin, Town of Hempstead, Nassau County

LEAD AGENCY: Town of Hempstead Town Board
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Hempstead, NY 11550

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With input from:

Vision Long Island
24 Woodbine Ave #1
Northport, NY 11768

DATE OF PREPARATION: December 2019
This document, together with the Draft Generic Environmental Impact Statement (DGEIS) is the Final Generic Environmental Impact Statement (FGEIS), which was prepared by the Town of Hempstead. Copies are available for public review and comment at Office of the Town Clerk of the Town of Hempstead and the Baldwin Public Library. This FGEIS is also available electronically at https://hempsteadny.gov/planning-and-economic-development/baldwin-revitalization-project

DATE FILING: December 10, 2019

CONSIDERATION PERIOD ENDING: December 21, 2019
This document is a Final Generic Environmental Impact Statement (FGEIS) for the Proposed Amendments to the Town of Hempstead Building Zone Ordinance. This FGEIS incorporates, by reference, the Draft Generic Environmental Impact Statement (DGEIS) for this proposed action, dated August 2019, which was accepted as complete and adequate for public review by the lead agency on August 6, 2019. The above-referenced DGEIS was the subject of Town of Hempstead Town Board Public Hearing on September 3, 2019, and written comments on the DGEIS were accepted until September 16, 2019.

The Written Correspondence (including Electronic Mail Correspondence) and the Public Hearing Transcript are provided in Appendices A and B of this FGEIS, respectively.
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Introduction

This document is a Final Generic Environmental Impact Statement (FGEIS) prepared in response to comments received by the lead agency, the Town of Hempstead Town Board (Town Board), on the Draft Generic Environmental Impact Statement (DGEIS), dated August 2019, for the Proposed Action -- Proposed Amendments to the Town of Hempstead Building Zone Ordinance. The Proposed Action consists of the adoption by the Town Board of an amendment to the Town Building Zone Ordinance (BZO) creating a new Article XLII, entitled "Baldwin Mixed-Use Overlay District (B-MX)" with accompanying B-MX Design Guidelines (appended to Article XLII), and a B-MX District zoning map amendment incorporating 189 parcels in downtown Baldwin. The purpose of establishing an overlay zone for the Project Area is to create new mixed-use, transit-oriented development (TOD) opportunities in the hamlet of Baldwin in the area surrounding the Baldwin Long Island Rail Road (LIRR) station, as well as modify parking requirements and bulk and dimensional regulations to facilitate such development. The Design Guidelines are meant to set development standards to elevate the quality of design and promote consistency of development within the Project Area.

The B-MX District would be mapped as an overlay district in downtown Baldwin along an approximately three quarter-mile mixed-use corridor running along Grand Avenue from just south of Merrick Road to the south to just north of Florence Street to the north (the "Project Area" or "overlay district boundary"). The B-MX District would include 189 parcels, across approximately 87 acres in downtown Baldwin.
Grand Avenue, which runs north-south, intersects two important east-west thoroughfares in the Project Area: Merrick Road and Sunrise Highway. The B-MX District extends along Sunrise Highway from Rockwood Avenue to the west to just east of Milburn Avenue to the east. See Figure 1.

The DGEIS was accepted by the Town Board on August 6, 2019, and although optional from a regulatory standpoint, the Town Board, as lead agency, elected to hold a public hearing on the DGEIS. The public hearing was held by the Town Board at Town Hall on September 3, 2019. According to 6 NYCRR Part 617, the implementing regulations of the New York State Environmental Quality Review Act (SEQRA), the public comment period must remain open for at least 10 days after the close of the public hearing. The hearing was closed on September 3, 2019 and the comment period remained open until September 16, 2019.

Substantive comments provided during the public hearing and in writing during the public comment period are addressed in this FGEIS. In accordance with 6 NYCRR §617.9(b)(8),

*A final EIS must consist of the draft EIS, including any revisions or supplements to it; copies or a summary of the substantive comments received and their source (whether or not the comments were received in the context of a hearing); and the lead agency's responses to all substantive comments. The draft EIS may be directly incorporated into the final EIS or may be incorporated by reference. The lead agency is responsible for the adequacy and accuracy of the final EIS, regardless of who prepares it. All revisions and supplements to the draft EIS must be specifically indicated and identified as such in the final EIS.*

During the public comment period, substantive comments were received on the DGEIS. All of the correspondence, including letters, emails, etc. that contains substantive comments is included in Appendix A of this FGEIS. The Public Hearing Transcript is included as Appendix B. This section contains a summary of all substantive comments contained in the written correspondence (including electronic mail) as well as those made at the public hearing.

As evidenced by review of written and other comments received (see Appendix A) as well as the public hearing transcript (see Appendix B), some of the commenters expressed support for the proposed action. Accordingly, while these comments are included in the aforementioned appendices, they are not "substantive comments" as contemplated in 6 NYCRR §617.9(b)(8) and are not individually addressed in this FGEIS.

The Town compiled all of the written correspondence. Each author of a piece of correspondence was assigned an identifier and each comment by that author was assigned a number. For a written comment letter each author was assigned a code beginning with the letter “L” (e.g., L1). Then each comment from each author was assigned a number (e.g., L1-1 for comment 1 by author 1). The following table lists

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1 §617.9(a)(4).
each commenter and their associated comments, their assigned number code, and the date of the correspondence.

### Table 1  Correspondence Codes

<table>
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<tr>
<th>Commenter</th>
<th>Date</th>
<th>Code</th>
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<tr>
<td>Chris Coschignano, Partner, Sahn Ward Coschignano, PLLC on behalf of Breslin Realty Development Corporation</td>
<td>July 22, 2019</td>
<td>L1</td>
<td>L1-1 to L1-6</td>
</tr>
<tr>
<td>Chris Coschignano, Partner, Sahn Ward Coschignano, PLLC on behalf of Breslin Realty Development Corporation</td>
<td>August 28, 2019</td>
<td>L2</td>
<td>L2-1 to L2-5</td>
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<td>Gwen O’Shea, President and CEO, Community Development Corporation of Long Island</td>
<td>September 9, 2019</td>
<td>L3</td>
<td>L3-1</td>
</tr>
<tr>
<td>Vince Kish</td>
<td>September 10, 2019</td>
<td>L4</td>
<td>L4-1 to L4-2</td>
</tr>
<tr>
<td>Meta Mereday</td>
<td>September 13, 2019</td>
<td>L5</td>
<td>L5-1 to L5-4</td>
</tr>
<tr>
<td>Sean Sallie, Deputy Commissioner, Nassau County Department of Public Works Planning Commission</td>
<td>November 22, 2019</td>
<td>L6</td>
<td>L6-1</td>
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</table>

In addition, all substantive comments made at the public hearing that occurred on September 3, 2019 were assigned a code that begins with “H.” Each commentator at the public hearing was assigned a number (e.g., H1). Then, each comment from each commentator was assigned a number (e.g., H1-1 for comment 1 by commentator 1). The following table identifies each commentator and their associated comments as well as their assigned number code.

### Table 2  Public Hearing Codes

<table>
<thead>
<tr>
<th>Commenter</th>
<th>Code</th>
<th>Comments</th>
</tr>
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<tbody>
<tr>
<td>Meta Mereday</td>
<td>H1</td>
<td>H1-1 to H1-2</td>
</tr>
<tr>
<td>Jessenia Mendez</td>
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### 1.1 Revisions to the Proposed Zoning Text

During the public comment period for the DGEIS, the Town Board reviewed the comments and modified the proposed zoning text to address public comments and
to refine and/or clarify certain sections of the proposed text. The revised proposed zoning text is presented in Appendix C of this FGEIS. Textual additions/subtractions and revisions are shown in red text for comparison to the version of the zoning text initially presented in the DGEIS. It should be noted that the revisions to the proposed zoning text generally pertain to zoning bulk regulations. However, the revisions, as summarized below, do not substantially change the findings of this SEQRA review. The revisions to the proposed zoning text are as follows:

1. The maximum residential density for multifamily and mixed-use buildings was eliminated in the B-MX, MRG and B-MX, CT subdistricts, to match the regulations in the B-MX, TOD subdistrict. The existing regulations were found to be unnecessarily stringent and would put unwanted limitations on property owners and developers. However, proposed height and bulk regulations to remain in place will effectively regulate the density within the B-MX District, and the maximum residential density would still be approved by the Town Board upon review. Therefore, this revision does not change the findings of the DGEIS.

2. The minimum landscaped buffer area required for properties adjacent to residential uses was decreased from 25 feet to 10 feet, with a required increase of five feet for each 12 feet or portion thereof by which the building exceeds forty feet in height. The 25 foot requirement set forth in the DGEIS was determined to be too restrictive, particularly for shallow properties along Grand Avenue, and 10 feet is considered an appropriate depth to provide an effective noise and visual buffer. This revision would not substantially change the findings of the DGEIS.
Responses to Substantive Comments

This section includes the comments made either at the public hearing or during the public comment period and the responses thereto. The comments are arranged by correspondent/speaker.

Comment L1-1

Each of the three sub-districts in the B-MX District has a density restriction that is based on units per acre. The TOD sub-district as written permits up to 60 units per acre with a lesser amount of 45 and 30 units per acre in the MRG and CT subdistricts, respectively. Although it is common to utilize a units per acre density control in zoning, in this case, when the units per acre metric is applied, together with the enumerated height and other density metrics, a structural conflict emerges. This particular restriction only contemplates parcel size as the defining metric that controls, and as a result does not allow for the accounting of a harmonized vertical footprint. Due to the fact that it does not define either the type or size of units that are intended to be incentivized, it actually so deeply governs density as to be structurally in conflict with the balance of the bulk density requirements. Said differently, the math simply does not work and there is no conforming way to achieve vertical density and not be grossly violative of the governed units per acre. By way of example, a one acre parcel, or a group of assembled parcels totaling 40,000 SF, in the TOD sub-district, would yield only 60 units. Practically speaking, density objectives would not be met, nor would project developers be able to bear the cost of acquisition, construction and development with a yield of this size.
**Response L1-1**

Based on public feedback received on the proposed zoning amendments, the maximum residential densities for multifamily and mixed-use buildings have been removed from §429 of the modified proposed zoning amendments (Appendix C) for the B-MX, MRG and B-MX, CT subdistricts. This comment was submitted in response to an earlier iteration of the proposed zoning amendments, which were subsequently updated and incorporated into the DGEIS. The maximum residential density regulation had been removed from the B-MX, TOD subdistrict prior to the publishing of the DGEIS, and the DGEIS analysis reflected that change. The Town Board agrees that a per acre density control may be too limiting and that density would be properly and effectively controlled by the existing height and bulk controls set forth in the proposed zoning amendments. Elimination of the per acre density controls will provide more flexibility to developers within the B-MX District to respond to market conditions in their decisions on unit sizes and number of units.

**Comment L1-2**

*We note that the zoning map in Exhibit "C" incorrectly references the (BMX, TOD) and (B-MX, CT) sub-districts on the map key. The abbreviations for these subdistricts should be reversed on the map key.*

**Response L1-2**

The exhibit discussed in this comment predated the completion and publishing of the DGEIS in August 2019. The exhibit was corrected and incorporated into the DGEIS as Figure 2-3.

**Comment L1-3**

*Under each of the B-MX sub-districts, the maximum amount of floor area that can be constructed on a particular lot is determined by the lot area of a parcel multiplied by the FAR for that sub-district. The sub-district with the highest FAR is the B-MX TOD District with an FAR of 2.0. This, coupled with a maximum building coverage of just 60% for mixed-use or multifamily buildings, when taken together, results in another metric inconsistency that would only facilitate the conforming construction of a building no higher than 3 stories before exceeding the FAR restriction. Again, applying this enumerated metric would result in another a significant disconnect between the permitted heights in the B-MX zone and the bulk intent… In our view, this potential inconsistency producing result can be remedied by increasing the FAR's in the B-MX sub-districts, so that a vertical density can be achieved which is in line with the maximum building heights permitted within each sub-district...floor area ratios [should be] doubled in each of the B-MX sub-districts.*

**Response L1-3**

The Town’s purpose in undertaking the proposed zoning amendments is to provide a framework for successful future development and revitalization in downtown Baldwin. The intensity of development and permitted floor area within the B-MX District is partially determined by the results of the analyses undertaken in the...
DGEIS. In the case of the Proposed Action, one of the limiting factors to future development is the capacity of the local infrastructure to accommodate future residents and development facilitated by the proposed zoning amendments. For example, Section 3.5 of the DGEIS provides a detailed analysis of the capacity of the roadway network to accommodate future trips that would be generated by potential future development projects. Based on these analyses, the Town is proposing a permitted FAR for each of the B-MX subdistricts that would maximize future development potential without overwhelming the local infrastructure’s capacity to accommodate it.

It should be noted that the proposed zoning amendments permit a base FAR of 0.5, 1.0, and 1.5 in the B-MX, CT; B-MX, MRG; and B-MX, TOD subdistricts, respectively. The proposed zoning amendments include development bonus provisions that permit the Town Board to, at its discretion, allow FAR bonuses of up to 0.5 FAR in each of the B-MX subdistricts, upon a determination that certain public benefits or amenities to be provided would provide benefits of greater value to the community than that of the potential impacts of the development bonuses granted. These provisions are put in place to encourage developers to provide public benefits and/or amenities in exchange for FAR development bonuses and/or an adjustment to the off-street parking requirements.

The permitted FAR and building heights set forth do not present a metric inconsistency, but rather are meant to allow for further flexibility to developers within the B-MX District. Three stories of floor area within the B-MX, TOD subdistrict, to follow the example posed by the commenter, would allow for ground floor structured parking below the three stories of building program while still conforming to the proposed building height regulations. The Town believes this to be an appropriate level of density within the TOD subdistrict to promote transit oriented development and balance the expected returns to developers with the infrastructure capacity limitations analyzed in the DGEIS.

**Comment L1-4**

*Building area coverage should be increased to eliminate the potential inconsistency between the proposed height and bulk regulations. Accordingly, we suggest a metric of 75% be adopted in the B-MX, TOD and MRG sub-districts and 60% in the B-MX, CT sub-district. This change would create a conforming and code-harmonized platform, with an adequate building footprint to accommodate not only the necessary commercial and residential bulk, but the structured parking that must be accommodated on-site as well. This is especially important in a south shore community like Baldwin that has a high-water table, where underground parking structures may not be feasible.*

**Response L1-4**

This comment was submitted in response to an earlier iteration of the proposed zoning amendments, which were subsequently updated and incorporated into the DGEIS. As summarized in DGEIS Table 1-1, the proposed zoning amendments set forth a maximum building area coverage of 80 percent for mixed-use or multi-family
buildings, greater than the building area coverage suggested by the commenter for the B-MX, TOD subdistrict. The Town has set a maximum building area coverage of 60 percent and 40 percent for mixed-use or multiple-family buildings in the B-MX, MRG and B-MX, CT subdistricts, respectively. These regulations would allow for on-site open space and surface (at-grade) parking that is appropriate for the portions of the B-MX District close to existing single-family residential development and further from the Baldwin LIRR train station.

**Comment L1-5**

§429.A.8 in the B-MX District mandates a 25-foot landscape buffer area when adjacent to residential uses. Undoubtedly, adequate screening buffers between the downtown district and the adjacent residential community should be promoted and enforced. However, this amount of screening would severely hamstring the developable area in this particular overlay zone, especially on the west side of Grand Avenue where as mentioned above, the lots are particularly shallow. The practical effect of development on the shallow lots along Grand Avenue with these required buffers, is that building envelopes will become impractically smaller, and buildings will need to become much taller to make up for it. If they were even developable in a conforming manner, the residential neighbors would be trading the extra landscaping buffer for a view of much taller buildings.

**Response L1-5**

Based on the comment, the Town has reconsidered the width of the landscape buffer and agrees that 25 feet of landscaped buffer may be too limiting to development sites with smaller depths within the B-MX District. In response to this comment, the minimum landscape buffer area regulations have been updated in §429 of the modified proposed zoning amendments (Appendix C) for each of the B-MX subdistricts to indicate a minimum requirement of 10 feet of landscaped buffer area in each of the B-MX subdistricts when a development site is adjacent to residential uses. As noted in §429, the depth of the landscaped buffer area shall be increased five feet for each 12 feet or portion thereof by which a proposed building exceeds forty feet in height. This would ensure that taller buildings adjacent to residential uses provide adequate landscaped buffers. In addition, Section 8 of the proposed B-MX Design Guidelines provides specific guidelines for developers for evergreen screening along adjacent residential land uses. Together with the modified proposed zoning amendments, implementation of the Design Guidelines would result in adequate noise and visual screening for those properties within the B-MX District that abut residential land uses.

**Comment L1-6**

§432 of the B-MX District code creates a new administrative agency within the Town to review applications submitted in the overlay district called the “Design Review Board” or “DRB”. The code states that the DRB will consist of three (3) employees of the Department of Buildings with site plan review backgrounds to be appointed by the Town Board. One of the clear legislative intents of the district is to create a more streamlined approach to zoning entitlements and to “minimize the creation of non-
conformities with the underlying zoning.” See B-MX 422.B.3. Creating a new layer of review within the Town to handle applications in the BMX zone, could possibly result in additional delays in the approval process and increased administrative expenses. An equally effective and more expedited solution may be to forego the creation of a new DRB and to instead have building permit applications submitted under the BMX District be handled by designated plans examiners in the normal course of business. Existing staff that is already experienced with the complexities and requirements of the site plan review processes can simply be trained to handle cases under the new B-MX overlay zone and obviate the need for an additional process.

Response L1-6

The administrative and review procedures set forth in §431.2 of the proposed zoning amendments reflect what the Town believes to be an appropriate and necessary process and level of review for applications within the B-MX District zoning framework. Given the increase in height and densities permitted compared with existing zoning and the prominent location along three major roadways in downtown Baldwin, transparent review of proposed applications within the B-MX District will allow for important public input regarding whether the stated design goals set forth in the B-MX Design Guidelines are achieved. The Design Review Board procedures, including a required public hearing, will ensure a transparent review process.

However, the Town of Hempstead was careful in its drafting of the review procedures to ensure that the process does not cause unnecessary delays or increased administrative expenses for developers. §431.2 sets forth specific conditions and timeframes under which the Design Review Board would be required to operate, including the requirement that a written determination must be rendered within 30 days of the completion of the public hearing. In addition, in undertaking this Generic Environmental Impact Statement (GEIS) for the Proposed Action, the Town has significantly streamlined the overall timeframe of the application process, eliminating the need for additional SEQRA review for applications that meet the SEQRA Conditions and Criteria.

Comment L2-1

The inclusion of a FAR development bonus in exchange for certain community benefits or amenities in Section 431.1.C of the modified regulations may be a creative solution to the FAR issue. However, it does not go far enough to address the density discrepancy on a more fundamental basis, and as a result does not rectify the property yield and density problem described herein. Even with the inclusion of the FAR development bonus of .5 to the 1.5 TOD FAR in the modified code, the result is the same 2.0 maximum FAR that we concluded was insufficient to achieve the desired, vertical density contemplated by this overlay district, only it would now be more difficult to achieve due to applications being reviewed on a case-by-case basis instead of being applied uniformly.

Response L2-1
See Response L1-3.

**Comment L2-2**

Section 429.A.10 was added to the modified regulations to include a front-yard setback requirement of 10 feet in all three of the B-MX sub-districts. We would recommend eliminating this setback requirement altogether in keeping with the prior draft of the code. A zero lot-line front yard is essential to create the street front, walking, retail environment stated in the legislative purpose. Eliminating the front-yard setback would be in conformance with the overlay district Design Guidelines prepared by VHB Engineering in support of the overlay adoption and would facilitate the realization of the legislative intent for the development potential of sites within the overlay district. The B-MX Design Guidelines are fundamentally drafted to encourage the enhancement of existing streetscapes to provide a greater experience for pedestrians than a generic front-yard setback contemplated for a traditional, car-focused retail-center ever would.

**Response L2-2**

This comment inaccurately states that the proposed zoning amendments require a front yard setback of ten feet. Rather, §429.A.10 requires a front setback of 10 feet from the face of the curb, not the front property boundary. This setback would promote adequate sidewalk width within the B-MX District, which area is currently challenged with narrow sidewalks in certain areas and will likely have high pedestrian traffic as new development occurs. Over time, it is expected that this requirement will lead to a wider sidewalk along the length of the B-MX District, providing an enhanced pedestrian experience.

§429.A.10 also sets a maximum front yard setback of 10 feet from the property boundary to allow for flexibility to developers to provide desired front yard amenities, such as sidewalk cafes along Grand Avenue. It is expected that such amenities would enliven the street front and retail environment, in keeping with the goals of the B-MX District. However, this setback is a maximum setback; developers may develop a zero lot-line front yard if desired, provided the front property line is a minimum of ten feet from the face of the curb.

**Comment L2-3**

Table 1-3 of the DGEIS identifies the Subject Premises as one of nine (9) "Projects of Interest" or "POIs" in the B-MX overlay area (it is Project #4). Later in Section 3.5.2.2, the nine (9) POIs are again identified, and it is incorrectly stated that our client’s proposed project is expected to be redeveloped even if the proposed B-MX Overlay is not implemented. Our client’s project is wholly dependent on the adoption of the B-MX Overlay District. Taken a step further, our client’s project is dependent on the Town adopting a workable and effective B-MX Overlay District, which the regulations as currently written, do not achieve. We respectfully request that this error be corrected and that the nine (9) POIs be looked at again to determine whether any other projects are in fact dependent on the B-MX overlay.
**Response L2-3**

In the case of an area-wide rezoning, such as the Proposed Action, it is necessary for the purposes of analysis to establish a framework from which to compare anticipated future conditions. This point of comparison should reflect a scenario under which the Proposed Action is not approved or implemented. In the transportation analysis in Section 3.5 of the DGEIS, this point of comparison is referred to as the "No-Build Full Yield Condition." It reflects the anticipated development on the nine Properties of Interest, or POIs, that would be expected by the analysis year without the implementation of the Proposed Action.

Though the commenter maintains that POI 4 would only be redeveloped were the proposed zoning amendments to take effect, the DGEIS analysis attempts to set an objective and reasonable No-Build Full Yield Condition for accurate comparison purposes. While it may be reasonable that POI 4 would not be redeveloped in the short term under existing zoning, as suggested by the commenter, the Town believes it is unreasonable to assume that the property would remain in its current condition for the next ten years, as it currently is underutilized. To conduct an analysis based on objective and reasonable assumptions, the DGEIS sets forth a No-Build Full Yield Condition that reflects the full yield of each of the POIs under existing zoning.

**Comment L2-4**

The trip generation comparison results in Table 3-15 of the DGEIS (page 153) show that the proposed build conditions with the B-MX overlay regulations will have less of an impact on the studied roadway network than if the area were to be developed under the existing zoning regulations. Section 3.5.3 of the DGEIS estimates that, with the implementation of proposed traffic mitigation measures, the full 2029 build conditions will actually ease traffic conditions. The primary rationale being that the replacement of retail uses with multifamily uses will generate less traffic and generate less trips during key peak periods. This is especially true of projects within the TOD sub-district (like our client’s project), which will focus primarily on developing multifamily residences.

*We note that it is important that the traffic analyses conducted for the fully built models incorporate not only the ground level retail contemplated by the code, but also all of the additional vertical density that the overlay district will usher in as part of the revitalization of the Baldwin downtown. This will ensure a sufficient baseline to traffic impacts as part of the proposed overlay and avoid potential challenges to the DGEIS.*

**Response L2-4**

Under the Build Condition, the traffic analysis does account for ground level retail as well as the additional vertical density proposed in the overlay district, as indicated in Table 3-12, Build TOD Full Yield – Trip Generation, on pages 144 and 145 of the DGEIS.
**Comment L2-5**

While the inclusion of development incentive bonuses in exchange for community benefits and/or amenities is a tried and tested method to maximize development and community benefit, which we support, it will also create a system in which Town Board approval is required for every proposed development. This would still, in our view, thwart the Town’s attempt to create an overlay district that reduces non-conformities, and practically eliminates the possibility of any as-of-right developments within the overlay district. The result is a baseline redevelopment yield that is insufficient, lengthier, costlier and more complicated zoning approval process, similar to a rezoning application requiring legislative approval by the Town Board with every application.

**Response L2-5**

As stated by the commenter, the Town’s goals in including development bonus provisions in the proposed zoning amendments are to attract additional development to the B-MX District by allowing for increased densities and to leverage private investment to maximize benefits for the community. It is unclear how the development bonus provisions would thwart the Town’s attempt to reduce non-conformities, as the additional density would conform to the proposed zoning amendments. The Town believes that in undertaking the required environmental review of the Proposed Action through the preparation of the DGEIS, the application process will be streamlined and less costly for developers moving forward. As described above, the administrative and approval procedures set forth in the proposed zoning amendments allow for desired and necessary public input and thoughtful deliberation over individual applications to ensure that development occurs in accordance with the Town’s desired outcomes for the B-MX District.

**Comment L3-1**

Creation of new affordable housing has been a critical early component of successful economic revitalization efforts across Long Island in downtown areas like Baldwin. With this rezoning the Town would allow multi-family and mixed-use development, but there is more that can be done to specifically address the desires and needs of the community for diverse, affordable housing. CDCLI recommends that the Town consider incorporating enhanced standards for inclusionary housing (i.e. blending affordable with market rate units). At a minimum, the provisions of the LI Workforce Housing Act requires that developers of 5 or more units are required to set aside 10% of units as affordable to families at or below 130% of median income for the Nassau-Suffolk area. Other municipalities across Long Island have adopted affordability standards that go further by setting income limits lower and/or requiring a higher percentage of units to be designated as affordable, often in connection with density bonus provisions.

**Response L3-1**

The Town believes that the proposed zoning amendments will facilitate the provision of needed diversity in the Baldwin housing stock that will serve residents looking for housing near transit opportunities and within a mixed-use district. It is
likely that development within the B-MX District would fall within the requirements of the Long Island Workforce Housing Act, which, as the commenter stated, would require developments with five units or more to set aside 10 percent of units as affordable to households at or below 130 percent of the area median income. The Town has determined that providing reasonable returns to property owners and developers are necessary in order to realize the appropriate level of housing units, including affordable/workforce units, and defers to the Long Island Workforce Housing Act to set the affordability standards for the B-MX District.

**Comment L4-1**

*We should* somehow attract quality businesses to the area. Please, no more hair salons, nail salons, eyebrow weaving, cash for gold and jewelry, fast food eyesores, etc. I’d like to be able to buy a book or a gift, sit down for dinner at some place a little more high-end than Applebee’s or Dunkin Donuts, or take my wife for a drink at a bar that’s not a dive or doesn’t have a sign in the window indicating No Weapons.

**Response L4-1**

The goals of the Proposed Action are to promote economic development and revitalization benefits for the community and to attract high quality businesses, including food and beverage establishments to downtown Baldwin. The proposed zoning amendments regulate the uses permitted for any development proposed within the B-MX District zoning framework. As outlined in §427, permitted uses within the B-MX District are limited to those most desired by the Baldwin community, as expressed during the various public meetings held prior to the publishing of the DGEIS. In addition, §428 sets forth a list of uses that are prohibited within the B-MX District to eliminate unwanted uses, including for example drive-thru restaurants and check-cashing establishments. Note, however, that the B-MX District is an overlay district, and a property owner or developer may choose to develop under the framework of the existing underlying zoning. In addition, within the use categories of retail trade and restaurants, the Town cannot regulate the exact businesses that will operate in the B-MX District.

**Comment L4-2**

My second concern is something that is controllable: traffic on Grand Avenue. Almost every day, I walk to my local supermarket here in North Baldwin and I see the following: a TOH lot near the Lutheran Church which never has more than 6-7 cars. But then I will see cars pulling in and out of 7/11. then MacDonald’s, then the bank, then KFC, etc.. three, or four, or five stops, all within a few blocks, - all of it unnecessary, a waste of gas, and dangerous.

If I venture South on Grand, depending on the time of day, I’ll often see traffic backed up a good deal by a Popeye’s restaurant. On several occasions, I’ve seen the shutdown of the entire Grand Avenue, and I am not exaggerating. Cars from every possible angle, some of them perpendicular to the traffic lanes, will jockey for position, and a ridiculously long wait, not to enter the parking lot, but to be on-line for the take-out window...I strongly suggest that for any new businesses that come to Baldwin,
especially for downtown, that both drive-in windows and store-owned parking lots not be allowed.

**Response L4-2**

The zoning changes proposed for the overlay district will exclude drive-thru restaurants. The Design Guidelines developed for the overlay district include reducing the number of curb cuts that service development sites to reduce the number of turning conflicts along the major roadways. Reducing the number of curb cuts will help improve traffic flow along the major roadways within the overlay district. The Design Guidelines further recommend that parking be placed on the backside of buildings, and that they be accessed from the side or rear sides of the site. This would further reduce the number of curb cuts along the major roadways, thus improving traffic flow. Cross access between sites is further recommended to minimize trips for patrons visiting multiple sites.

**Comment L5-1**

*I am concerned about the breadth and width of the zoning coverage itself and if the flexibility outside of the designated areas would still be the case for developers interested in projects either north or south of the highlighted zones. I was told that there would be flexibility and that each case would be determined on an individual basis.*

**Response L5-1**

The proposed zoning amendments would apply only to those developers and property owners within the boundaries of the B-MX District. In response to community concerns raised at the public scoping hearing held on May 6, 2019, the DGEIS analyzes the possibility of extending the boundaries of the B-MX District to include the intersection of Grand Avenue and Atlantic Avenue to the south, as well as the area along Grand Avenue, north to the Southern State Parkway. However, as detailed in Response H1-1 below, the Expanded Rezoning Area Alternative would not advance the primary goal of the B-MX District to permit additional density within walking distance to transit (particularly the LIRR Baldwin Station) to support the Town’s goals.

Developers and property owners outside these boundaries may submit applications for a zoning variance, which would be reviewed on a case-by-case basis. However, the Town believes that the entire Baldwin community, including residents and visitors outside of the B-MX District boundary, would experience the benefits of the Proposed Action, through increased economic activity as well as an influx of additional residents to downtown.

**Comment L5-2**

*What will change in how potential businesses are attracted to the area? Residents are not looking for more nail salons.*

**Response L5-2**
See Response L4-1.

**Comment L5-3**

*Besides window dressing and sidewalks to cover up bad roads, what else is being done that could reduce the taxes for residents?*

**Response L5-3**

The Town believes the proposed zoning amendments will alleviate the tax burden on Town residents in the long term, as undeveloped or underdeveloped parcels are redeveloped with mixed-use, residential, and commercial buildings that contribute more to the Town’s tax revenues. In addition, implementation of the proposed Design Guidelines for new development and major redevelopment within the overlay district would elevate the aesthetic character of the area and may have a positive effect on property values overall.

**Comment L5-4**

*Older residents do not feel that their needs are being addressed by the ongoing attention to Millennials with little regard for the mobility issues of WW2 and older Baby Boomers. Long Island has a large proportion of residents in that age segment than any other part of the country and the push for transit-oriented housing and pathways that eliminate parking, seating and other direct access amenities for people with physical challenges is doing a disservice to the core tax paying constituency.*

**Response L5-4**

One of the goals of the proposed zoning amendments is to provide diversified housing options for residents in Baldwin. The Town believes that transit-oriented apartment-style units would be desirable to many residents, including both young working professionals and empty-nesters looking to downsize from a larger single-family home. Transit access is also an amenity for elderly residents or residents with disabilities, for whom reliance on a car may be difficult or undesirable. Finally, the Design Guidelines encourage the installation of sidewalk amenities, including seating.

**Comment L6-1**

*The proposed ordinance includes a list of eligible Community Benefits or Amenities in exchange for zoning incentives to the developer such as FAR Development Bonuses. Not included in this list of Community Benefits or Amenities is the provision of an affordable/workforce housing set-aside. Staff strongly recommends that the proposed zoning ordinance be revised to reference a minimum 10 percent workforce housing set-aside as an eligible Community Benefit or Amenity. Incorporating this language would not only conform with Nassau County’s policy of encouraging diverse housing options at locations close to public transit but would also be in compliance with the GML Section 699-B (Long Island Workforce Housing Program) which requires a minimum 10 percent workforce housing set-aside under certain development scenarios, particularly when density bonuses are involved.*
Response L6-1
See Response L3-1.

Comment H1-1

*Considering that Baldwin runs from the Bay to the Parkway, there are businesses that have issue with regard to whether there’s going to be inclusion, with regard to any of these proposed benefits and assistance to develop all of Baldwin along Grand Avenue.*

Response H1-1

In response to community concerns raised at the public scoping hearing held on May 6, 2019, the DGEIS analyzes the possibility of extending the boundaries of the B-MX District to include the intersection of Grand Avenue and Atlantic Avenue to the south, as well as the area along Grand Avenue, north to the Southern State Parkway. Section 5.2 of the DGEIS presents an analysis of this “Expanded Rezoning Area Alternative.” As detailed in Section 5.2, the Expanded Rezoning Area Alternative would not advance the primary goal of the B-MX District to permit additional density within walking distance to transit (particularly the LIRR Baldwin Station) to support the Town’s goals for downtown revitalization (e.g., increased economic activity, housing options, walkability, reduced retail vacancies, and aesthetic enhancement).

However, the Town believes that the entire Baldwin community, including residents and visitors outside of the B-MX District boundary, would experience the benefits of the Proposed Action. Increased economic activity within downtown Baldwin, as well as an influx of additional residents to downtown, would increase vitality along Grand Avenue and enhance the buying power of the community as a whole, which would also support businesses outside the B-MX District boundary.

Comment H1-2

*The amenities that are going towards parking, again, what is going to be addressing those issues when you’re talking about increasing the lanes on Sunrise Highway and you have a road calming process? You will now have two lanes turning from Sunrise Highway into one lane on Grand Avenue. And you cannot tell me that that’s not going to pose some challenges.*

Response H1-2

The Nassau County Department of Public Works (NCDPW) conducted a detailed Traffic Study as part of its Complete Streets project, which analysis and report was separate from the Town’s proposed zoning amendments. This study analyzed the future roadway geometry including the proposed transition from two lanes to one lane (road diet) on Grand Avenue. The analysis further took into account the traffic generated as a result of the implementation of the proposed zoning amendments. The study concluded that Grand Avenue will operate adequately after the implementation of the road diet.

Comment H2-1
I have a big issue with is the weight limit that is able to go through the Town on Grand and on Merrick. Being that my business is on Merrick, I have two cars that was hit, you know, where the cars are speeding by that are trucks. And the trucks are there, cars are going around. So it’s always a problem, not to mention how many people have gotten hit by a car on that road, because of the speed. So I was wondering are they going to -- since it’s Merrick, are they going to try to slow down the traffic in that area right there between, you know, on Grand.

Response H2-1

The NCDPW, as part of the Complete Streets project is proposing geometric improvements and traffic calming measures at the intersection of Grand Avenue and Merrick Road. In particular, the NCDPW is proposing to remove the channelized right turn lanes on the southwest and northeast corners of the intersection. This would reduce vehicle speeds as they traverse the intersection. Such improvements would further reduce walking distances for pedestrian across Merrick Road and Grand Avenue. Vehicular weight restrictions and speed limits are appropriate on these roadways to meet the needs of businesses within the commercial Baldwin downtown.

Comment H2-2

In reference to the parking, we do have Town-supplied parking, but nobody ever knows that it’s there. How can -- what are we going to do in reference to showing people, “Hey, there’s actually parking back there. There’s a parking over here”? There’s no signage that you can see where there’s actually Town parking.

Response H2-2

While municipal parking signage is not directly related to the Proposed Action, the Town is committed to upgrading and leveraging municipal parking facilities in downtown Baldwin to support both LIRR ridership and visitation to local businesses.
Conditions and Criteria under which Future Actions will be Undertaken or Approved including Requirement for Subsequent SEQRA Compliance

As an FGEIS, this document properly provides a generic assessment of potential environmental impacts associated with the Proposed Action, which comprises the proposed amendments to the Town of Hempstead Building Zone Ordinance (BZO), including the proposed Design Guidelines, and zoning map, rather than any actual development. In accordance with the SEQRA regulations, at NYCRR §617.10(a), this allows for the FGEIS to “…present and analyze in general terms a few hypothetical scenarios that could and are likely to occur.”

In contrast to the generic nature of this FGEIS, the parameters for a project-specific DEIS for a development application are more definitive, which allows potential impacts to be evaluated with greater precision and certainty. This would apply, for example, to the rates of water consumption, sewage generation and vehicular trip generation associated with a particular proposal for land development. In such a case, the reviewing agency can more readily and directly assess whether the infrastructure – e.g., the water supply, sewage collection and disposal, and roadway systems – has sufficient capacity to accommodate the increased demands that would result from the proposed project, or if significant impacts would result which require the implementation of appropriate mitigation measures.
The Proposed Action does not include specific development, but instead may facilitate or encourage development. Development is not directly being proposed by the proposed zoning amendments, and the timing and actual levels of development cannot be accurately predicted. In order for the decision-making process to appropriately account for uncertainties related to the potential impacts of future actions, the SEQRA regulations, at 6 NYCRR §617.10(c) and (d), establish that:

(c) *Generic EISs and their findings should set forth specific conditions or criteria under which future actions will be undertaken or approved, including requirements for any subsequent SEQR compliance. This may include thresholds and criteria for supplemental EISs to reflect specific significant impacts, such as site specific impacts, that were not adequately addressed or analyzed in the generic EIS.*

(d) *When a final generic EIS has been filed under this part:*

1. No further SEQR compliance is required if a subsequent proposed action will be carried out in conformance with the conditions and thresholds established for such actions in the generic EIS or its findings statement;

2. An amended findings statement must be prepared if the subsequent proposed action was adequately addressed in the generic EIS but was not addressed or was not adequately addressed in the findings statement for the generic EIS;

3. A negative declaration must be prepared if a subsequent proposed action was not addressed or was not adequately addressed in the generic EIS and the subsequent action will not result in any significant environmental impacts;

4. A supplement to the final generic EIS must be prepared if the subsequent proposed action was not addressed or was not adequately addressed in the generic EIS and the subsequent action may have one or more significant adverse environmental impacts.*

These conditions and criteria identify circumstances under which no further review under SEQRA would be required, because the GEIS demonstrates that the action contemplated, such as site-specific future development, would not result in a significant environmental impact. This may occur, for example, when the potential impacts of a specific development project proposed under the new zoning framework remain below the established capacity threshold for the relevant infrastructure. Conversely, other circumstances may be identified whereby supplemental SEQRA review is necessitated because a specified threshold would be exceeded if a specific development were to be constructed, or if a specific environmental issue associated with the future action was not evaluated or not sufficiently evaluated in the GEIS.

This section presents the final version of the relevant conditions and criteria based on comments received during public review of the DGEIS. Ultimately the conditions
and criteria will be promulgated in the Town Board’s Findings Statement for the Proposed Action adopted at the end of the current SEQRA process.

Once the Findings Statement has been adopted, along with the proposed zoning amendments (should that occur), all future actions within the Project Area would be required to be further evaluated with respect to SEQRA compliance. In conformance with §617.10(d) of the SEQRA implementing regulations, and as set forth in §431.2(A) of the proposed Baldwin Mixed-Use Overlay District zoning regulations, this evaluation will focus on determining whether a given future action would contravene any of the conditions or criteria established in the Findings Statement. Should any future action pose the potential for impacts that were not addressed or not adequately assessed in the GEIS, the need for supplemental SEQRA review would be indicated. Such supplemental SEQRA review may entail the preparation of an Environmental Assessment Form (EAF), or a project-specific EIS if it is determined that future potential impacts may be significant and adverse.

Language in the proposed zoning amendments sets forth the procedures for determination of consistency with the conditions and criteria (see Appendix C of this FGEIS), as follows:

§ 431.23. Administration and Procedure.

The review and approval process for new development, redevelopment, and building expansions which result in a ten percent or greater increase in the building’s floor area in the B-MX District, shall be as follows:

A. A building permit application shall be submitted to the Buildings Department. In addition to all otherwise required documentation, an applicant shall also submit all materials necessary for review by the Design Review Board, including a consistency analysis with the SEQRA Conditions and Criteria set forth in the Findings Statement adopted by the Town Board. The Design Review Board will determine the level of State Environmental Quality Review Act (“SEQRA”) review required, if any, in accordance with 6 NYCRR §617.10(d). The Plans Examiner shall, upon the submission of a complete application, conduct a zoning compliance review and review for compliance with SEQRA.

Any future action that would contravene any of the conditions or criteria set forth below would be subject to the full requirements of SEQRA. Such supplemental SEQRA review would be required to appropriately address all relevant environmental parameters, and would not necessarily be limited to the parameters associated with the specific conditions/criteria that the future action would contravene.

It is important to note that any future action under the proposed zoning amendments would involve a discretionary approval. These procedural requirements provide the opportunity for public review and due deliberation prior to decision-making, thereby creating a suitable framework for properly considering the SEQRA implications of any such future action.
3.1 Conditions and Criteria

Based on the analyses contained in this GEIS, the following represent the conditions and criteria, which, if met, would allow full development of the B-MX District within the Town of Hempstead without the need for further SEQRA compliance or further approval. As described above, further review under SEQRA would not be needed for any future action that complies with the conditions and criteria set forth below.

- Total development of the Project Area shall not exceed the following development limits:
  - 1,186 residential units
  - Approximately 253,406 SF - retail
  - Approximately 310,637 SF – office

- For development projects within or adjacent to the following resources, documentation must be secured from the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) indicating that the proposed project will not adversely impact the resource or that a Letter of Resolution or Memorandum of Agreement has been executed.
  - Koch Building (710-720 Sunrise Highway)
  - Baldwin Public Library (2385 Grand Avenue)
  - Sunrise National Bank (732 Sunrise Highway)
  - 2281 Grand Avenue
  - 2431 Grand Avenue

- Any application for development that seeks relief from Town’s standards (existing and proposed) pertaining to architecture, building facades, landscaping, signage, siting of building, lighting, site furnishing, etc., or that substantially contravenes the Design Guidelines or project-specific public input regarding aesthetic character/ design during the requisite public hearing process, is required to undergo further review pursuant to SEQRA in order to assess whether the project design entails a potentially significant aesthetic impact.

- At the time of site plan application, an on-site investigation shall be undertaken to better define the site-specific soil properties, and to assist in identifying appropriate measures to minimize potential impacts with respect to soils and topography in order to implement proper erosion and sedimentation controls in accordance with Article XXXVIII of the Town’s BZO.

- Properties proposed for development or redevelopment are required to implement a dust control plan during the construction period for implementing dust control measures during dry or windy periods. The appropriate methods of dust control would be determined by the surfaces affected (e.g., roadways or disturbed areas).

\[2\text{ With the exception of the limitation on residential units (which is a maximum), the amount of retail and office space can vary (as same will be dictated by actual market demand), as long as such development conforms with the requirements of the B-MX District.}\]
Properties proposed for development or redevelopment within the Project Area are required to comply with Article XXXVIII, *Stormwater Management and Erosion and Sediment Control*, of the Town BZO, of the Town’s stormwater ordinance.

Properties proposed for development or redevelopment within the Project Area are required to comply with Article XXXIV, *Flood Hazard Zones*, of the Town BZO, as well as FEMA flood mitigation standards, where applicable.

Water efficient equipment and water conservation measures are encouraged in new development/redevelopment within the Project Area, as part of the Design Guidelines. As exemplified by the Design Guidelines, various streetscaping, landscaping, and sustainability and green building design standards and principles have been created to offset potential adverse impacts of flood hazards. Therefore, proposed projects within the B-MX District must demonstrate use of such measures to minimize flooding and provide for sustainable and resilient development.

To minimize potential adverse traffic impacts associated with future projects, the mitigation measures set forth in the following table are required as development/redevelopment is implemented:

<table>
<thead>
<tr>
<th>Location</th>
<th>Capacity Improvements</th>
<th>Signal Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Existing Conditions</td>
<td>Proposed Mitigation</td>
</tr>
<tr>
<td>1 Sunrise Highway &amp; Grand Avenue</td>
<td>Eastbound - One exclusive left-turn lane, two through lanes, a shared through and right-turn lane, and a shoulder lane</td>
<td>Restripe approach to provide: two left-turn lanes, two through lanes, and one shared through and right-turn lane Adjust curb radii on southwest corner and pull back northbound left-turn lane stop bar</td>
</tr>
<tr>
<td></td>
<td>Westbound - One exclusive left-turn lane, two through lanes and a shared through and right-turn lane</td>
<td>Widen northside of approach to provide: two left-turn lanes, two through lanes, and one shared through and right-turn lane</td>
</tr>
<tr>
<td>2 Sunrise Highway &amp; Central Avenue</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>3 Sunrise Highway &amp; Milburn Avenue</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Each applicant must contribute to a traffic mitigation fund to be established by the Town of Hempstead in order to provide the necessary funding for the mitigation improvements outlined in the table above. Note that the mitigation measures set forth above are subject to review and approval of the New York State Department of Transportation prior to implementation, as Sunrise Highway is a New York State roadway.

The contribution to the traffic mitigation fund would be based on the total number Saturday peak hour trips generated by the proposed development. The Saturday peak hour trips shall be calculated utilizing the latest available edition of the Institute of Transportation Engineers, Trip General Manual. No adjustments to the trip generation estimates are permitted.

A $950.00 per Saturday peak hour trip fee would be required from each Applicant. When 900 Saturday peak hour drips are reached as a result of new development/redevelopment, the mitigation improvements shall be constructed by the Town of Hempstead or its designee utilizing the funds collected from the applicants.

For future developments seeking FAR development bonuses or reduced off-street parking requirements as set forth in the proposed zoning amendments, a Traffic Study and/or Parking Study as well as the required consistency analysis with the SEQRA conditions and criteria must be submitted to the Design Review Board. These analyses should include identification of the number of projected trips resulting from the incentivized portion of the proposed project during the weekday morning, weekday afternoon and Saturday mid-day peak-hour periods, using the same methodology outlined in the traffic analysis included in the DGEIS. The consistency analysis should also include other preceding applications in order to ensure that cumulative number of new trips does not exceed the thresholds set forth in the table below. The Town may require cash or payment-in-lieu of specific community benefits and/or amenities. In order to fund the recommended traffic mitigation measures included in the traffic analysis, as well...
as any additional transportation analyses needed to evaluate the thresholds and timing for the implementation of such mitigation.

<table>
<thead>
<tr>
<th>Time Period</th>
<th>No Build Full Yield Net Trips</th>
<th>Build Net Trips</th>
<th>Cumulative New Trips Allowed Under Incentive Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekday PM Peak Hour</td>
<td>505</td>
<td>265</td>
<td>240</td>
</tr>
<tr>
<td>Saturday Midday Peak Hour</td>
<td>594</td>
<td>410</td>
<td>184</td>
</tr>
</tbody>
</table>

In the event that any of the conditions are proposed to be exceeded by future development (without the incentive development bonus), additional SEQRA compliance would be necessary in accordance with 6 NYCRR §617.10(d)(2), (3) or (4), as would be appropriate, given the actual development plan proposed and the associated potential environmental impacts associated therewith.

If an incentive development bonus is sought, an applicant must comply with the §431.2.E(3) of the proposed Baldwin Mixed-Use Overlay District.

Furthermore, with respect to future development approvals (i.e., after the Town Board approves the Proposed Action, as described above), an applicant will be required to obtain site plan approval from the Town of Hempstead Building Department. In addition to the standard site plan application requirements, at the time a site plan is submitted to the Town, an applicant must:

- Provide a letter of sewer availability/connection approval (or documentation from the appropriate regulatory agency) demonstrating availability/connection to the NCDPW municipal sewer system.
- Provide a letter of water availability/connection from the New York American Water – Lynbrook Operations District (or other appropriate water supply purveyor).
- Document consultation with the Baldwin Fire Department indicating either no objection and/or compliance with required project mitigation measures.
- Submit a Phase I Environmental Site Assessment (ESA) to NCDH and the Town for each site. In the event that the Phase I ESA identifies the potential presence of contaminants in soil, groundwater and/or soil vapor at the site, a Phase II ESA should be completed and submitted to NCDH and the Town to determine the presence or absence of contamination in subsurface soils, groundwater and soil. If evidence of contamination is identified, documentation that such contamination has been properly addressed from the appropriate regulatory agency (e.g., NCDH, NYSDEC) must be submitted.
› Provide a letter of service availability from PSEG Long Island with respect to the specific electric load and demonstrate that any necessary site improvements to provide electric service is provided.

› Provide a letter of service availability from National Grid, if applicable, for the specific gas load and demonstrate that any necessary site improvements to provide natural gas (or other fuel alternatives) service is provided.

› During the design process for specific developments, emissions associated with the HVAC systems must adhere to local, state, and federal permitting requirements and incorporate any necessary air emissions controls.

› Adhere to the requirements of the Town of Hempstead Noise Ordinance for both construction and operation. If any future action is determined to pose the potential for contravening the Noise Ordinance, either due to construction or operation, the need for supplemental SEQRA review would be indicated.

› Stationary source equipment (e.g., HVAC equipment) must be designed to meet noise limit requirements of the Town Code and the New York Department of Environmental Conservation Noise Policy. The planning and design of stationary equipment should include maximizing potential shielding to nearby noise sensitive receptors from rooftops, parapet walls and other intervening structures, utilizing low-noise equipment, and/or adding sound attenuation packages to the equipment such as using acoustic enclosures, acoustic absorption, or quieter fans, as feasible and practicable.

› Future development projects including residential uses located near arterial roadways or the LIRR must be designed to achieve the HUD exterior noise standard of 65 dBA Ldn and the HUD interior noise goal of 45 dBA. The planning and design of future developments must consider siting the building(s) sufficiently from transportation noise sources, locating and orienting areas of outdoor use away from transportation noise sources, constructing intervening barriers or structures between transportation noise sources and the development, and/or designing the building to achieve an appropriate level of outdoor-to-indoor sound attenuation. Overall wall sections must provide a high enough Sound Transmission Class (STC) to reduce interior sound levels to 45 dBA Ldn or less by means of using windows and doors that provide sufficient sound level attenuation and using denser wall materials.
### Future HUD Noise Levels

<table>
<thead>
<tr>
<th>Source Type</th>
<th>Location</th>
<th>30 feet</th>
<th>50 feet</th>
<th>100 feet</th>
<th>150 feet</th>
<th>200 feet</th>
<th>300 feet</th>
<th>400 feet</th>
<th>500 feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>Grand Avenue (North of Sunrise Hwy)</td>
<td>73.3</td>
<td>70.0</td>
<td>55.3</td>
<td>52.4</td>
<td>50.1</td>
<td>46.5</td>
<td>43.5</td>
<td>40.9</td>
</tr>
<tr>
<td>Traffic</td>
<td>Grand Avenue (South of Sunrise Hwy)</td>
<td>72.8</td>
<td>69.4</td>
<td>54.7</td>
<td>51.9</td>
<td>49.6</td>
<td>46.0</td>
<td>43.0</td>
<td>40.3</td>
</tr>
<tr>
<td>Traffic</td>
<td>Sunrise Highway (West of Grand Ave)</td>
<td>77.8</td>
<td>74.5</td>
<td>59.8</td>
<td>56.9</td>
<td>54.6</td>
<td>51.0</td>
<td>48.0</td>
<td>45.4</td>
</tr>
<tr>
<td>Traffic</td>
<td>Sunrise Highway (East of Grand Ave)</td>
<td>79.2</td>
<td>75.9</td>
<td>61.1</td>
<td>58.3</td>
<td>56.0</td>
<td>52.4</td>
<td>49.4</td>
<td>46.8</td>
</tr>
<tr>
<td>Traffic</td>
<td>Merrick Road</td>
<td>74.1</td>
<td>70.8</td>
<td>56.1</td>
<td>53.3</td>
<td>51.0</td>
<td>47.3</td>
<td>44.4</td>
<td>41.7</td>
</tr>
<tr>
<td>Trains</td>
<td>LIRR</td>
<td>82.5</td>
<td>79.2</td>
<td>64.5</td>
<td>61.6</td>
<td>59.4</td>
<td>55.7</td>
<td>52.7</td>
<td>50.1</td>
</tr>
</tbody>
</table>

Source: VHB, 2019.

Bold values indicate sound levels are Marginally Unacceptable (65 to 75 DNL) or Unacceptable (Greater than 75 DNL).

1. DNL levels 100 feet or farther back from source include 10 to 14 dBA of insertion loss from intervening buildings.

For development sites which are closest to the roadway centerlines along Grand Avenue and Merrick Road, approximately 30 to 50 feet away, future noise levels are considered to be *Normally Unacceptable* according to the HUD Noise Standard because they are between 65 and 75 DNL. Future noise levels are considered to be *Unacceptable* according to the HUD Noise Standard approximately 30 to 50 feet from the roadway or track centerline along Sunrise Highway and the LIRR corridor. Sound levels for all sources of noise at 100 feet and beyond are considered *Acceptable* according to the HUD Noise Standard.

For applications involving HUD funding, a HUD noise assessment is required and must be performed. For HUD-funded noise-sensitive developments (particularly residential developments) that would be located at distances where Normally Unacceptable sound levels are anticipated to occur, sound attenuation features are required to reduce interior sound levels by 25 dBA (for exterior sound levels between 65 and 70 dBA) or by 30 dBA (for exterior sound levels between 70 and 75 dBA). For developments where there would be Unacceptable sound levels, mitigation measures are required to reduce interior sound levels to the interior noise goal according to HUD review on a case-by-case basis.
Appendix A

Description

Written Correspondence
July 22, 2019

VIA HAND DELIVERY

Mr. Richard Regina, Esq.
Counsel to the Town Board
Town of Hempstead
One Washington Street
Hempstead, New York 11550

Re: Proposed Revisions to Town of Hempstead
Baldwin Mixed-Use Zoning Overlay District (B-MX District)

Dear Mr. Regina,

As you may be aware, our office represents Breslin Realty Development Corporation with respect to the proposed Baldwin Mixed-Use Zoning Overlay District. The following represents an analysis of the draft code materials with key recommendations to improve same before they are adopted.

I. Introduction

We are fully appreciative and supportive of your efforts, both individually and on behalf of the Town of Hempstead, to move forward with a revitalization effort of the Baldwin downtown community. By proposing the enactment of an overlay district we too are optimistic that it will create a walkable downtown, which blends street-front retail and supporting services with vertical residential development, resulting in a “Main Street Environment,” for residents and visitors to enjoy.

It is our belief that the accompanying overlay district regulations must encourage increased residential and commercial density. In support of this legislative effort, a mixed-use project by Mr. Wilbur Breslin is proposed on the southeast corner of Sunrise Highway and Grand Avenue, one of the most prominently located anchoring corners in the proposed overlay zone. The Subject Premises is a 1.65 acre (71,913 square feet) parcel with frontages along both Grand Avenue and Sunrise Highway, and is located directly across the street from the Baldwin LIRR station (the “Subject Premises”).
The purpose of this correspondence is to outline some important inconsistencies among the bulk and density metrics of the Town of Hempstead’s proposed Baldwin Mixed-Use Zoning Overlay District (the “B-MX District”). Our concern is that elements of the preliminary code as drafted, will frustrate, from a structural perspective, the legislative intent within the B-MX District. Among other issues, the primary concern is with the units per acre density metric, which as drafted, will work against the vertical and bulk relief intended by this overlay zone.

A copy of the draft B-MX district regulations are annexed hereto as Exhibit “A”. In addition to the specific recommendations discussed herein, a proposed modified bulk and regulation control table is included with this correspondence, for your use in moving forward.

While we will use the Subject Premises as a specific reference, we view the suggestions contained herein as applicable to the similarly situated sub-districts within the larger overlay district. Therefore, we seek to provide suggestions to the Town and its outside consultants, VHB Engineering, on how to improve the proposed zoning text to expand development potential and fulfill the legislative intent in enacting the B-MX District.

II. B-MX District Purpose and Legislative Intent

The 2017 study commissioned by the Town, the “Baldwin Downtown and Commercial Corridor Resiliency Study (the “DCCR Study”), was the precursor for the creation of the B-MX overlay district. The DCCR Study was tasked with reviewing the existing economic and physical conditions along the downtown Baldwin corridor centered along Grand Avenue and the Baldwin LIRR station, which has been adversely affected by a lack of private sector investment and continuity of uses, as well as a history of vacancies. The key recommendation of the DCCR Study was the creation of a new overlay district along the Grand Avenue/LIRR corridor that would revitalize the Baldwin community into a walkable, transit-oriented downtown with a healthy mix of residential, retail and commercial uses supported by enhanced infrastructure. See B-MX §422.A.

The Town’s stated legislative intent in enacting the B-MX District is as follows:

[2] The primary goal of the B-MX District is to facilitate private investment, public benefits and economic development within downtown Baldwin. The new overlay district seeks to leverage the area’s proximity to public transportation by promoting mixed-use transit-oriented development around the Baldwin LIRR station to meet increasing demands for housing and retail uses, drive foot traffic, implement transportation and infrastructure improvements necessary to accommodate future growth and enhance the visual quality and pedestrian amenities through the implementation of design guidelines, which are contained as an appendix to the Building Zone Ordinance (see “Baldwin Mixed-Use
Sahn Ward Coschignano, PLLC

Mr. Richard Regina, Esq.
Counsel to the Town Board
Town of Hempstead
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Zoning Overlay District (B-MX) Design Guidelines”).
[3] The B-MX District regulations, as an overlay district, have been designed to
minimize the creation of non-conformities with underlying zoning.
[4] With the stated goals in view, this article is enacted with the intention of
promoting the health, safety and general welfare of the Town of Hempstead and
its residents. See B-MX §422.B(2)-(4).

A copy of the “Baldwin Mixed-Use Zoning Overlay District (B-MX) Design Guidelines”
mentioned above and prepared by VHB is annexed hereto as Exhibit “B”.

III. The B-MX Sub-Districts

As written, the B-MX overlay district is divided into three (3) sub-districts as indicated
on the zoning map dated February 22, 2019, prepared by VHB and annexed hereto as Exhibit
“C”. The sub-districts are as follows:

i. Baldwin – Mixed Use, Transit-Oriented Development (B-MX, TOD)
ii. Baldwin – Mixed Use, Merrick Road Gateway (B-MX, MRG)
iii. Baldwin – Mixed Use, Commercial Transition (B-MX, CT)

Preliminarily, we note that the zoning map in Exhibit “C” incorrectly references the (B-
MX, TOD) and (B-MX, CT) sub-districts on the map key. The abbreviations for these sub-
districts should be reversed on the map key. The proposed development site is located within
the B-MX, TOD sub-district, which encompasses the area in closest proximity to the Baldwin LIRR
station.

IV. B-MX Bulk and Density Controls

B-MX §429 sets forth the specific lot, bulk and density zoning controls for each of the B-MX
sub-districts as follows:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>B-MX, TOD</th>
<th>B-MX, MRG</th>
<th>B-MX, CT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Maximum floor area ratio</td>
<td>2.0</td>
<td>1.5</td>
<td>1.0</td>
</tr>
<tr>
<td>2. Maximum building area coverage</td>
<td>90% for commercial buildings</td>
<td>90% for commercial buildings</td>
<td>75% for commercial buildings</td>
</tr>
<tr>
<td>3. Maximum residential density for multifamily and mixed-use buildings</td>
<td>60 units/acre</td>
<td>45 units/acre</td>
<td>30 units/acre</td>
</tr>
<tr>
<td>4. Maximum building height</td>
<td>max 75 feet</td>
<td>max 60 feet</td>
<td>max 45 feet</td>
</tr>
<tr>
<td>5. Maximum building setback from front lot line (build to line), except for pedestrian plaza areas</td>
<td>0 feet</td>
<td>0 feet</td>
<td>10 feet</td>
</tr>
<tr>
<td>6. Minimum side yards</td>
<td>None required</td>
<td>None required</td>
<td>None required</td>
</tr>
<tr>
<td>7. Minimum rear yard</td>
<td>$d^{(1)}$</td>
<td>$d^{(1)}$</td>
<td>$d^{(1)}$</td>
</tr>
<tr>
<td>8. Minimum landscaped buffer area when adjacent to residential uses</td>
<td>25 feet</td>
<td>25 feet</td>
<td>25 feet</td>
</tr>
</tbody>
</table>
V. Outline of the Bulk and Density Control Issues

As set forth more specifically herein, we believe there are a number of structural inconsistencies, within the density regulations as written, that when applied potentially frustrate the intended bulk development articulated in the code. These inconsistencies when applied to proposed projects, may ultimately thwart the primary purpose and legislative intent for the creation of the overlay district. The most problematic bulk and density controls that are not working in harmony to achieve the Town’s desired effect are identified below and are as follows:

1. Maximum residential density for multifamily and mixed-use buildings
2. Maximum Floor Area Ratio and Building Area Coverage
3. Minimum Landscaped Buffer Area When Adjacent to Residential Uses

The selected metrics serve to highlight our view of potential inconsistencies and the potential resulting problematic effect of the interplay between the bulk and density controls in practice. In addition to this issue identification, specific suggestions for resolution of the identified issues and suggested resultant revisions to the ordinance are offered, so that the articulated bulk requirements and guidelines harmonize with the Town’s vision for the Baldwin downtown community.

1. Maximum Residential Density for Multifamily and Mixed Use Buildings:

As noted in the introduction, each of the three sub-districts in the B-MX District has a density restriction that is based on units per acre. The TOD sub-district as written permits up to 60 units per acre with a lesser amount of 45 and 30 units per acre in the MRG and CT sub-districts, respectively. Although it is common to utilize a units per acre density control in zoning, in this case, when the units per acre metric is applied, together with the enumerated height and other density metrics, a structural conflict emerges. This particular restriction only contemplates parcel size as the defining metric that controls, and as a result does not allow for the accounting of a harmonized vertical footprint. Due to the fact that it does not define either the type or size of units that are intended to be incentivized, it actually so deeply governs density as to be structurally in conflict with the balance of the bulk density requirements. Said differently, the math simply does not work and there is no conforming way to achieve vertical density and not be grossly violative of the governed units per acre. By way of example, a one acre parcel, or a group of assembled parcels totaling 40,000 SF, in the TOD sub-district, would yield only 60 units. Practically speaking, density objectives would not be met, nor would project developers be able to bear the cost of acquisition, construction and development with a yield of this size.

One of the key principles supporting a successful transit-oriented downtown is to generate a healthy number of “feet on the street,” and to support two (2) large demographic
segments that are being economically pressured-off of Long Island, namely empty nesters and millennials/young professionals. The desired density is further necessary to support the small businesses that are sought after to sustain a new and vibrant neighborhood. In order to fulfill the promise of the B-MX zone and the revitalization of the Baldwin downtown, there must be a coordinated and clearly articulated code that incentivizes the development of a denser number of units that are right-sized to match.

The only viable solution to this problem would be to move away from density controls governed by units per acre entirely, and instead use area, bulk and height restrictions to determine the size of projects. As more fully described herein, when floor area ratio, building area coverage and height harmonize in the right manner, a clear building volume mass is created that is not defined by unit restrictions. The proposed revised zoning chart in Section VI removes the units per acre metric in order to realize this goal.

2. **Maximum Floor Area Ratio and Building Area Coverage:**

Under each of the B-MX sub-districts, the maximum amount of floor area that can be constructed on a particular lot is determined by the lot area of a parcel multiplied by the FAR for that sub-district. The sub-district with the highest FAR is the B-MX TOD District with an FAR of 2.0. This, coupled with a maximum building coverage of just 60% for mixed-use or multi-family buildings, when taken together, results in another metric inconsistency that would only facilitate the conforming construction of a building no higher than 3 stories before exceeding the FAR restriction. Again, applying this enumerated metric would result in another a significant disconnect between the permitted heights in the B-MX zone and the bulk intent.

By way of example, a one acre parcel, or a group of assembled parcels totaling 40,000 square feet, would max out its development potential at 80,000 SF of floor area. The resulting maximum footprint for a mixed-use or residential building footprint would be 24,000 SF (40,000 x .6), and yield a maximum of 3-stories residential development before a variance would be needed from the FAR restriction. Keeping in mind that parking must be contained within the site as well, which by resultant necessity helps define the necessary footprint and in many cases the number of stories, the available density for residential development, and vertical site utilization becomes severely constrained.

The results of application of this metric are even more drastic in the B-MX, MRG and CT sub-districts where FAR is 1.5 and 1.0 respectively and the building area coverage is 60%, and 40% for residential and mixed-use buildings, respectively. Using the same size parcel of 40,000 SF, only a 2.5 story mixed-use building can be constructed in either of these districts before needing variance relief from the overlay zoning, let alone contemplating the height utilization deployed to satisfy on-site stored parking. The potential for a “structural fail” would be amplified
by the fact that the vast majority of building lots within the overlay are significantly less than one acre in size, especially along the Grand Avenue corridor of the B-MX overlay map, where the depth of lots is rarely more than 100 feet. In our view, this potential inconsistency producing result can be remedied by increasing the FAR’s in the B-MX sub-districts, so that a vertical density can be achieved which is in line with the maximum building heights permitted within each sub-district. A remedy for each of the cited examples is listed below in Section VI, where floor area ratios are doubled in each of the B-MX sub-districts.

Likewise, building area coverage should be increased to eliminate this potential inconsistency. Accordingly, we suggest a metric of 75% be adopted in the B-MX, TOD and MRG sub-districts and 60% in the B-MX, CT sub-district. This change would create a conforming and code-harmonized platform, with an adequate building footprint to accommodate not only the necessary commercial and residential bulk, but the structured parking that must be accommodated on-site as well. This is especially important in a south shore community like Baldwin that has a high-water table, where underground parking structures may not be feasible.

3. **Minimum Landscaping Buffers Adjacent to Residential Uses:**

§429.A.8 in the B-MX District mandates a 25-foot landscape buffer area when adjacent to residential uses. Undoubtedly, adequate screening buffers between the downtown district and the adjacent residential community should be promoted and enforced. However, this amount of screening would severely hamstring the developable area in this particular overlay zone, especially on the west side of Grand Avenue where as mentioned above, the lots are particularly shallow. The practical effect of development on the shallow lots along Grand Avenue with these required buffers, is that building envelopes will become impractically smaller, and buildings will need to become much taller to make up for it. If they were even developable in a conforming manner, the residential neighbors would be trading the extra landscaping buffer for a view of much taller buildings.

An effective solution can be crafted by requiring taller fences along residential properties and/or a denser, but shallower landscape design requirement along residential borders. The combined effect of shorter buildings and a more desirable fence/landscape buffer would address these concerns while allowing for on-site parking storage. The proposed revised zoning chart in Section VI accordingly decreases the minimum landscape buffer from 25 feet to 10 feet in each of the sub-districts. It is further suggested that a detailed landscape buffer plan be submitted with any project that abuts residential uses, and that should include a mitigation plan for addressing impacts to residential properties.
VI. Design Review Board (the “DRB”)

§432 of the B-MX District code creates a new administrative agency within the Town to review applications submitted in the overlay district called the “Design Review Board” or “DRB”. The code states that the DRB will consist of three (3) employees of the Department of Buildings with site plan review backgrounds to be appointed by the Town Board. One of the clear legislative intents of the district is to create a more streamlined approach to zoning entitlements and to “minimize the creation of non-conformities with the underlying zoning.” See B-MX 422.B.3. Creating a new layer of review within the Town to handle applications in the B-MX zone, could possibly result in additional delays in the approval process and increased administrative expenses. An equally effective and more expedited solution may be to forego the creation of a new DRB and to instead have building permit applications submitted under the B-MX District be handled by designated plans examiners in the normal course of business. Existing staff that is already experienced with the complexities and requirements of the site plan review processes can simply be trained to handle cases under the new B-MX overlay zone and obviate the need for an additional process.

Section 432.A already requires a submission of supplemental environmental materials together with the typical zoning analysis undertaken by a Plans Examiner under any commercial application. The building permit review process can similarly be altered to fit the new considerations of the B-MX code without the need for added oversight by a newly created administrative entity. In the event an application under the overlay requires variances or otherwise does not conform to the B-MX overlay district regulations, it too could be handled in the ordinary variance course of business.

VII. Proposed Revised Lot and Bulk Control Zoning Chart

In accordance with the recommendations set forth above in this report, below is a proposed replacement lot and bulk control zoning chart for §429 of the B-MX District:

<table>
<thead>
<tr>
<th></th>
<th>B-MX, TOD</th>
<th>B-MX, MRG</th>
<th>B-MX, CT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Maximum floor area ratio</td>
<td>4.0</td>
<td>3.0</td>
<td>2.0</td>
</tr>
<tr>
<td>2. Maximum building area coverage</td>
<td>90% for commercial; 75% for mixed-use or multiple family</td>
<td>90% for commercial; 75% for mixed-use or multiple family</td>
<td>75% for commercial; 60% for mixed-use or multiple family</td>
</tr>
<tr>
<td>3. Maximum building height</td>
<td>Max 75 feet</td>
<td>Max 60 feet</td>
<td>Max 45 feet</td>
</tr>
<tr>
<td>4. Maximum building setback from front lot line (build to line),</td>
<td>0 feet</td>
<td>0 feet</td>
<td>10 feet</td>
</tr>
</tbody>
</table>
SAHN WARD COSCHIGNANO, PLLC

Mr. Richard Regina, Esq.
Counsel to the Town Board
Town of Hempstead
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except for pedestrian plaza areas

<table>
<thead>
<tr>
<th></th>
<th>Minimum side yards</th>
<th>Minimum rear yard</th>
<th>Minimum landscaped buffer area when adjacent to residential uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>None required</td>
<td>None required</td>
<td>None required</td>
</tr>
<tr>
<td>6.</td>
<td>Minimum rear yard</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>7.</td>
<td>Minimum landscaped buffer area when adjacent to residential uses</td>
<td>10 feet</td>
<td>10 feet</td>
</tr>
</tbody>
</table>

VIII. Conclusion

The Town has put forward an innovative idea to re-imagine and revitalize the Baldwin downtown community. The B-MX District will be a most effective tool to realize these goals and transform the community into a vibrant walkable downtown, anchored by addressing the needs of core demographic and economic constituencies. The modifications respectfully recommended in this report are offered to help this goal become a reality, and to realize the full potential benefit to the community empowered by this ordinance.

Thank you for the opportunity to submit this correspondence to your attention and we look forward to working together with you to achieve your commendable objectives. We stand ready to assist further as may be required.

Very truly yours,

[Signature]

Chris J. Coschignano

CJC:emr

Enclosures

cc: Breslin Realty Development Corporation
Exhibit “A”

Baldwin Mixed-Use (B-MX) Overlay District Draft Ordinance
TOWN OF HEMPSTEAD
Building Zone Ordinance

Proposed Zoning Amendments to Create a Baldwin Mixed-Use Zoning Overlay District

Article XLII. Baldwin Mixed-Use Overlay District (B-MX)

§ 422. Statement of intent and purpose.

A. Background.

(1) Downtown Baldwin, centered along Grand Avenue and the Baldwin LIRR station, is the commercial backbone of the Baldwin community. However, the economic health and resiliency of this commercial corridor has been affected by its lack of private sector investment, discontinuity of uses, and history of vacancies. Development patterns along this corridor have been varied and inconsistent.

(2) The Baldwin community has long recognized the importance of the Grand Avenue corridor. The community envisions a downtown that is vibrant and pedestrian-friendly, with an active, compact, multi-modal LIRR station area at the center of the hamlet. This vision also incorporates a mix of land uses and innovative green infrastructure components to create a place where residents, commuters and visitors can shop, dine, and recreate.

(3) In May 2017, the Baldwin Downtown and Commercial Corridor Resiliency (DCCR) Study was published. This report was the culmination of a comprehensive planning effort that reviewed existing economic and physical conditions along the corridor and outlined a series of strategies and projects that would address critical issues and contribute to a more resilient, safe, and sustainable future for the Baldwin community. A key recommendation of the DCCR Study is the creation of a new overlay district along the corridor that would encourage the development of a walkable, compact and transit-oriented downtown with a mix of residential, retail and commercial uses supported by enhanced infrastructure.

B. Purpose and legislative intent.

(1) In response to the needs of the Baldwin community, and following the recommendations put forth in the DCCR Study, the Town of Hempstead hereby enacts a new Article of the Town of Hempstead Building Zone Ordinance, which will create a new overlay district to be known as the “Baldwin Mixed-Use Overlay District (B-MX).”

(2) The primary goal of the B-MX District is to facilitate private investment, public benefits and economic development within downtown Baldwin. The new overlay district seeks to leverage the area’s proximity to public transportation by promoting mixed-use transit-oriented development around the Baldwin LIRR station to meet increasing demands for housing and retail uses, drive foot traffic, implement transportation and infrastructure improvements necessary to accommodate future growth and enhance the visual quality and pedestrian amenities through the implementation of design guidelines, which are contained as an appendix to the Building Zone Ordinance (see “Baldwin Mixed-Use Zoning Overlay District (B-MX) Design Guidelines”).
(3) The B-MX District regulations, as an overlay district, have been designed to minimize the creation of non-conformities with underlying zoning.

(4) With the stated goals in view, this article is enacted with the intention of promoting the health, safety and general welfare of the Town of Hempstead and its residents.

§ 423. Title.

This article shall be known and cited as the "Baldwin Mixed-Use Overlay District (B-MX) Article" of the Town of Hempstead.

§ 424. Definitions.

In addition to the definitions of this Building Zone Ordinance, the following special definitions are applicable to this article. In the event of conflict, the following definition shall be controlling:

**Mixed-Use**
A building with both residential and commercial uses.

**Assisted Living**—An establishment for the long-term residential care of the aged and infirm, such as congregate-care and assisted living facilities, but not including nursing homes, convalescent homes or substance abuse treatment centers.


A. Interpretation; conflicts with other provisions.
   (1) In interpreting and applying the provisions of this article, the rules of interpretation applicable to remedial legislation shall be used so that the spirit and intent of this article shall be observed.
   (2) In the event of a conflict between the provisions of this article and other provisions of this Building Zone Ordinance, the provisions of this article shall control.

B. Severability. If any clause, sentence, section, paragraph or provisions of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this article but shall be confined in its operation to the clause, sentence, section, paragraph or provision directly involved in the controversy in which such judgment shall have been rendered.

§ 426. Applicability; Design Review; Subdistricts.

In the B-MX District, the following regulations shall apply:

A. The area within Baldwin designated B-MX is largely developed. As a result, the B-MX District has been designed as an overlay district, with the zoning regulations and Design Guidelines described herein, applicable to new development, redevelopment, and building expansions which result in a ten-percent or greater increase in the building’s floor area. For existing uses and rehabilitations and expansions less than 10% of the gross floor area, existing zoning regulations shall still apply, and the Design Guidelines shall not apply.
B. Design Guidelines have been established for the B-MX Overlay District in order to create a high-quality, pedestrian friendly environment. The principles described in the Baldwin Mixed-Use Design Guidelines are not mandatory development standards. However, all projects shall incorporate and demonstrate how these design principles meet the purpose and intent of the guidelines. In reviewing applications, the Design Review Board, which is hereby established, shall follow the criteria of the Baldwin Mixed-Use Design Guidelines and B-MX Overlay District Design Guidelines Checklist contained as an appendix to the Building Zone Ordinance.\footnote{Editor's Note: Said guidelines are an appendix to the BZO.} The ultimate approval of projects will be judged in accordance with these design guidelines.

C. For purposes of this article, the B-MX District shall be divided into three subdistricts as indicated on the Zoning Map described in § 431 of this article. These subdistricts include:

2. Baldwin – Mixed-Use, Merrick Road Gateway (B-MX, MRG).

§ 427. Permitted uses.

A. In the B-MX Zoning District, the following uses shall be permitted uses:

1. Professional office, bank or financial institution
2. Pharmacy/drugstore
3. Retail trade and personal services, including supermarkets
4. Restaurants, including outdoor dining as an accessory thereto, but excluding lunch wagons, drive-in restaurants, drive-in luncheonettes, drive-thrus, drive-in counter or drive-in refreshment stands.
5. Health and fitness establishments
6. Multiple-family dwelling
7. Assisted living
8. Mixed-use, as defined in this article
9. Parking field, either public or private, for the parking of passenger vehicles only, but not for display or sale of automobiles.

B. Special permit uses. The following special uses, when approved by the Town Board, are permitted:

1. Hotels.
2. Dormitory/Graduate Student style housing.
3. Cabarets.

C. Accessory uses. The following uses customarily incidental to permitted, and special permit uses if approved, shall be permitted in the B-MX Overlay District:

1. Off-street parking and loading, including parking structures.
2. Open space or plaza areas.

D. Religious and educational uses shall be governed by Article XXXIX of this Ordinance.
§ 428. Prohibited uses.

A. In the B-MX Zoning District, the following uses shall be prohibited:
   (1) Any use prohibited by Article XXXVII of this Ordinance.
   (2) Car wash
   (3) Check-cashing establishment
   (4) Drive-in theater
   (5) Dry cleaning or laundromat services done on-site (drop-off/pick-up permitted).
   (6) Gambling or games of chance establishment
   (7) Gasoline station, motor vehicles repair or auto body shop
   (8) Kennel or pet-boarding facility
   (9) Motel
   (10) New or used automotive showroom or car lot
   (11) Outdoor storage use
   (12) Pawnshop, including auction house
   (13) Tattoo Parlors
   (14) Residential dwelling units on the ground floor of any building.
   (15) Any use not permitted in section §427 Permitted Uses.

§ 429. Lot and bulk controls.

A. Consistent with primary goals of the B-MX District, the following lot and bulk controls allow for greater intensities of development for properties fronting Grand Avenue and Sunrise Highway closest to the Baldwin LIRR station (B-MX, TOD). The lot and bulk controls for the B-MX, B-MRG subdistrict facilitate private investment, public benefits and economic development within the area around the intersection of Merrick Road and Grand Avenue. The B-MX, CT subdistrict facilitates appropriately scaled mixed-use commercial development in transition areas along the Grand Avenue corridor.

| 1. Maximum floor area ratio | B-MX, TOD | 2.0 |
| 2. Maximum building area coverage | 90% for commercial buildings | 1.5 |
| | 60% for mixed-use or multiple-family buildings | |
| 3. Maximum residential density for multifamily and mixed-use buildings | 60 units/acre | 45 units/acre | 30 units/acre |
| 4. Maximum building height | max 75 feet | max 60 feet | max 45 feet |
| 5. Maximum building setback from front lot line (build to line), except for pedestrian plaza areas | 0 feet | 0 feet | 10 feet |
| 6. Minimum side yards | None required | None required | None required |
| 7. Minimum rear yard | 25 feet | 25 feet | 25 feet |
The depth of the rear yard shall be increased five feet for each 12 feet of portion thereof by which the building exceeds forty (40) feet in height.

B. Yard setbacks.
   A. Front yards.
      1. Notwithstanding the foregoing, a roof, mansard, awning, or similar projection not exceeding 24 inches beyond the front property line shall be a permitted encroachment.

C. Screening. Any storage area or parking area shall be screened from all abutting uses, including public rights-of-way. Such screening shall consist of a hedge, fence or wall, with a minimum height of four feet and a maximum height of six feet, except that within a radius of 20 feet of the point formed by any intersecting property lines adjacent to roads or highways, the maximum height shall be 30 inches, such screening to be sufficient to obscure such area in an effective manner and during all seasons of the year.

D. Fences. No fence or wall more than six feet in height may be erected without a permit and authorization by the Board of Appeals pursuant to Article XXVII hereof. No fence shall be permitted in the front yard or the side yard if located on a corner lot.

E. Signs. Signs, which are authorized under the provisions of Article XXIV, are permitted, subject to consistency with the Baldwin Mixed-Use Design Guidelines.

§ 430. Off-street parking.

Accessory parking. Accessory off-street automobile parking spaces shall be provided on the same lot or premises or off the premises within 300 feet of such premises. The minimum number of accessory parking spaces required shall be determined by the type of each included use and shall be calculated as follows.

<table>
<thead>
<tr>
<th>Use</th>
<th>B-MX, TOD</th>
<th>B-MX, MRG and B-MX, CT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail/Commercial</td>
<td>1 space per 300 square feet</td>
<td>1 space per 300 square feet</td>
</tr>
<tr>
<td>Multifamily Apartment: Studios</td>
<td>1 space per unit</td>
<td>1 space per unit</td>
</tr>
<tr>
<td>Multifamily Apartments: One-bedroom units</td>
<td>1 space per unit</td>
<td>1.3 space per unit</td>
</tr>
<tr>
<td>Multifamily Apartments: Two-bedroom units</td>
<td>1.5 spaces per unit</td>
<td>1.75 spaces per unit</td>
</tr>
<tr>
<td>Multifamily Apartments: Three or more bedroom units</td>
<td>1.75 spaces per unit</td>
<td>2 spaces per unit</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>1 space per bed</td>
<td>1 space per bed</td>
</tr>
<tr>
<td>Graduate student housing</td>
<td>1 space per bed</td>
<td>1 space per bed</td>
</tr>
<tr>
<td>Other permitted uses</td>
<td>In compliance with §319 of this ordinance; each parking space shall comply with all requirements of §319D of this ordinance</td>
<td></td>
</tr>
</tbody>
</table>
§ 431. Amendment of the Zoning Map

In furtherance of the implementation of this article, and to specifically identify the particular areas within Baldwin placed into the overlay B-MX District and three subdistricts established herein, a particular zoning map dated February 22, 2019, prepared by VHB Engineering, Surveying, Landscape Architecture and Geology, P.C., and entitled "Baldwin – Mixed-Use Rezoning Map," has been filed in the office of the Town Clerk, and in all other places required by law or otherwise for the filing of zoning maps of the Town. This map is incorporated herein by reference. It identifies the areas in the overlay B-MX District and subdistricts, and upon the effective date of this article, it shall apply in those areas to the extent provided in this article or otherwise at law.

§ 432. Administration and Procedure.

The review and approval process for new development, redevelopment, and building expansions which result in a ten percent or greater increase in the building's floor area in the B-MX District, shall be as follows:

A. A building permit application shall be submitted to the Buildings Department. In addition to all otherwise required documentation, an applicant shall also submit all materials necessary for review by the Design Review Board, including a consistency analysis with the SEQRA Conditions and Thresholds set forth in the Findings Statement adopted by the Town Board. The Design Review Board will determine the level of SEQRA review required in accordance with 6 NYCRR §617.10. The Plans Examiner shall, upon the submission of a complete application, conduct a zoning compliance review and review for compliance with the State Environmental Quality Review Act (“SEQRA”).

B. The Design Review Board. Upon complete review of zoning and SEQRA compliance, the application shall be referred to the Design Review Board for purposes of applying the Baldwin Mixed Use Zoning Overlay District (B-MX) Design Guidelines.

(1) The Design Review Board shall consist of three employees of the Department of Buildings with site plan review backgrounds, appointed by the Town Board. Approval by the Design Review Board shall be necessary prior to the issuance of a sign permit or a building permit for new development, redevelopment, and building expansions which result in a ten-percent or greater increase in the building's floor area.

(2) Prior to the Public Hearing of the Design Review Board, a public notice, prepared by the Design Review Board, shall be published at least 10 days prior to the date fixed for such public hearing in a newspaper of general circulation in the Town of Hempstead and shall be noticed on the Town’s website at least 10 days prior to the public hearing. The notice shall state the general nature of the application, the applicant, and the location of the property. Said notice shall be mailed by the applicant no more than 28 days and no less than 21 days prior to the Design Review Board’s hearing by certified mail to all property owners within a 300 foot radius of the subject application’s property boundaries, and the applicant shall file an
affidavit of mailing, with the certified mail receipts, with the Design Review Board prior to the public hearing.

(3) A sign noticing said public hearing shall be posted at said location at least 21 days prior to the date fixed for such public hearing. Said sign(s) shall be located in each front yard setback of the subject premises; shall be at least 24 square feet in area; shall provide the words “NOTICE OF PUBLIC HEARING” and the date, place and time of the public hearing, and the general nature of the application in black letters at least six inches high with a background color of the face of the sign either bright orange or bright yellow.

(4) In reviewing applications, the Design Review Board shall substantially follow the criteria of the Baldwin Mixed Use Zoning Overlay District (B-MX) Design Guidelines and B-MX Overlay District Design Guidelines Checklist contained as an appendix to the Building Zone Ordinance. The ultimate approval of projects will be judged in accordance with these design guidelines.

(5) If the application is compliant with zoning and SEQRA, then the Design Review Board, acting as Lead Agency, may issue a Negative Declaration.

(6) The Design Review Board shall have the powers granted by the Town Law and the power to approve, disapprove, or grant with conditions applications for Design Review Board approval for properties within the B-MX District. The Design Review Board shall render a written determination within 30 days of the completion of the public hearing, and may issue findings of fact.

(7) If the Design Review Board does not vote for changes to the plan, or votes for changes to the plan and the applicant consents to the changes, and the project is compliant with zoning and SEQRA, then the application can be circulated to State, County, and Town departments for approvals. Once all State, County, and Town approvals are obtained, the Building Department will issue a Building Permit. Site plan approval under § 305 will not be required. The project will not require a Town Board hearing.

(8) Anyone aggrieved by the decision of the Design Review Board may appeal same to the Board of Appeals.

C. If an application is not zoning compliant, or if the Design Review Board cannot issue a Negative Declaration under SEQRA, then upon completion of review and decision by the Design Review Board, the application shall be referred to the Town Board for a public hearing to determine the approval or disapproval of the application. In the event that the Town Board approves said application, it may attach certain conditions to said approval, which conditions shall become an integral part thereof. The Town Board may, by resolution,
dispense in part with conformity with the provisions applicable to the B-MX District and may impose safeguards and conditions as it may deem appropriate, necessary or desirable to promote the spirit and objectives of this section, including but not limited to restrictive covenants pertaining to any area within the district that is the subject of an application, including the site plan submitted on behalf of the application, together with other agreements, if any, in recordable form and running with the land. If the Town Board approves an application, the application shall then be circulated to State, County, and Town departments for approvals. Once all State, County, and Town approvals are obtained, the Building Department will issue a Building Permit. Site plan approval under § 305 will not be required. The project will not require a second Town Board hearing.
Exhibit "B"

Baldwin Mixed-Use Zoning Overlay District (B-MX) Design Guidelines
BALDWIN MIXED-USE
ZONING OVERLAY
DISTRICT (B-MX)

DESIGN GUIDELINES
ACKNOWLEDGMENTS

Town of Hempstead Supervisor
Hon. Laura Gillen

Town of Hempstead Council Members
Hon. Dorothy L. Goosby
Hon. Edward A. Ambrosino
Hon. Bruce A. Blakeman
Hon. Anthony P. D'Esposito
Hon. Erin King Sweeney
Hon. Dennis Dunne, Sr.

PREPARED BY

VHB Engineering, Surveying,
Landscape Architecture & Geology, P.C.
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Appendix A: Native/Adaptive Plantings
Introduction

In May 2017, the Baldwin Downtown and Commercial Corridor Resiliency (DCCR) Study was published. This Study was the culmination of a comprehensive planning effort that reviewed existing economic and physical conditions along the Grand Avenue corridor and outlined a series of specific projects and strategies that contribute to a more resilient, safe, and sustainable future for the Baldwin community. A key recommendation of the DCCR Study is the creation of a new mixed-use overlay zoning district along the corridor that encourages the development of a walkable, compact and transit-oriented downtown with a mix of residential, retail and commercial uses supported by new infrastructure accommodations and planned MTA/LIRR station enhancements.

The Baldwin Mixed-Use Zoning Overlay District (B-MX) focuses on downtown Baldwin, centered along Grand Avenue and the Baldwin LIRR station (see Map 1). Grand Avenue is the commercial backbone of the Baldwin community. However, the economic health and resiliency of this commercial corridor has been affected by its lack of private sector investment, discontinuity of uses, and history of vacancies. The Baldwin community has long recognized its assets and envisions a downtown that is vibrant and pedestrian-friendly, with an active, compact, multi-modal LIRR station area at the center of the hamlet. This vision also incorporates a mix of land uses and innovative green infrastructure components to create a place where residents, commuters and visitors want to shop, dine, and recreate.

During the course of creating the B-MX District, concern for the aesthetic quality of the built environment within the targeted revitalization area was expressed by the Town. A key goal is to establish new development that contributes positively towards the creation of a cohesive and aesthetically pleasing environment for the residents, businesses and larger community. The guidelines developed herein will help to achieve the desired outcomes for the Baldwin Revitalization Area.

Purpose and Scope

These design guidelines serve as a guide to residents, developers, and design professionals that are interested in developing, expanding, and rehabilitating buildings or properties within the Baldwin Revitalization Area. The guidelines are also a useful tool for the planning, design, and evaluation of the proposed development or rehabilitation for the Town’s Design Review Board (as established in the Baldwin Mixed-Use Zoning Overlay District) that will be reviewing these projects. By following the guidelines, applicants are likely to find that their review process will move along more efficiently (i.e. fewer design revisions, more community support, etc.).
MAP 1: B-MX Overlay Boundary
This document provides guidance on the following topics:

- Architecture
- Awnings
- Exterior Lighting
- Signage
- Service Areas
- Parking
- Streetscaping
- Landscaping
- Sustainability and Green Design

This document contains recommendations and visuals of best practices as well as examples of preferred solutions and situations to avoid.

**Review and Approval Process**

The Design Guidelines will be implemented in accordance with the Hempstead Building Zone Ordinance Article XLII Section 432 regulations governing the review and approval process in the B-MX District. As outlined, the following regulations shall apply:

There shall be a Design Review Board for purposes of applying the Baldwin Mixed-Use Zoning Overly District (B-MX) Design Guidelines, which shall be governed as follows:

1. The Design Review Board shall consist of three employees of the Department of Buildings with site plan review backgrounds, appointed by the Town Board. Approval by the Design Review Board shall be necessary prior to the issuance of a sign permit or a building permit for new development, redevelopment, and building expansions which result in a ten-percent or greater increase in the building’s floor area.

2. Prior to the Public Hearing of the Design Review Board, a public notice, prepared by the Design Review Board, shall be published at least 10 days prior to the date fixed for such public hearing in a newspaper of general circulation in the Town of Hempstead and shall be noticed on the Town’s website at least 10 days prior to the public hearing. The notice shall state the general nature of the application, the applicant, and the location of the property. Said notice shall be mailed by the applicant no more than 28 days and no less than 21 days prior to the Design Review Board’s hearing by certified mail to all property owners within a 300-foot radius of the subject application’s property boundaries, and the applicant shall file an affidavit of mailing, with the certified mail receipts, with the Design Review Board prior to the public hearing.

3. A sign noticing said public hearing shall be posted at said location at least 21 days prior to the date fixed for such public hearing. Said sign(s) shall be located in each front yard setback of the subject premises; shall be at least 24 square feet in area; shall provide the words “NOTICE OF PUBLIC HEARING” and the date, place and time of the public hearing, and the general nature of the application in black letters at least six inches high with a background color of the face of the sign either bright orange or bright yellow.

4. In reviewing applications, the Design Review Board shall substantially follow the
criteria of the Baldwin Mixed-Use Zoning Overlay District (B-MX) Design Guidelines and
B-MX Overlay District Design Guidelines Checklist contained as an appendix to the
Building Zone Ordinance. The ultimate approval of projects will be judged in
accordance with these design guidelines.

5. If the application is compliant with zoning and SEQRA, then the Design Review Board,
acting as Lead Agency, may issue a Negative Declaration.

6. The Design Review Board shall have the powers granted by the Town Law and the
power to approve, disapprove, or grant with conditions applications for Design Review
Board approval for properties within the B-MX District. The Design Review Board shall
render a written determination within 30 days of the completion of the public hearing,
and may issue findings of fact.

7. If the Design Review Board does not vote for changes to the plan, or votes for changes
to the plan and the applicant consents to the changes, and the project is compliant
with zoning and SEQRA, then the application can be circulated to State, County, and
Town departments for approvals. Once all State, County, and Town approvals are
obtained, the Building Department will issue a Building Permit. Site plan approval
under § 305 will not be required. The project will not require a Town Board hearing.

8. Any applicant aggrieved by the decision of the Design Review Board may appeal same
to the Board of Appeals.

If an application is not zoning compliant, or if the Design Review Board cannot issue a
Negative Declaration under SEQRA, then upon completion of review and decision by the
Design Review Board, the application shall be referred to the Town Board for a public
hearing to determine the approval or disapproval of the application.
Architecture involves the exterior design elements and massing of a building. The shape, size, material and design of a building are an integral part of creating a community's character. All construction projects whether it is new development, additions, or rehabilitations should incorporate architectural elements that enhance and upgrade the aesthetic environment which will ultimately create a visually cohesive downtown.

New Construction

1. Architectural designs should be evaluated in terms of the sensitive integration of form, textures and colors with the site and character of the surrounding area.

2. In general, new buildings should be rectangular or square in shape and consistent with existing building context.

3. Buildings fronting Grand Avenue, Sunrise Highway and Merrick Road can be built to the public right of way line. Outdoor gathering and dining space that expands the public realm is encouraged.

4. Materials and architectural elements should harmonize and not starkly contrast with the character of the surrounding area, while accommodating a potential contemporary expression and use of technology.

Examples of new construction that is consistent with the form and character of the surrounding area.

Examples of new development that evokes traditional design without replicating styles of the past. New development in the downtown should employ elements of traditional proportioning, rhythm and principles that contribute positively to streetwall unity and a strong, vibrant pedestrian environment.
5. Buildings in highly visible locations including primary corners along Grand Avenue, Merrick Road and Sunrise Highway should be designed to express and reinforce the importance of these locations.

6. Whenever the rear and side elevations of buildings and associated ground floor facades are adjacent to public areas such as streets and parking lots, the architectural design, materials, and treatment of these facades should wrap the building and be integrated with the building's front facade.

7. The exterior walls of new buildings should be constructed of durable, permanent materials. The use of reflective materials is discouraged. The exterior of residential dwellings should consist of metal, brick or wood. Appropriate exterior materials for commercial uses include brick, treated concrete or stone.

8. The design of buildings should vary the facade vertically and horizontally, especially at the street level, to help reinforce the pedestrian zone.

9. When new construction contains more than one store, an overall design approach should be shared by each of the stores.

10. Storefronts should provide interest and, where appropriate, should include pedestrian-oriented features to encourage pedestrian movement and activity.

Mixed use development with storefronts providing visual interest. Pedestrian-oriented features encourage pedestrian movement and activity.

An example of development containing more than one store where an overall design approach is shared by each of the stores.
11. New construction should be designed to strongly encourage retail, dining, and active business uses with both day and evening programming at the ground floor. Amenities in the public right-of-way are encouraged including public seating, outdoor dining, public art, planters, and seasonal decorations. If outdoor dining is proposed, a plan, drawn to scale, showing the proposed outdoor dining area with measurements, including a representation showing that at least four (4) feet of unobstructed sidewalk space will remain for pedestrians, shall be submitted to the Design Review Board.

12. Buildings that front on Grand Avenue, Sunrise Highway and Merrick Road must have at least one pedestrian entrance directly on these roads in order to maintain street presence and promote pedestrian activity.

13. Integrate new mechanical elements into architectural features of the building. Vertical roof projections such as vents or stacks should be screened.

14. Locate new mechanical systems and exhaust systems so that they do not vent onto pedestrian levels.

Location of Building Entries

![Preferred vs. Not Preferred Building Entries]

PREFERRED

NOT PREFERRED
Rehabilitation

15. Proposed improvements should be chosen to harmonize with the basic scale and character of the building including materials, display windows, transoms, mid-cornices and lighting.

16. When an existing building has a facade composed of stone, wood or brick, an effort should be made to retain the original material in its natural state.

17. When an existing ground-level storefront is rehabilitated, where feasible, existing architectural design and details should be identified and used as the basis for the renovation project.

18. When an existing building contains more than one store, a unified design approach should be shared by each of the proposed stores.

19. If replacement is required, use materials that match in color, size, profile, thickness, pattern, and texture to the existing material.

20. If replacement windows are necessary, efforts should be made to match original window materials, dimensions, glazing and trim.

The first floor rehabilitation of this building incorporates attractive materials and architectural features that provide visual interest to the street front.

While attractive and constructed of quality materials, this facade retrofit presents a monolithic appearance, which does not contribute positively to the finer-grained appearance of a traditional Main Street. The building could also be improved with a cornice or cap.
Additions

21. All additions should harmonize with the basic scale and character of the building.

22. When designing additions, materials should be used that complement or match the existing building.

23. Plan the size and location of windows on additions to match the window and/or shutter patterns already on the existing building.

24. Existing building features such as a cornice design, materials, or arrangement of storefront glass should be incorporated into the building addition.

Examples poorly-designed additions where materials and architectural details are incongruous with the existing building.

An example of a well-designed addition where materials and architectural details complement the existing building.
Awnings

Awnings are a way of creating shade and pedestrian shelter from inclement weather. They can also provide signage for storefronts. When done right and maintained in good condition, they are an effective way of adding to the pedestrian experience.

25. Awnings over pedestrian walkways and sidewalks are encouraged to provide shade and rain protection while adding interest to a facade with shape and color.

26. Long expanses of awnings are discouraged. Awnings should have a pedestrian scale and be placed so as to provide weather protection and/or business identification to potential patrons of a business.

27. Use awning dimensions, materials, shapes, and styles that reinforce the pattern of existing businesses and the character of the building.

The same building ("before" and "after"): The installation of new signage, gooseneck lighting, and traditional awnings exemplifies an appropriate signage program and use of storefront lighting and awnings.
Exterior Lighting

Exterior lighting is found within parking lots and along streets, sidewalks and pathways and it is typically located on the exterior of buildings. While exterior lighting is needed to add sight and security for the pedestrian and those using other forms of transportation, it is important to consider all sources of lighting before deciding where and how much additional exterior lighting will be added to any building. All lighting proximate to a building should work cohesively and meet the purpose it is designed for but not over illuminate an area where it becomes a nuisance to the neighboring properties and residents.

Projects in the Baldwin Mixed-Use Overlay for which review is required by the Design Review Board, shall be reviewed for conformance with these guidelines. Plans submitted for review and approval shall provide information sufficient to demonstrate compliance with the requirements of these Guidelines, including plan and elevation drawings, manufacturers’ fixture cut-sheets, lamp type and wattage, and additional information that may be required under certain sections of these Guidelines, or as requested by Town staff or the Design Review Board, such as foot-candle plots or controls. Changes after approval are subject to the same review process.

28. Lighting should be organized in simple patterns such that it reinforces the basic structure of streets and sidewalks.

29. If a particular lighting pattern or lighting design element exists on a building or within an area, similar lighting should be utilized on building rehabilitations, new construction or additions.

30. Utilize “Dark Sky” lighting fixtures and place lighting to minimize glare and prevent stray light.

31. Lighting of parking areas and pathways to parking areas should be enhanced by low level lighting if necessary with the goal of minimizing light pollution.
Signage

There are many different types of signs. Wall-mounted, free-standing, projecting, and window signs are typical signs located within a commercial area. While the types of signs are numerous, too many signs on a building can detract from the visual appearance of the commercial district. Further, the quality, material, and design of a sign can add to or detract from the character a community is trying to achieve.

**Sign Design**

32. Signage should be in scale with the building facade.

33. Signs should be compatible with the placement, size, graphics, colors and style of the building as well as with neighboring buildings and signs.

34. Signs should be illuminated from the exterior rather than interior; if lighting is required. All sign lighting should be shielded and directed towards the signs. When internally illuminated, the background should be darker than the lettering.

35. Signs should be simple, unobtrusive and legible.

**Wall Signs**

36. Wall signs should be placed above storefront display areas on the traditional sign cornice, sign band or lintel above the ground floor.

37. Wall signs should not conceal windows or the architectural details of the storefront and their placement should reinforce architectural features.

38. Signs should be of high quality materials. Flashing signs or signs with moving parts or changing electronic displays are prohibited.

This arrangement of signs blocks building elements and creates an image of visual clutter.

These signs work harmoniously with the architecture and create a more orderly appearance.
Window Signs

39. Window signs should be simple. Window signs should cover less than 25% of the window area.

These signs located within a sign band work harmoniously with the architecture and create a more orderly and traditional appearance.

Projecting Signs

40. Projecting signs should be placed above the storefront display on the sign band or lintel above the ground floor and should fit within building modules.

Examples of attractive and appropriately placed projecting signage.

Freestanding Signs

41. The use and type of free standing signs should be considered in the context of the overall setting. Monument or structured free-standing signs are preferred over single-pole (lollipop) free standing signs.
Service Areas

All buildings require space for loading, storage and utility areas. These service areas should be designed to be as unobtrusive, both visually and physically, as possible.

42. All exterior service, loading, storage and utility areas should be located at the side or rear of the building and be screened or sheltered so as not to be visible from the street or adjacent parcels.

43. Loading docks should be located away from the main pedestrian thoroughfares and removed from public view. No direct loading should be permitted to be visible from Grand Avenue.

44. Outdoor service and storage areas, including garbage collection areas, should be screened from public view with landscaping and/or fencing.
Parking

Parking, either surface or parking structures are a necessary component of developments. However, parking areas do not need to be the focal point of the development. Parking can be incorporated into the overall layout and design to ensure that the building and exterior architecture are the primary visual elements.

Surface Parking

45. Parking in front of buildings is discouraged. Whenever possible, parking should be located to the side or rear of buildings. Where parking is in the front, landscaped buffers should be used between the sidewalk and parking area to assure that the visual effect of paved areas and standing automobiles is minimized.

46. Parking areas containing more than 20 spaces should incorporate landscaped islands, dividers and screenings.

47. The number of curb cuts should be minimized. Entrances and exits to parking areas should be designed so that they do not interfere with vehicular traffic movement, unduly inconvenience pedestrian travel, or create unsafe conditions.

48. Drive-through lanes should be located so that traffic does not conflict with pedestrian travel and should be allowed only for financial institutions.

Examples of Surface Parking

PREFERRED

NOT PREFERRED

Parking should be located to the side or rear of buildings. Where parking is in front, landscaped buffers should be used, as in the figure above.
Parking Structures

49. Large blank walls should be avoided in favor of fenestration patterns more closely resembling inhabited buildings.

50. Where possible, landscaping should be provided to minimize the visual impact of parking decks.

51. Parking garages, including entrances should not be located on Sunrise Highway, Merrick Road, or Grand Avenue.

52. Parking structures should be designed to have an external skin comprised of high quality materials to improve the visual character when exposed to prominent public view.

53. Ground floor treatments should provide screening to block views of parked vehicles, bumpers, and headlights from pedestrians using the adjacent sidewalk.

54. Where possible, the first-floor level of the garage should include retail or service uses that will maintain activity at the ground level.

For parking garages, large blank walls should be avoided in favor of fenestration patterns more closely resembling inhabited buildings, as in the example above.

Parking structures exposed to prominent public view should be designed to have an external skin comprised of high quality, visually interesting materials to improve the visual character, as shown in the examples above.

Retail or service uses at the first-floor level of a parking garage will maintain activity at the ground level.
Streetscaping is an essential part of creating the pedestrian experience. It provides for street amenities and visual elements at the pedestrian level. It also incorporates safety elements for the pedestrian or bicyclist. While sidewalks and streetscaping furniture including benches, planters, and light poles are typically in the public right-of-way, many times these elements are requested by the community to be incorporated or upgraded as part of a redevelopment project.

All streetscaping improvements associated with new construction or rehabilitation of a site should be consistent with the design and function of the public realm and incorporate the parameters and recommendations of the 2017 Next Stop Resilient Baldwin: Downtown and Commercial Corridor Resiliency Study. These recommendations include:

55. Installation of landscaping and street trees, in addition to other pedestrian amenities, such as trash receptacles, decorative street lamps, and wayfinding signage, to "green" the streetscape and create an atmosphere that attracts visitors and patrons.

56. Retail and services catering to pedestrians should be encouraged at street-level to create an active streetscape.

57. Street amenities, such as continuous sidewalks, bus shelters, well designed crosswalks, lower-scale lighting, seating areas, waste receptacles, planters, and trees should be encouraged to make the sidewalk environment more comfortable for users.

58. New development should be designed to require compact growth, opportunities for increased choice of transportation modes, and a safe and pleasant pedestrian environment by ensuring an attractive streetscape, a functional mix of uses, green infrastructure and the provision of facilities that support transit use, bicycling and walking.

Examples of well-designed, pedestrian-friendly streetscapes.
Landscaping

Landscaping refers to all vegetative and ornamental features incorporated into a site to improve its appearance and attractiveness. Landscaping can also be used as a buffer or screen to parking and storage areas or to separate incompatible uses.

59. New development should be designed so as not to increase impervious surface areas, but rather, to decrease impervious surface areas when possible, and to provide additional opportunities for infiltration of runoff. Landscaping of new development should incorporate green infrastructure, in the form of vegetative controls or permeable pavements, to the extent possible.

Suggested vegetative controls for decreasing impervious surface and increasing infiltration of stormwater runoff include: 1) native and/or adaptive plants, or cultivated varieties of same for hybridized increased performance in disease/pest resistance, improved form, dwarf form, increased aesthetic traits, drought tolerance, etc.; and 2) including a post-plant establishment maintenance plan for the performance of green infrastructure vegetative controls (e.g. bio-retention facilities, bio-swales, stormwater planters, etc.). See Appendix A for a suggested general list of native/adaptive plantings, however final plant species-selection appropriateness should account for site-specific conditions (e.g. soil type and pH, sun exposure, wind, soil volumes, current pest/disease risks, height/size goals and/or restrictions, fruit litter, site visibility, maintenance expectations, etc.).

Examples of green infrastructure that reduces impervious surfaces (top left), well-designed landscaping features (bottom left), and consistent paving materials (right).
60. Parking and service areas should be screened from major streets and public spaces with dense evergreen trees or shrubs. Brick walls and fences can also be used where spaces will not allow the use of plantings for screening.

61. Accent plantings should be used around entries and key activity hubs. Screening should be used to protect less intensive uses from the impacts of more intrusive uses and to block views of less desirable features from public view (trash enclosures, etc.).

62. Plantings at building foundations should consist of a combination of lawn areas and low plantings. In high exposure areas such as building entrances, plantings should be appropriately scaled and include plant materials selected for year-round attractiveness.

63. Plantings should be both functional and visually appealing. The use of native plants is preferred. Xeriscaping is encouraged to promote water conservation, reduce maintenance requirements, and decrease flooding.

64. Paving materials and patterns for walkways, drives and parking areas should be consistent in order to tie together development within the district.

65. Trees and shrubs should be located and spaced to allow for long-term growth. Evergreen and deciduous or flowering trees should be used in combination to create visual interest and to create a dynamic landscape.

66. For evergreen screening along adjacent residential land uses, a double-staggered row of evergreen screen tree species 7 feet on center is suggested. Consideration should be given to sun-exposure, expected mature size of the plant species, and the available soil volumes; alternatively, upright tall dense evergreen shrub species may be substituted (e.g. Upright Cherry Laurel, Guftide False Holly, etc.) in tighter spaces and growing conditions.
Sustainability and green building refers to the practice of creating structures using a process that is environmentally responsible and resource-efficient throughout a building’s life-cycle: from siting to design, construction, operation, maintenance, renovation, and demolition. Elements include the construction of buildings that are energy efficient (high levels of insulation, high performance windows), use renewable resources (passive solar heating, daylighting), are designed for durability, future reuse and adaptability, and use low maintenance building materials with low embodied energy.

67. All rehabilitation and new construction should incorporate energy efficiency and design elements into the rehabilitation or design of the new additions or buildings.

68. Building materials should be locally sourced, with a high percentage of salvaged and recycled materials. Install high efficiency heating and cooling equipment, high efficient lights and appliances and water efficient equipment.

Examples of sustainably designed site infrastructure

69. All rehabilitation and new construction should adhere to green infrastructure recommendations of the 2017 Next Stop Resilient Baldwin: Baldwin Downtown and Commercial Corridor Resiliency Study when applicable. These recommendations include:

70. Install permeable pavers or low-maintenance turf grass within select areas, as appropriate.

71. Install pervious surface curb extensions with storm drains, as appropriate.

72. Install stormwater planters and reuse technology at new development sites.
Appendix A
Native/Adaptive Plantings

The following list of plants are suggested general native/adaptive plantings at the time of writing, however final plant species-selection appropriateness should account for site-specific conditions (e.g. soil type and pH, sun exposure, wind, soil volumes, current pest/disease risks, height/size goals and/or restrictions, fruit litter, site visibility, maintenance expectations, etc.).

Shade Trees (for Open Space)

Acer x freemanii 'Jeffersred' .................................................. Autumn Blaze Maple
Acer rubrum 'Frank Jr.' .................................................. Redpointe Maple
Acer saccharum 'Legacy' .................................................. Legacy Sugar Maple
Betula nigra 'Heritage' .................................................. Heritage River Birch
Celtis occidentalis .................................................. Hackberry
Cladrastis kentukea .................................................. American Yellowwood
Corylus colurna .................................................. Turkish Filbert
Eucommia ulmoides .................................................. Hardy Rubber Tree
Ginkgo biloba 'Autumn Gold’ .................................................. Autumn Gold Ginkgo
Ginkgo biloba 'JFS-UGA2' .................................................. Golden Colonnade
Gleditsia triacanthos 'Shademaster’ .................................................. Shade Master Honeylocust
Liquidambar styraciflua 'Rotundiloba’ .................................................. Sweetgum
Liriodendron tulipifera 'JFS-Oz' .................................................. Emerald City Tulip Tree
Metasequoia glyptostroboides .................................................. Dawn Redwood
Nyssa sylvatica 'David Odom' .................................................. Afterburner Tupelo
Ostrya virginiana .................................................. American Hophornbeam
Platanus x acerifolia 'Bloodgood’ .................................................. Bloodgood London Planetree
Quercus bicolor .................................................. Swamp White Oak
Quercus muehlenbergii .................................................. Chinkapin Oak
Quercus phellos .................................................. Willow Oak
Quercus rubra .................................................. Red Oak
Styphnolobium japonicum .................................................. Japanese Pagodatree
Taxodium distichum .................................................. Bald Cypress
Ulmus americana 'Valley Forge’ .................................................. Valley Forge Elm
Ulmus x 'Morton’ .................................................. Accolade Elm
Ulmus parvifolia 'Emer II’ .................................................. Allee Elm
Zelkova serrata 'Green Vase’ .................................................. Green Vase Japanese Zelkova
Street Trees

- Acer x freemanii ‘Jeffersred’ – Autumn Blaze Maple
- Acer rubrum ‘Frank Jr.’ – Redpointe Maple
- Celtis occidentalis – Hackberry
- Cladrastis kentukea – American Yellowwood
- Corylus colurna – Turkish Filbert
- Eucommia ulmoides – Hardy Rubber Tree
- Ginkgo biloba ‘Autumn Gold’ – Autumn Gold Ginkgo
- Ginkgo biloba ‘JFS-UGA2’ - Golden Colonnade
- Liriodendron tulipifera ‘JFS-0z’ – Emerald City Tulip Tree
- Ostrya virginiana – American Hophornbeam
- Platanus × acerifolia ‘Bloodgood’ – Bloodgood London Planetree
- Quercus bicolor – Swamp White Oak
- Quercus muehlenbergii – Chinkapin Oak
- Quercus phellos – Willow Oak
- Styphnolobium japonicum – Japanese Pagodatree
- Taxodium distichum – Bald Cypress
- Ulmus americana ‘Valley Forge’ – Valley Forge Elm
- Ulmus × ‘Morton’ – Accolade Elm
- Ulmus parvifolia ‘Emer II’ – Allee Elm
- Zelkova serrata ‘Green Vase’ – Green Vase Japanese Zelkova

Upright Shade Trees

(For narrow spaces e.g. next to train tracks, building facades, between overhead utility lines and buildings, etc.)

- Acer saccharum ‘Barrett Cole’ – Appollo Sugar Maple
- Acer rubrum ‘JFS-KW78’ – Armstrong Gold Maple
- Acer rubrum ‘Scarsen’ – Scarlet Sentinel Maple
- Carpinus betulus ‘Frans Fontaine’ – Upright European Hornbeam
- Liquidambar styraciflua ‘Slender Silhouette’ – Upright Sweetgum
- Populus tremula ‘Erecta’ – Swedish Columnar Aspen
- Quercus bicolor ‘Bonnie and Mike’ – Beacon Oak
- Quercus × ‘JFS-KW10X’ – Streetspire Oak
- Quercus palustris ‘Pringreen’ – Green Pillar Oak
- Zelkova serrata ‘Musashino’ – Upright Japanese Zelkova
Wire-Friendly / Ornamental Trees (for open space and street trees)
Acer campestre ‘Panacek’ ........................................ Metro Gold Hedge Maple
Acer triflorum .......................................................... Three-Flowered Maple
Aesculus x carnea ‘Fort McNair’ ............................... Fort McNair Horsechestnut
Amelanchier laevis ‘JFS-Arb’ .................................. Spring Flurry Serviceberry
Amelanchier canadensis ‘Trazam’ ............................. Tradition Serviceberry
Cercis canadensis ..................................................... Redbud
Cornus mas ‘Golden Glory’ .................................. Golden Glory Cornelian Cherry
Cornus x ‘Rutcan’ ..................................................... Constellation Dogwood
(Rutger’s Hybrids)
Crataegus crusgalli var. inermis ‘Cruzam’ .................. Crusader Thornless Cockspur Hawthorne
Koelreuteria paniculata .......................................... Goldenrain Tree
Lagerstroemia x ..................................................... Crape Myrtle Hybrids
Maackia amurensis .................................................. Amur Maackia
Malus ‘JFS-KWS’ ..................................................... Royal Raindrops Crabapple
Malus x ‘Sutyzam’ ................................................... Sugar Tyme Crabapple
Magnolia x ‘Galaxy’ .................................................. Galaxy Magnolia
Parrotia persica ‘Inge’s Ruby Vase’ ......................... Ruby Vase Parrotia
Prunus virginiana ‘Canada Red’ ............................ Canada Red Improved Chokecherry
Syringa reticulata ‘Ivory Silk’ .................................... Ivory Silk Japanese Tree Lilac
Taxodium distichum ‘Skyward’ ................................ Lindsey’s Skyward Bald Cypress
Zelkova serrata ‘JFS-KWI’ ...................................... City Sprite Zelkova
Zelkova serrata ‘Schmidtlow’ ................................ Wireless Zelkova

Evergreen Screen Trees
Abies concolor .......................................................... White Fir
Chamaecyparis thyoides ........................................... Atlantic White Cedar
Cryptomeria japonica ‘Yoshino’ .............................. Yoshino Japanese Cryptomeria
Juniperus virginiana ‘Emerald Sentinel’ .................... Emerald Sentinel Eastern Redcedar
Picea abies ............................................................... Norway Spruce
Picea alba ................................................................. White Spruce
Picea omorika ......................................................... Serbian Spruce
Picea orientalis ......................................................... Oriental Spruce
Thuja occidentalis ‘Nigra’ ......................................... Nigra Eastern Arborvitae
Thuja occidentalis ‘Smaragd’ .................................. Emerald Green Arborvitae
Thuja plicata ‘Green Giant’ ...................................... Green Giant Western Arborvitae
Shrubs

Abelia x grandiflora 'Rose Creek' ................................................. Rose Creek Abelia
Caryopteris x clandonensis 'Dark Knight' .................................. Dark Knight Blue Mist Shrub
Comptonia peregrina ................................................................. Sweetfern
Hydrangea macrophylla 'Bailmer' ............................................... Endless Summer Hydrangea
Hydrangea paniculata 'Little Lime' .............................................. Little Lime Hydrangea
Hypericum perforatum .............................................................. St. John's Wort
Ilex glabra 'Shamrock' ................................................................... Dwarf Inkberry Holly
Ilex verticillata (Dwarf Varieties) ................................................ Dwarf Winterberry Holly
Morella pensylvanica 'Morton' ....................................................... Silver Sprite Bayberry
Nandina domestica 'Firepower' ..................................................... Firepower Nandina
Osmanthus heterophyllus 'Gulfside' .............................................. Gulfside False Holly
Potentilla fruticosa 'Abbotswood' .................................................. White Shrubby Cinquefoil
Prunus laurocerasus 'Otto Luyken' .............................................. Otto Luyken Cherry Laurel
Prunus laurocerasus 'Schipkaensis' .............................................. Upright Cherry Laurel
Rhus aromatica 'Gro-Low' .............................................................. Gro-Low Fragrant Sumac
Rosa x 'Radrazz' ........................................................................... Knockout Rose
Spirea japonica 'Tracy' ................................................................. Double Play Big Bang Spirea
Syringa x (Dwarf Varieties) ......................................................... Dwarf Lilacs

Perennials / Ground Cover

Ajania pacifica ............................................................................ Ajania
Amsonia hubrichtii ................................................................. Threadleaf Amsonia
Ceratostigma plumbaginoides .................................................. Plumbago
Gaillardia x grandiflora ......................................................... Blanket Flower
Hemerocallis x .............................................................. Daylily (Reblooming Varieties)
Heuchera villosa ‘Citronelle’ ................................................... Citronelle Coral Bells
Hypericum calycinum ............................................................... St. John's Wort
Liriope muscari 'Big Blue' ......................................................... Big Blue Lirlyturf
Liriope muscari 'Variegata' ......................................................... Variegated Lirlyturf
Nepeta x fassenii 'Junior Walker' ............................................ Junior Walker Catmint
Perovskia atriplicifoila ‘Little Spire ’ ....................................... Dwarf Russian Sage
Penstemon digitalis ‘Dark Towers’ ............................................. Purple Beardtongue
Salvia x superba 'Blue Hill' ......................................................... Blue Hill Garden Sage
Sedum sp. ..................................................................................... Sedum
Stachys byzantina 'Helen Von Stein' ...................................... Helen Von Stein Lamb's Ear
Ornamental Grasses

Andropogon virginicus - Broomsedge
Deschampsia cespitosa 'Goldtau' - Goldtau Tufted Hairgrass
Deschampsia flexuosa - Wavy Hairgrass
Eragrostis spectabilis - Purple Lovegrass
Festuca ovina 'Glauc'a' - Blue Fescue
Muhlenbergia capillaris - Pink Muhly Grass
Panicum virgatum 'Shenandoah' - Purple Switchgrass
Pennisetum alopecuroides 'Little Bunny' - Dwarf Fountain Grass
Pennisetum alopecuroides 'Burgundy Bunny' - Purple Dwarf Fountain Grass
Schizachyrium scoparium 'Standing Ovation' - Standing Ovation Little Bluestem
Exhibit “C”

Baldwin Mixed-Use Zoning Overlay District (B-MX) Map
VIA HAND DELIVERY

Mr. Richard Regina, Esq.
Counsel to the Town Board
Town of Hempstead
One Washington Street
Hempstead, New York 11550

Re: Comments to Draft Generic Environmental Impact Statement ("DGEIS") and Proposed Adoption of Baldwin Mixed-Use Zoning Overlay District Regulations (B-MX District)
Case No. 3114; Town Board Resolution No. 940-2019

Dear Mr. Regina,

As you are aware, our office represents Breslin Realty Development Corporation with respect to their proposed development of the southeast corner of Sunrise Highway and Grand Avenue and providing advice and counsel regarding the proposed Baldwin-Mixed Use Overlay Zoning District.

We previously submitted an analysis outlining our recommendations to resolve key inconsistencies in the proposed B-MX District bulk and area regulations by letter dated July 22, 2019. A copy of that correspondence is annexed hereto and made a part hereof. Please allow this correspondence to serve as a follow-up analysis to the changes proposed to the B-MX District regulations, as well as to the DGEIS that the Town has published for public review and comment all as per Town Board Resolution No. 940-2019 (the "Resolution").

I. Amendments to Bulk and Density Controls

A. Structural Inconsistencies Remaining

In our previous analysis, we articulated three (3) principle structural inconsistencies within the bulk and density controls of the proposed B-MX District regulations (as originally written), which we believed would frustrate the intended bulk development articulated in the code, and

August 28, 2019
ultimately thwart the primary purpose and legislative intent for the creation of the overlay district. The three (3) inconsistencies were as follows:

1. Maximum residential density for multifamily and mixed-use buildings
2. Maximum Floor Area Ratio and Building Area Coverage
3. Minimum Landscaped Buffer Area When Adjacent to Residential Uses

We are pleased to see that the Town has eliminated the units per acre metric in the modified B-MX District regulations, resolving the first metric failure. Furthermore, the increase in maximum building area coverage for multi-family and mixed-use buildings from 60% to 80% in the TOD subdistrict is another positive change.

However, the remaining issues, namely the maximum floor area ratios and the minimum landscaping buffer areas adjacent to residential uses, still exist in the modified B-MX District regulations. As further explained herein, we believe that unless the FAR metrics are increased in accordance with the recommendations in our prior analysis, the result will be that development of parcels will not be practical in the overlay district. The limited yield under the modified code is still in conflict with the suggested height, density and lifestyle goals of the proposed overlay, frustrating the larger legislative purpose of developing a vibrant, mixed use “main street” environment. This will make projects infeasible and cost prohibitive to their sponsors and prevent the Town from realizing its goal and vision for this legislation.

B. Floor Area Ratio (“FAR”)

The FAR reduction proposed in the modified overlay regulations is the most problematic of the issues. Our prior correspondence explained the negative practical effect that an insufficient FAR would cause. The elimination of a unit per acre density metric unfortunately, is meaningless, unless it is coupled with an increased FAR. Without addressing both of these issues together, we believe development potential in the B-MX District will never be achieved.

The inclusion of a FAR development bonus in exchange for certain community benefits or amenities in Section 431.1.C of the modified regulations may be a creative solution to the FAR issue. However, it does not does not go far enough to address the density fail on a more fundamental basis, and as a result does not rectify the property yield and density problem described herein. Even with the inclusion of the FAR development bonus of .5 to the 1.5 TOD FAR in the modified code, the result is the same 2.0 maximum FAR that we concluded was insufficient to achieve the desired, vertical density contemplated by this overlay district, only it would now be more difficult to achieve due to applications being reviewed on a case-by-case basis instead of being applied uniformly.

In order to create meaningful change and a functional code, we remain steadfast in our recommendation to double the FARs in each of the three (3) sub-districts (which at that time were 2.0 in TOD, 1.5 in MRG and 1.0 in CT sub-districts) to 4.0, 3.0 and 2.0. Without effectuating this
significant change, the bulk controls in the B-MX District will fail to establish a reasonable nexus between the permitted heights and the bulk intent within the overlay district.

C. Addition of Front-Yard Setback Requirement

The previous version of the overlay regulations we analyzed did not include a front-yard setback restriction. However, Section 429.A.10 was added to the modified regulations to include a front-yard setback requirement of 10 feet in all three of the B-MX sub-districts. We would recommend eliminating this setback requirement altogether in keeping with the prior draft of the code. A zero lot-line front yard is essential to create the street front, walking, retail environment stated in the legislative purpose. Eliminating the front-yard setback would be in conformance with the Overlay District Design Guidelines prepared by VHB Engineering in support of the overlay adoption and would facilitate the realization of the legislative intent for the development potential of sites within the overlay district. The B-MX Design Guidelines are fundamentally drafted to encourage the enhancement of existing streetscapes to provide a greater experience for pedestrians than a generic front-yard setback contemplated for a traditional, car-focused retail-center ever would.

D. Minimum Landscape Buffer Area Adjacent to Residential Uses

As explained in our prior comments, adequate screening buffers between the downtown district and the adjacent residential community should be promoted and enforced. However, this degree of screening would severely hamstring the developable area in this particular overlay zone. This is especially the case on the west side of Grand Avenue where the lots are particularly shallow. An effective solution can be crafted by requiring taller fences along residential properties and/or a denser, but shallower landscape design requirement along residential borders. Accordingly, we would once again strongly recommend decreasing the minimum landscape buffer from 25 feet to 10 feet in each of the sub-districts. It is further suggested that a detailed landscape buffer plan be submitted with any project that abuts residential uses, and that should include a mitigation plan for addressing impacts to residential properties.

II. Comments to DGEIS Findings

A. Development of Subject Premises Contingent on Adoption of B-MX Overlay District

Table 1-3 of the DGEIS identifies the Subject Premises as one of nine (9) “Projects of Interest” or “POIs” in the B-MX overlay area (it is Project #4). Later in Section 3.5.2.2, the nine (9) POIs are again identified, and it is incorrectly stated that our client’s proposed project is expected to be redeveloped even if the proposed B-MX Overlay is not implemented. Our client’s project is wholly dependent on the adoption of the B-MX Overlay District. Taken a step further, our client’s project is dependent on the Town adopting a workable and effective B-MX Overlay
District, which the regulations as currently written, do not achieve. We respectfully request that this error be corrected and that the nine (9) POIs be looked at again to determine whether any other projects are in fact dependent on the B-MX overlay.

B. Trip Generation Study and Level of Service Analysis

The trip generation comparison results in Table 3-15 of the DGEIS (page 153) show that the proposed build conditions with the B-MX overlay regulations will have less of an impact on the studied roadway network than if the area were to be developed under the existing zoning regulations. Section 3.5.3 of the DGEIS estimates that, with the implementation of proposed traffic mitigation measures, the full 2029 build conditions will actually ease traffic conditions. The primary rationale being that the replacement of retail uses with multifamily uses will generate less traffic and generate less trips during key peak periods. This is especially true of projects within the TOD sub-district (like our client’s project), which will focus primarily on developing multi-family residences.

We note that it is important that the traffic analyses conducted for the fully built models incorporate not only the ground level retail contemplated by the code, but also all of the additional vertical density that the overlay district will usher in as part of the revitalization of the Baldwin downtown. This will ensure a sufficient baseline to traffic impacts as part of the proposed overlay and avoid potential challenges to the DGEIS.

III. Conclusion

The modified B-MX District regulations, if adopted as is, would create vast difficulties in promoting development, and would fail to achieve the Town’s stated intention to “apply one, consistent zoning district overlaying the existing underlying zoning to reduce nonconformities.” See DGEIS Executive Summary pg. iii. To summarize, these difficulties include the following:

a) Insufficient Floor Area Ratios;
b) Addition of a Front Yard Setback requirement;
c) Minimum Landscape Buffer Area Adjacent to Residential Uses; and
d) Sufficiency of Trip Generation Studies and Level of Service Analysis in DGEIS.

Furthermore, while the inclusion of development incentive bonuses in exchange for community benefits and/or amenities is a tried and tested method to maximize development and community benefit, which we support, it will also create a system in which Town Board approval is required for every proposed development. This would still, in our view, thwart the Town’s attempt to create an overlay district that reduces non-conformities, and practically eliminates the possibility of any as-of-right developments within the overlay district. The result is a baseline re-development yield that is insufficient, lengthier, costlier and more complicated zoning approval process, similar to a re-zoning application requiring legislative approval by the Town Board with every application.
Thank you for the opportunity to submit this correspondence. We greatly appreciate your reasoned consideration and look forward to working together with you to achieve the legislative objectives.

Very truly yours,

Chris J. Coschignano

CJC:emr
Enclosures
cc: Breslin Realty Development Corporation
VIA HAND DELIVERY

Mr. Richard Regina, Esq.
Counsel to the Town Board
Town of Hempstead
One Washington Street
Hempstead, New York 11550

Re: Proposed Revisions to Town of Hempstead
Baldwin Mixed-Use Zoning Overlay District (B-MX District)

Dear Mr. Regina,

As you may be aware, our office represents Breslin Realty Development Corporation with respect to the proposed Baldwin Mixed-Use Zoning Overlay District. The following represents an analysis of the draft code materials with key recommendations to improve same before they are adopted.

I. Introduction

We are fully appreciative and supportive of your efforts, both individually and on behalf of the Town of Hempstead, to move forward with a revitalization effort of the Baldwin downtown community. By proposing the enactment of an overlay district we too are optimistic that it will create a walkable downtown, which blends street-front retail and supporting services with vertical residential development, resulting in a “Main Street Environment,” for residents and visitors to enjoy.

It is our belief that the accompanying overlay district regulations must encourage increased residential and commercial density. In support of this legislative effort, a mixed-use project by Mr. Wilbur Breslin is proposed on the southeast corner of Sunrise Highway and Grand Avenue, one of the most prominently located anchoring corners in the proposed overlay zone. The Subject Premises is a 1.65 acre (71,913 square feet) parcel with frontages along both Grand Avenue and Sunrise Highway, and is located directly across the street from the Baldwin LIRR station (the “Subject Premises”).
The purpose of this correspondence is to outline some important inconsistencies among the bulk and density metrics of the Town of Hempstead’s proposed Baldwin Mixed-Use Zoning Overlay District (the “B-MX District”). Our concern is that elements of the preliminary code as drafted, will frustrate, from a structural perspective, the legislative intent within the B-MX District. Among other issues, the primary concern is with the units per acre density metric, which as drafted, will work against the vertical and bulk relief intended by this overlay zone.

A copy of the draft B-MX district regulations are annexed hereto as Exhibit “A”. In addition to the specific recommendations discussed herein, a proposed modified bulk and regulation control table is included with this correspondence, for your use in moving forward.

While we will use the Subject Premises as a specific reference, we view the suggestions contained herein as applicable to the similarly situated sub-districts within the larger overlay district. Therefore, we seek to provide suggestions to the Town and its outside consultants, VHB Engineering, on how to improve the proposed zoning text to expand development potential and fulfill the legislative intent in enacting the B-MX District.

II. B-MX District Purpose and Legislative Intent

The 2017 study commissioned by the Town, the “Baldwin Downtown and Commercial Corridor Resiliency Study (the “DCCR Study”), was the precursor for the creation of the B-MX overlay district. The DCCR Study was tasked with reviewing the existing economic and physical conditions along the downtown Baldwin corridor centered along Grand Avenue and the Baldwin LIRR station, which has been adversely affected by a lack of private sector investment and continuity of uses, as well as a history of vacancies. The key recommendation of the DCCR Study was the creation of a new overlay district along the Grand Avenue/LIRR corridor that would revitalize the Baldwin community into a walkable, transit-oriented downtown with a healthy mix of residential, retail and commercial uses supported by enhanced infrastructure. See B-MX §422.A.

The Town’s stated legislative intent in enacting the B-MX District is as follows:

[2] The primary goal of the B-MX District is to facilitate private investment, public benefits and economic development within downtown Baldwin. The new overlay district seeks to leverage the area’s proximity to public transportation by promoting mixed-use transit-oriented development around the Baldwin LIRR station to meet increasing demands for housing and retail uses, drive foot traffic, implement transportation and infrastructure improvements necessary to accommodate future growth and enhance the visual quality and pedestrian amenities through the implementation of design guidelines, which are contained as an appendix to the Building Zone Ordinance (see “Baldwin Mixed-Use
A copy of the “Baldwin Mixed-Use Zoning Overlay District (B-MX) Design Guidelines” mentioned above and prepared by VHB is annexed hereto as Exhibit “B”.

III. The B-MX Sub-Districts

As written, the B-MX overlay district is divided into three (3) sub-districts as indicated on the zoning map dated February 22, 2019, prepared by VHB and annexed hereto as Exhibit “C”. The sub-districts are as follows:

i. Baldwin – Mixed Use, Transit-Oriented Development (B-MX, TOD)
ii. Baldwin – Mixed Use, Merrick Road Gateway (B-MX, MRG)
iii. Baldwin – Mixed Use, Commercial Transition (B-MX, CT)

Preliminarly, we note that the zoning map in Exhibit “C” incorrectly references the (B-MX, TOD) and (B-MX, CT) sub-districts on the map key. The abbreviations for these sub-districts should be reversed on the map key. The proposed development site is located within the B-MX, TOD sub-district, which encompasses the area in closest proximity to the Baldwin LIRR station.

IV. B-MX Bulk and Density Controls

B-MX §429 sets forth the specific lot, bulk and density zoning controls for each of the B-MX sub-districts as follows:

<table>
<thead>
<tr>
<th>Control</th>
<th>B-MX, TOD</th>
<th>B-MX, MRG</th>
<th>B-MX, CT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Maximum floor area ratio</td>
<td>2.0</td>
<td>1.5</td>
<td>1.0</td>
</tr>
<tr>
<td>2. Maximum building area coverage</td>
<td>60% for commercial buildings</td>
<td>60% for mixed-use or multiple-family buildings</td>
<td>60% for mixed-use or multiple-family buildings</td>
</tr>
<tr>
<td>3. Maximum residential density for multifamily and mixed-use buildings</td>
<td>45 units/acre</td>
<td>45 units/acre</td>
<td>30 units/acre</td>
</tr>
<tr>
<td>4. Maximum building height</td>
<td>max 75 feet</td>
<td>max 65 feet</td>
<td>max 45 feet</td>
</tr>
<tr>
<td>5. Maximum building setback from front lot line (build to line), except for pedestrian plaza areas</td>
<td>0 feet</td>
<td>0 feet</td>
<td>10 feet</td>
</tr>
<tr>
<td>6. Minimum side yards</td>
<td>None required</td>
<td>None required</td>
<td>None required</td>
</tr>
<tr>
<td>7. Minimum rear yard</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
</tr>
<tr>
<td>8. Minimum landscaped buffer area when adjacent to residential uses</td>
<td>25 feet</td>
<td>25 feet</td>
<td>25 feet</td>
</tr>
</tbody>
</table>
V. Outline of the Bulk and Density Control Issues

As set forth more specifically herein, we believe there are a number of structural inconsistencies, within the density regulations as written, that when applied potentially frustrate the intended bulk development articulated in the code. These inconsistencies when applied to proposed projects, may ultimately thwart the primary purpose and legislative intent for the creation of the overlay district. The most problematic bulk and density controls that are not working in harmony to achieve the Town’s desired effect are identified below and are as follows:

1. Maximum residential density for multifamily and mixed-use buildings
2. Maximum Floor Area Ratio and Building Area Coverage
3. Minimum Landscaped Buffer Area When Adjacent to Residential Uses

The selected metrics serve to highlight our view of potential inconsistencies and the potential resulting problematic effect of the interplay between the bulk and density controls in practice. In addition to this issue identification, specific suggestions for resolution of the identified issues and suggested resultant revisions to the ordinance are offered, so that the articulated bulk requirements and guidelines harmonize with the Town’s vision for the Baldwin downtown community.

1. Maximum Residential Density for Multifamily and Mixed Use Buildings:

As noted in the introduction, each of the three sub-districts in the B-MX District has a density restriction that is based on units per acre. The TOD sub-district as written permits up to 60 units per acre with a lesser amount of 45 and 30 units per acre in the MRG and CT sub-districts, respectively. Although it is common to utilize a units per acre density control in zoning, in this case, when the units per acre metric is applied, together with the enumerated height and other density metrics, a structural conflict emerges. This particular restriction only contemplates parcel size as the defining metric that controls, and as a result does not allow for the accounting of a harmonized vertical footprint. Due to the fact that it does not define either the type or size of units that are intended to be incentivized, it actually so deeply governs density as to be structurally in conflict with the balance of the bulk density requirements. Said differently, the math simply does not work and there is no conforming way to achieve vertical density and not be grossly violative of the governed units per acre. By way of example, a one acre parcel, or a group of assembled parcels totaling 40,000 SF, in the TOD sub-district, would yield only 60 units. Practically speaking, density objectives would not be met, nor would project developers be able to bear the cost of acquisition, construction and development with a yield of this size.

One of the key principles supporting a successful transit-oriented downtown is to generate a healthy number of “feet on the street,” and to support two (2) large demographic
segments that are being economically pressured-off of Long Island, namely empty nesters and millennials/young professionals. The desired density is further necessary to support the small businesses that are sought after to sustain a new and vibrant neighborhood. In order to fulfill the promise of the B-MX zone and the revitalization of the Baldwin downtown, there must be a coordinated and clearly articulated code that incentivizes the development of a denser number of units that are right-sized to match.

The only viable solution to this problem would be to move away from density controls governed by units per acre entirely, and instead use area, bulk and height restrictions to determine the size of projects. As more fully described herein, when floor area ratio, building area coverage and height harmonize in the right manner, a clear building volume mass is created that is not defined by unit restrictions. The proposed revised zoning chart in Section VI removes the units per acre metric in order to realize this goal.

2. Maximum Floor Area Ratio and Building Area Coverage:

Under each of the B-MX sub-districts, the maximum amount of floor area that can be constructed on a particular lot is determined by the lot area of a parcel multiplied by the FAR for that sub-district. The sub-district with the highest FAR is the B-MX TOD District with an FAR of 2.0. This, coupled with a maximum building coverage of just 60% for mixed-use or multi-family buildings, when taken together, results in another metric inconsistency that would only facilitate the conforming construction of a building no higher than 3 stories before exceeding the FAR restriction. Again, applying this enumerated metric would result in another a significant disconnect between the permitted heights in the B-MX zone and the bulk intent.

By way of example, a one acre parcel, or a group of assembled parcels totaling 40,000 square feet, would max out its development potential at 80,000 SF of floor area. The resulting maximum footprint for a mixed-use or residential building footprint would be 24,000 SF (40,000 x .6), and yield a maximum of 3-stories residential development before a variance would be needed from the FAR restriction. Keeping in mind that parking must be contained within the site as well, which by resultant necessity helps define the necessary footprint and in many cases the number of stories, the available density for residential development, and vertical site utilization becomes severely constrained.

The results of application of this metric are even more drastic in the B-MX, MRG and CT sub-districts where FAR is 1.5 and 1.0 respectively and the building area coverage is 60%, and 40% for residential and mixed-use buildings, respectively. Using the same size parcel of 40,000 SF, only a 2.5 story mixed-use building can be constructed in either of these districts before needing variance relief from the overlay zoning, let alone contemplating the height utilization deployed to satisfy on-site stored parking. The potential for a "structural fail" would be amplified
by the fact that the vast majority of building lots within the overlay are significantly less than one acre in size, especially along the Grand Avenue corridor of the B-MX overlay map, where the depth of lots is rarely more than 100 feet. In our view, this potential inconsistency producing result can be remedied by increasing the FAR’s in the B-MX sub-districts, so that a vertical density can be achieved which is in line with the maximum building heights permitted within each sub-district. A remedy for each of the cited examples is listed below in Section VI, where floor area ratios are doubled in each of the B-MX sub-districts.

Likewise, building area coverage should be increased to eliminate this potential inconsistency. Accordingly, we suggest a metric of 75% be adopted in the B-MX, TOD and MRG sub-districts and 60% in the B-MX, CT sub-district. This change would create a conforming and code-harmonized platform, with an adequate building footprint to accommodate not only the necessary commercial and residential bulk, but the structured parking that must be accommodated on-site as well. This is especially important in a south shore community like Baldwin that has a high-water table, where underground parking structures may not be feasible.

3. Minimum Landscaping Buffers Adjacent to Residential Uses:

§429.A.8 in the B-MX District mandates a 25-foot landscape buffer area when adjacent to residential uses. Undoubtedly, adequate screening buffers between the downtown district and the adjacent residential community should be promoted and enforced. However, this amount of screening would severely hamstring the developable area in this particular overlay zone, especially on the west side of Grand Avenue where as mentioned above, the lots are particularly shallow. The practical effect of development on the shallow lots along Grand Avenue with these required buffers, is that building envelopes will become impractically smaller, and buildings will need to become much taller to make up for it. If they were even developable in a conforming manner, the residential neighbors would be trading the extra landscaping buffer for a view of much taller buildings.

An effective solution can be crafted by requiring taller fences along residential properties and/or a denser, but shallower landscape design requirement along residential borders. The combined effect of shorter buildings and a more desirable fence/landscape buffer would address these concerns while allowing for on-site parking storage. The proposed revised zoning chart in Section VI accordingly decreases the minimum landscape buffer from 25 feet to 10 feet in each of the sub-districts. It is further suggested that a detailed landscape buffer plan be submitted with any project that abuts residential uses, and that should include a mitigation plan for addressing impacts to residential properties.
VI. Design Review Board (the “DRB”)

§432 of the B-MX District code creates a new administrative agency within the Town to review applications submitted in the overlay district called the “Design Review Board” or “DRB”. The code states that the DRB will consist of three (3) employees of the Department of Buildings with site plan review backgrounds to be appointed by the Town Board. One of the clear legislative intents of the district is to create a more streamlined approach to zoning entitlements and to “minimize the creation of non-conformities with the underlying zoning.” See B-MX 422.B.3. Creating a new layer of review within the Town to handle applications in the B-MX zone, could possibly result in additional delays in the approval process and increased administrative expenses. An equally effective and more expedited solution may be to forego the creation of a new DRB and to instead have building permit applications submitted under the B-MX District be handled by designated plans examiners in the normal course of business. Existing staff that is already experienced with the complexities and requirements of the site plan review processes can simply be trained to handle cases under the new B-MX overlay zone and obviate the need for an additional process.

Section 432.A already requires a submission of supplemental environmental materials together with the typical zoning analysis undertaken by a Plans Examiner under any commercial application. The building permit review process can similarly be altered to fit the new considerations of the B-MX code without the need for added oversight by a newly created administrative entity. In the event an application under the overlay requires variances or otherwise does not conform to the B-MX overlay district regulations, it too could be handled in the ordinary variance course of business.

VII. Proposed Revised Lot and Bulk Control Zoning Chart

In accordance with the recommendations set forth above in this report, below is a proposed replacement lot and bulk control zoning chart for §429 of the B-MX District:

<table>
<thead>
<tr>
<th></th>
<th>B-MX, TOD</th>
<th>B-MX, MRG</th>
<th>B-MX, CT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Maximum floor area ratio</td>
<td>4.0</td>
<td>3.0</td>
<td>2.0</td>
</tr>
<tr>
<td>2. Maximum building area coverage</td>
<td>90% for commercial; 75% for mixed-use or multiple family</td>
<td>90% for commercial; 75% for mixed-use or multiple family</td>
<td>75% for commercial; 60% for mixed-use or multiple family</td>
</tr>
<tr>
<td>3. Maximum building height</td>
<td>Max 75 feet</td>
<td>Max 60 feet</td>
<td>Max 45 feet</td>
</tr>
<tr>
<td>4. Maximum building setback from front lot line (build to line),</td>
<td>0 feet</td>
<td>0 feet</td>
<td>10 feet</td>
</tr>
</tbody>
</table>
Sahn Ward Coschignano, PLLC

Mr. Richard Regina, Esq.
Counsel to the Town Board
Town of Hempstead
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except for pedestrian plaza areas

<table>
<thead>
<tr>
<th></th>
<th>Minimum side yards</th>
<th>Minimum rear yard</th>
<th>Minimum landscaped buffer area when adjacent to residential uses</th>
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</thead>
<tbody>
<tr>
<td>5</td>
<td>None required</td>
<td>0</td>
<td>10 feet</td>
</tr>
<tr>
<td>6</td>
<td>None required</td>
<td>0</td>
<td>10 feet</td>
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<tr>
<td>7</td>
<td>None required</td>
<td>0</td>
<td>10 feet</td>
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</table>

VIII. Conclusion

The Town has put forward an innovative idea to re-imagine and revitalize the Baldwin downtown community. The B-MX District will be a most effective tool to realize these goals and transform the community into a vibrant walkable downtown, anchored by addressing the needs of core demographic and economic constituencies. The modifications respectfully recommended in this report are offered to help this goal become a reality, and to realize the full potential benefit to the community empowered by this ordinance.

Thank you for the opportunity to submit this correspondence to your attention and we look forward to working together with you to achieve your commendable objectives. We stand ready to assist further as may be required.

Very truly yours,

Chris J. Coschignano

CJC:emr

Enclosures

cc: Breslin Realty Development Corporation
Exhibit “A”

Baldwin Mixed-Use (B-MX) Overlay District Draft Ordinance
TOWN OF HEMPSTEAD
Building Zone Ordinance
Proposed Zoning Amendments to Create a Baldwin Mixed-Use Zoning Overlay District

Article XLII. Baldwin Mixed-Use Overlay District (B-MX)

§ 422. Statement of intent and purpose.

A. Background.

(1) Downtown Baldwin, centered along Grand Avenue and the Baldwin LIRR station, is the commercial backbone of the Baldwin community. However, the economic health and resiliency of this commercial corridor has been affected by its lack of private sector investment, discontinuity of uses, and history of vacancies. Development patterns along this corridor have been varied and inconsistent.

(2) The Baldwin community has long recognized the importance of the Grand Avenue corridor. The community envisions a downtown that is vibrant and pedestrian-friendly, with an active, compact, multi-modal LIRR station area at the center of the hamlet. This vision also incorporates a mix of land uses and innovative green infrastructure components to create a place where residents, commuters and visitors can shop, dine, and recreate.

(3) In May 2017, the Baldwin Downtown and Commercial Corridor Resiliency (DCCR) Study was published. This report was the culmination of a comprehensive planning effort that reviewed existing economic and physical conditions along the corridor and outlined a series of strategies and projects that would address critical issues and contribute to a more resilient, safe, and sustainable future for the Baldwin community. A key recommendation of the DCCR Study is the creation of a new overlay district along the corridor that would encourage the development of a walkable, compact and transit-oriented downtown with a mix of residential, retail and commercial uses supported by enhanced infrastructure.

B. Purpose and legislative intent.

(1) In response to the needs of the Baldwin community, and following the recommendations put forth in the DCCR Study, the Town of Hempstead hereby enacts a new Article of the Town of Hempstead Building Zone Ordinance, which will create a new overlay district to be known as the "Baldwin Mixed-Use Overlay District (B-MX)."

(2) The primary goal of the B-MX District is to facilitate private investment, public benefits and economic development within downtown Baldwin. The new overlay district seeks to leverage the area's proximity to public transportation by promoting mixed-use transit-oriented development around the Baldwin LIRR station to meet increasing demands for housing and retail uses, drive foot traffic, implement transportation and infrastructure improvements necessary to accommodate future growth and enhance the visual quality and pedestrian amenities through the implementation of design guidelines, which are contained as an appendix to the Building Zone Ordinance (see "Baldwin Mixed-Use Zoning Overlay District (B-MX) Design Guidelines").
(3) The B-MX District regulations, as an overlay district, have been designed to minimize the creation of non-conformities with underlying zoning.

(4) With the stated goals in view, this article is enacted with the intention of promoting the health, safety and general welfare of the Town of Hempstead and its residents.

§ 423. Title.

This article shall be known and cited as the "Baldwin Mixed-Use Overlay District (B-MX) Article" of the Town of Hempstead.

§ 424. Definitions.

In addition to the definitions of this Building Zone Ordinance, the following special definitions are applicable to this article. In the event of conflict, the following definition shall be controlling:

**Mixed-Use**
A building with both residential and commercial uses.

**Assisted Living** - An establishment for the long-term residential care of the aged and infirm, such as congregate-care and assisted living facilities, but not including nursing homes, convalescent homes or substance abuse treatment centers.


A. Interpretation; conflicts with other provisions.

1. In interpreting and applying the provisions of this article, the rules of interpretation applicable to remedial legislation shall be used so that the spirit and intent of this article shall be observed.

2. In the event of a conflict between the provisions of this article and other provisions of this Building Zone Ordinance, the provisions of this article shall control.

B. Severability. If any clause, sentence, section, paragraph or provision of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this article but shall be confined in its operation to the clause, sentence, section, paragraph or provision directly involved in the controversy in which such judgment shall have been rendered.

§ 426. Applicability; Design Review; Subdistricts.

In the B-MX District, the following regulations shall apply:

A. The area within Baldwin designated B-MX is largely developed. As a result, the B-MX District has been designed as an overlay district, with the zoning regulations and Design Guidelines described herein, applicable to new development, redevelopment, and building expansions which result in a ten-percent or greater increase in the building's floor area. For existing uses and rehabilitations and expansions less than 10% of the gross floor area, existing zoning regulations shall still apply, and the Design Guidelines shall not apply.
B. Design Guidelines have been established for the B-MX Overlay District in order to create a high-quality, pedestrian friendly environment. The principles described in the Baldwin Mixed-Use Design Guidelines are not mandatory development standards. However, all projects shall incorporate and demonstrate how these design principles meet the purpose and intent of the guidelines. In reviewing applications, the Design Review Board, which is hereby established, shall follow the criteria of the Baldwin Mixed-Use Design Guidelines and B-MX Overlay District Design Guidelines Checklist contained as an appendix to the Building Zone Ordinance.\[1] The ultimate approval of projects will be judged in accordance with these design guidelines.

\[1] Editor's Note: Said guidelines are an appendix to the BZO.

C. For purposes of this article, the B-MX District shall be divided into three subdistricts as indicated on the Zoning Map described in § 431 of this article. These subdistricts include:
(1) Baldwin – Mixed-Use, Transit-Oriented Development (B-MX, TOD).
(2) Baldwin – Mixed-Use, Merrick Road Gateway (B-MX, MRG).
(3) Baldwin – Mixed-Use, Commercial Transition (B-MX, CT).

§ 427. Permitted uses.

A. In the B-MX Zoning District, the following uses shall be permitted uses:
(1) Professional office, bank or financial institution
(2) Pharmacy/drugstore
(3) Retail trade and personal services, including supermarkets
(4) Restaurants, including outdoor dining as an accessory thereto, but excluding lunch wagons, drive-in restaurants, drive-in luncheonettes, drive-thrus, drive-in counter or drive-in refreshment stands.
(5) Health and fitness establishments
(6) Multiple-family dwelling
(7) Assisted living
(8) Mixed-use, as defined in this article
(9) Parking field, either public or private, for the parking of passenger vehicles only, but not for display or sale of automobiles.

B. Special permit uses. The following special uses, when approved by the Town Board, are permitted:
(1) Hotels.
(2) Dormitory/Graduate Student style housing.
(3) Cabarets.
(4) Bowling alleys, skating rinks, and arcades.

C. Accessory uses. The following uses customarily incidental to permitted, and special permit uses if approved, shall be permitted in the B-MX Overlay District:
(1) Off-street parking and loading, including parking structures.
(2) Open space or plaza areas.

D. Religious and educational uses shall be governed by Article XXXIX of this Ordinance.
§ 428. Prohibited uses.

A. In the B-MX Zoning District, the following uses shall be prohibited:
   (1) Any use prohibited by Article XXXVII of this Ordinance.
   (2) Car wash
   (3) Check-cashing establishment
   (4) Drive-in theater
   (5) Dry cleaning or laundromat services done on-site (drop-off/pick-up permitted).
   (6) Gambling or games of chance establishment
   (7) Gasoline station, motor vehicles repair or auto body shop
   (8) Kennel or pet-boarding facility
   (9) Motel
   (10) New or used automotive showroom or car lot
   (11) Outdoor storage use
   (12) Pawnshop, including auction house
   (13) Tattoo Parlors
   (14) Residential dwelling units on the ground floor of any building.
   (15) Any use not permitted in section §427 Permitted Uses.

§ 429. Lot and bulk controls.

A. Consistent with primary goals of the B-MX District, the following lot and bulk controls allow for greater intensities of development for properties fronting Grand Avenue and Sunrise Highway closest to the Baldwin LIRR station (B-MX, TOD). The lot and bulk controls for the B-MX, B-MRG subdistrict facilitate private investment, public benefits and economic development within the area around the intersection of Merrick Road and Grand Avenue. The B-MX, CT subdistrict facilitates appropriately scaled mixed-use commercial development in transition areas along the Grand Avenue corridor.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>B-MX, TOD</th>
<th>B-MX, MRG</th>
<th>B-MX, CT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Maximum floor area ratio</td>
<td>2.0</td>
<td>1.5</td>
<td>1.0</td>
</tr>
<tr>
<td>2. Maximum building area coverage</td>
<td>90% for commercial buildings</td>
<td>90% for commercial buildings</td>
<td>75% for commercial buildings</td>
</tr>
<tr>
<td></td>
<td>60% for mixed-use or multiple-family buildings</td>
<td>60% for mixed-use or multiple-family buildings</td>
<td>40% for mixed-use or multiple-family buildings</td>
</tr>
<tr>
<td></td>
<td>60 units/acre</td>
<td>45 units/acre</td>
<td>30 units/acre</td>
</tr>
<tr>
<td>3. Maximum residential density for multifamily and mixed-use buildings</td>
<td>90% for commercial buildings</td>
<td>90% for commercial buildings</td>
<td>75% for commercial buildings</td>
</tr>
<tr>
<td></td>
<td>60% for mixed-use or multiple-family buildings</td>
<td>60% for mixed-use or multiple-family buildings</td>
<td>40% for mixed-use or multiple-family buildings</td>
</tr>
<tr>
<td></td>
<td>60 units/acre</td>
<td>45 units/acre</td>
<td>30 units/acre</td>
</tr>
<tr>
<td>4. Maximum building height</td>
<td>max 75 feet</td>
<td>max 60 feet</td>
<td>max 45 feet</td>
</tr>
<tr>
<td>5. Maximum building setback from front lot line (build to line), except for pedestrian plaza areas</td>
<td>0 feet</td>
<td>0 feet</td>
<td>10 feet</td>
</tr>
<tr>
<td>6. Minimum side yards</td>
<td>None required</td>
<td>None required</td>
<td>None required</td>
</tr>
<tr>
<td>7. Minimum rear yard</td>
<td>0 feet</td>
<td>0 feet</td>
<td>0 feet</td>
</tr>
<tr>
<td>8. Minimum landscaped buffer area when adjacent to residential uses</td>
<td>25 feet</td>
<td>25 feet</td>
<td>25 feet</td>
</tr>
</tbody>
</table>
The depth of the rear yard shall be increased five feet for each 12 feet of portion thereof by which the building exceeds forty (40) feet in height.

B. Yard setbacks.
   A. Front yards.
      1. Notwithstanding the foregoing, a roof, mansard, awning, or similar projection not exceeding 24 inches beyond the front property line shall be a permitted encroachment.

C. Screening. Any storage area or parking area shall be screened from all abutting uses, including public rights-of-way. Such screening shall consist of a hedge, fence or wall, with a minimum height of four feet and a maximum height of six feet, except that within a radius of 20 feet of the point formed by any intersecting property lines adjacent to roads or highways, the maximum height shall be 30 inches, such screening to be sufficient to obscure such area in an effective manner and during all seasons of the year.

D. Fences. No fence or wall more than six feet in height may be erected without a permit and authorization by the Board of Appeals pursuant to Article XXVII hereof. No fence shall be permitted in the front yard or the side yard if located on a corner lot.

E. Signs. Signs, which are authorized under the provisions of Article XXIV, are permitted, subject to consistency with the Baldwin Mixed-Use Design Guidelines.

§ 430. Off-street parking.

Accessory parking. Accessory off-street automobile parking spaces shall be provided on the same lot or premises or off the premises within 300 feet of such premises. The minimum number of accessory parking spaces required shall be determined by the type of each included use and shall be calculated as follows.

<table>
<thead>
<tr>
<th>Use</th>
<th>B-MX, TOD</th>
<th>B-MX, MRG and B-MX, CT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail/Commercial</td>
<td>1 space per 300 square feet</td>
<td>1 space per 300 square feet</td>
</tr>
<tr>
<td>Multifamily Apartment: Studios</td>
<td>1 space per unit</td>
<td>1 space per unit</td>
</tr>
<tr>
<td>Multifamily Apartments: One-bedroom units</td>
<td>1 space per unit</td>
<td>1.3 space per unit</td>
</tr>
<tr>
<td>Multifamily Apartments: Two-bedroom units</td>
<td>1.5 spaces per unit</td>
<td>1.75 spaces per unit</td>
</tr>
<tr>
<td>Multifamily Apartments: Three or more bedroom units</td>
<td>1.75 spaces per unit</td>
<td>2 spaces per unit</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>1 space per bed</td>
<td>1 space per bed</td>
</tr>
<tr>
<td>Graduate student housing</td>
<td>1 space per bed</td>
<td>1 space per bed</td>
</tr>
<tr>
<td>Other permitted uses</td>
<td>in compliance with §319 of this ordinance; each parking space shall comply with all requirements of §319D of this ordinance</td>
<td></td>
</tr>
</tbody>
</table>
§ 431. Amendment of the Zoning Map

In furtherance of the implementation of this article, and to specifically identify the particular areas within Baldwin placed into the overlay B-MX District and three subdistricts established herein, a particular zoning map dated February 22, 2019, prepared by VHB Engineering, Surveying, Landscape Architecture and Geology, P.C., and entitled "Baldwin – Mixed-Use Rezoning Map," has been filed in the office of the Town Clerk, and in all other places required by law or otherwise for the filing of zoning maps of the Town. This map is incorporated herein by reference. It identifies the areas in the overlay B-MX District and subdistricts, and upon the effective date of this article, it shall apply in those areas to the extent provided in this article or otherwise at law.

§ 432. Administration and Procedure.

The review and approval process for new development, redevelopment, and building expansions which result in a ten percent or greater increase in the building's floor area in the B-MX District, shall be as follows:

A. A building permit application shall be submitted to the Buildings Department. In addition to all otherwise required documentation, an applicant shall also submit all materials necessary for review by the Design Review Board, including a consistency analysis with the SEQRA Conditions and Thresholds set forth in the Findings Statement adopted by the Town Board. The Design Review Board will determine the level of SEQRA review required in accordance with 6 NYCRR §617.10. The Plans Examiner shall, upon the submission of a complete application, conduct a zoning compliance review and review for compliance with the State Environmental Quality Review Act ("SEQRA").

B. The Design Review Board. Upon complete review of zoning and SEQRA compliance, the application shall be referred to the Design Review Board for purposes of applying the Baldwin Mixed Use Zoning Overly District (B-MX) Design Guidelines.

(1) The Design Review Board shall consist of three employees of the Department of Buildings with site plan review backgrounds, appointed by the Town Board. Approval by the Design Review Board shall be necessary prior to the issuance of a sign permit or a building permit for new development, redevelopment, and building expansions which result in a ten-percent or greater increase in the building’s floor area.

(2) Prior to the Public Hearing of the Design Review Board, a public notice, prepared by the Design Review Board, shall be published at least 10 days prior to the date fixed for such public hearing in a newspaper of general circulation in the Town of Hempstead and shall be noticed on the Town’s website at least 10 days prior to the public hearing. The notice shall state the general nature of the application, the applicant, and the location of the property. Said notice shall be mailed by the applicant no more than 28 days and no less than 21 days prior to the Design Review Board's hearing by certified mail to all property owners within a 300 foot radius of the subject application’s property boundaries, and the applicant shall file an
affidavit of mailing, with the certified mail receipts, with the Design Review Board prior to the public hearing.

(3) A sign noticing said public hearing shall be posted at said location at least 21 days prior to the date fixed for such public hearing. Said sign(s) shall be located in each front yard setback of the subject premises; shall be at least 24 square feet in area; shall provide the words "NOTICE OF PUBLIC HEARING" and the date, place and time of the public hearing, and the general nature of the application in black letters at least six inches high with a background color of the face of the sign either bright orange or bright yellow.

(4) In reviewing applications, the Design Review Board shall substantially follow the criteria of the Baldwin Mixed Use Zoning Overlay District (B-MX) Design Guidelines and B-MX Overlay District Design Guidelines Checklist contained as an appendix to the Building Zone Ordinance. The ultimate approval of projects will be judged in accordance with these design guidelines.

(5) If the application is compliant with zoning and SEQRA, then the Design Review Board, acting as Lead Agency, may issue a Negative Declaration.

(6) The Design Review Board shall have the powers granted by the Town Law and the power to approve, disapprove, or grant with conditions applications for Design Review Board approval for properties within the B-MX District. The Design Review Board shall render a written determination within 30 days of the completion of the public hearing, and may issue findings of fact.

(7) If the Design Review Board does not vote for changes to the plan, or votes for changes to the plan and the applicant consents to the changes, and the project is compliant with zoning and SEQRA, then the application can be circulated to State, County, and Town departments for approvals. Once all State, County, and Town approvals are obtained, the Building Department will issue a Building Permit. Site plan approval under § 305 will not be required. The project will not require a Town Board hearing.

(8) Anyone aggrieved by the decision of the Design Review Board may appeal same to the Board of Appeals.

C. If an application is not zoning compliant, or if the Design Review Board cannot issue a Negative Declaration under SEQRA, then upon completion of review and decision by the Design Review Board, the application shall be referred to the Town Board for a public hearing to determine the approval or disapproval of the application. In the event that the Town Board approves said application, it may attach certain conditions to said approval, which conditions shall become an integral part thereof. The Town Board may, by resolution,
dispense in part with conformity with the provisions applicable to the B-MX District and may impose safeguards and conditions as it may deem appropriate, necessary or desirable to promote the spirit and objectives of this section, including but not limited to restrictive covenants pertaining to any area within the district that is the subject of an application, including the site plan submitted on behalf of the application, together with other agreements, if any, in recordable form and running with the land. If the Town Board approves an application, the application shall then be circulated to State, County, and Town departments for approvals. Once all State, County, and Town approvals are obtained, the Building Department will issue a Building Permit. Site plan approval under § 305 will not be required. The project will not require a second Town Board hearing.
Exhibit “B”

Baldwin Mixed-Use Zoning Overlay District (B-MX) Design Guidelines
BALDWIN MIXED-USE
ZONING OVERLAY
DISTRICT (B-MX)

DESIGN
GUIDE
LINES
ACKNOWLEDGMENTS

Town of Hempstead Supervisor
Hon. Laura Gillen

Town of Hempstead Council Members
Hon. Dorothy L. Goosby
Hon. Edward A. Ambrosino
Hon. Bruce A. Blakeman
Hon. Anthony P. D'Esposito
Hon. Erin King Sweeney
Hon. Dennis Dunne, Sr.

VHB
VHB Engineering, Surveying, Landscape Architecture & Geology, P.C.
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Appendix A: Native/Adaptive Plantings
Introduction

In May 2017, the Baldwin Downtown and Commercial Corridor Resiliency (DCCR) Study was published. This Study was the culmination of a comprehensive planning effort that reviewed existing economic and physical conditions along the Grand Avenue corridor and outlined a series of specific projects and strategies that contribute to a more resilient, safe, and sustainable future for the Baldwin community. A key recommendation of the DCCR Study is the creation of a new mixed-use overlay zoning district along the corridor that encourages the development of a walkable, compact and transit-oriented downtown with a mix of residential, retail and commercial uses supported by new infrastructure accommodations and planned MTA/LIRR station enhancements.

The Baldwin Mixed-Use Zoning Overlay District (B-MX) focuses on downtown Baldwin, centered along Grand Avenue and the Baldwin LIRR station (see Map 1). Grand Avenue is the commercial backbone of the Baldwin community. However, the economic health and resiliency of this commercial corridor has been affected by its lack of private sector investment, discontinuity of uses, and history of vacancies. The Baldwin community has long recognized its assets and envisions a downtown that is vibrant and pedestrian-friendly, with an active, compact, multi-modal LIRR station area at the center of the hamlet. This vision also incorporates a mix of land uses and innovative green infrastructure components to create a place where residents, commuters and visitors want to shop, dine, and recreate.

During the course of creating the B-MX District, concern for the aesthetic quality of the built environment within the targeted revitalization area was expressed by the Town. A key goal is to establish new development that contributes positively towards the creation of a cohesive and aesthetically pleasing environment for the residents, businesses and larger community. The guidelines developed herein will help to achieve the desired outcomes for the Baldwin Revitalization Area.

These design guidelines serve as a guide to residents, developers, and design professionals that are interested in developing, expanding, and rehabilitating buildings or properties within the Baldwin Revitalization Area. The guidelines are also a useful tool for the planning, design, and evaluation of the proposed development or rehabilitation for the Town’s Design Review Board (as established in the Baldwin Mixed-Use Zoning Overlay District) that will be reviewing these projects. By following the guidelines, applicants are likely to find that their review process will move along more efficiently (i.e. fewer design revisions, more community support, etc.).
This document provides guidance on the following topics:

- Architecture
- Awnings
- Exterior Lighting
- Signage
- Service Areas
- Parking
- Streetscaping
- Landscaping
- Sustainability and Green Design

This document contains recommendations and visuals of best practices as well as examples of preferred solutions and situations to avoid.

Review and Approval Process

The Design Guidelines will be implemented in accordance with the Hempstead Building Zone Ordinance Article XLII Section 432 regulations governing the review and approval process in the B-MX District. As outlined, the following regulations shall apply:

There shall be a Design Review Board for purposes of applying the Baldwin Mixed-Use Zoning Overly District (B-MX) Design Guidelines, which shall be governed as follows:

1. The Design Review Board shall consist of three employees of the Department of Buildings with site plan review backgrounds, appointed by the Town Board. Approval by the Design Review Board shall be necessary prior to the issuance of a sign permit or a building permit for new development, redevelopment, and building expansions which result in a ten-percent or greater increase in the building’s floor area.

2. Prior to the Public Hearing of the Design Review Board, a public notice, prepared by the Design Review Board, shall be published at least 10 days prior to the date fixed for such public hearing in a newspaper of general circulation in the Town of Hempstead and shall be noticed on the Town’s website at least 10 days prior to the public hearing. The notice shall state the general nature of the application, the applicant, and the location of the property. Said notice shall be mailed by the applicant no more than 28 days and no less than 21 days prior to the Design Review Board’s hearing by certified mail to all property owners within a 300-foot radius of the subject application’s property boundaries, and the applicant shall file an affidavit of mailing, with the certified mail receipts, with the Design Review Board prior to the public hearing.

3. A sign noticing said public hearing shall be posted at said location at least 21 days prior to the date fixed for such public hearing. Said sign(s) shall be located in each front yard setback of the subject premises; shall be at least 24 square feet in area; shall provide the words “NOTICE OF PUBLIC HEARING” and the date, place and time of the public hearing, and the general nature of the application in black letters at least six inches high with a background color of the face of the sign either bright orange or bright yellow.

4. In reviewing applications, the Design Review Board shall substantially follow the
criteria of the Baldwin Mixed-Use Zoning Overlay District (B-MX) Design Guidelines and B-MX Overlay District Design Guidelines Checklist contained as an appendix to the Building Zone Ordinance. The ultimate approval of projects will be judged in accordance with these design guidelines.

5. If the application is compliant with zoning and SEQRA, then the Design Review Board, acting as Lead Agency, may issue a Negative Declaration.

6. The Design Review Board shall have the powers granted by the Town Law and the power to approve, disapprove, or grant with conditions applications for Design Review Board approval for properties within the B-MX District. The Design Review Board shall render a written determination within 30 days of the completion of the public hearing, and may issue findings of fact.

7. If the Design Review Board does not vote for changes to the plan, or votes for changes to the plan and the applicant consents to the changes, and the project is compliant with zoning and SEQRA, then the application can be circulated to State, County, and Town departments for approvals. Once all State, County, and Town approvals are obtained, the Building Department will issue a Building Permit. Site plan approval under § 305 will not be required. The project will not require a Town Board hearing.

8. Any applicant aggrieved by the decision of the Design Review Board may appeal same to the Board of Appeals.

If an application is not zoning compliant, or if the Design Review Board cannot issue a Negative Declaration under SEQRA, then upon completion of review and decision by the Design Review Board, the application shall be referred to the Town Board for a public hearing to determine the approval or disapproval of the application.
Architecture involves the exterior design elements and massing of a building. The shape, size, material and design of a building are an integral part of creating a community’s character. All construction projects whether it is new development, additions, or rehabilitations should incorporate architectural elements that enhance and upgrade the aesthetic environment which will ultimately create a visually cohesive downtown.

New Construction

1. Architectural designs should be evaluated in terms of the sensitive integration of form, textures and colors with the site and character of the surrounding area.

2. In general, new buildings should be rectangular or square in shape and consistent with existing building context.

3. Buildings fronting Grand Avenue, Sunrise Highway and Merrick Road can be built to the public right of way line. Outdoor gathering and dining space that expands the public realm is encouraged.

4. Materials and architectural elements should harmonize and not starkly contrast with the character of the surrounding area, while accommodating a potential contemporary expression and use of technology.

Examples of new construction that is consistent with the form and character of the surrounding area.
5. Buildings in highly visible locations including primary corners along Grand Avenue, Merrick Road and Sunrise Highway should be designed to express and reinforce the importance of these locations.

6. Whenever the rear and side elevations of buildings and associated ground floor facades are adjacent to public areas such as streets and parking lots, the architectural design, materials, and treatment of these facades should wrap the building and be integrated with the building's front facade.

7. The exterior walls of new buildings should be constructed of durable, permanent materials. The use of reflective materials is discouraged. The exterior of residential dwellings should consist of metal, brick or wood. Appropriate exterior materials for commercial uses include brick, treated concrete or stone.

8. The design of buildings should vary the facade vertically and horizontally, especially at the street level, to help reinforce the pedestrian zone.

9. When new construction contains more than one store, an overall design approach should be shared by each of the stores.

10. Storefronts should provide interest and, where appropriate, should include pedestrian-oriented features to encourage pedestrian movement and activity.
11. New construction should be designed to strongly encourage retail, dining, and active business uses with both day and evening programming at the ground floor. Amenities in the public right-of-way are encouraged including public seating, outdoor dining, public art, planters, and seasonal decorations. If outdoor dining is proposed, a plan, drawn to scale, showing the proposed outdoor dining area with measurements, including a representation showing that at least four (4) feet of unobstructed sidewalk space will remain for pedestrians, shall be submitted to the Design Review Board.

12. Buildings that front on Grand Avenue, Sunrise Highway and Merrick Road must have at least one pedestrian entrance directly on these roads in order to maintain street presence and promote pedestrian activity.

13. Integrate new mechanical elements into architectural features of the building. Vertical roof projections such as vents or stacks should be screened.

14. Locate new mechanical systems and exhaust systems so that they do not vent onto pedestrian levels.

Location of Building Entries

![Location of Building Entries Image]
Rehabilitation

15. Proposed improvements should be chosen to harmonize with the basic scale and character of the building including materials, display windows, transoms, mid-comices and lighting.

16. When an existing building has a facade composed of stone, wood or brick, an effort should be made to retain the original material in its natural state.

17. When an existing ground-level storefront is rehabilitated, where feasible, existing architectural design and details should be identified and used as the basis for the renovation project.

18. When an existing building contains more than one store, a unified design approach should be shared by each of the proposed stores.

19. If replacement is required, use materials that match in color, size, profile, thickness, pattern, and texture to the existing material.

20. If replacement windows are necessary, efforts should be made to match original window materials, dimensions, glazing and trim.

The first floor rehabilitation of this building incorporates attractive materials and architectural features that provide visual interest in the street front.
Additions

21. All additions should harmonize with the basic scale and character of the building.

22. When designing additions, materials should be used that complement or match the existing building.

23. Plan the size and location of windows on additions to match the window and/or shutter patterns already on the existing building.

24. Existing building features such as a cornice design, materials, or arrangement of storefront glass should be incorporated into the building addition.

Examples poorly-designed additions where materials and architectural details are incongruous with the existing building.
Awnings

Awnings are a way of creating shade and pedestrian shelter from inclement weather. They can also provide signage for storefronts. When done right and maintained in good condition, they are an effective way of adding to the pedestrian experience.

25. Awnings over pedestrian walkways and sidewalks are encouraged to provide shade and rain protection while adding interest to a facade with shape and color.

26. Long expanses of awnings are discouraged. Awnings should have a pedestrian scale and be placed so as to provide weather protection and/or business identification to potential patrons of a business.

27. Use awning dimensions, materials, shapes, and styles that reinforce the pattern of existing businesses and the character of the building.
Exterior Lighting

Exterior lighting is found within parking lots and along streets, sidewalks and pathways and it is typically located on the exterior of buildings. While exterior lighting is needed to add sight and security for the pedestrian and those using other forms of transportation, it is important to consider all sources of lighting before deciding where and how much additional exterior lighting will be added to any building. All lighting proximate to a building should work cohesively and meet the purpose it is designed for but not over illuminate an area where it becomes a nuisance to the neighboring properties and residents.

Projects in the Baldwin Mixed-Use Overlay for which review is required by the Design Review Board, shall be reviewed for conformance with these guidelines. Plans submitted for review and approval shall provide information sufficient to demonstrate compliance with the requirements of these Guidelines, including plan and elevation drawings, manufacturers’ fixture cut-sheets, lamp type and wattage, and additional information that may be required under certain sections of these Guidelines, or as requested by Town staff or the Design Review Board, such as foot-candle plots or controls. Changes after approval are subject to the same review process.

28. Lighting should be organized in simple patterns such that it reinforces the basic structure of streets and sidewalks.

29. If a particular lighting pattern or lighting design element exists on a building or within an area, similar lighting should be utilized on building rehabilitations, new construction or additions.

30. Utilize “Dark Sky” lighting fixtures and place lighting to minimize glare and prevent stray light.

31. Lighting of parking areas and pathways to parking areas should be enhanced by low level lighting if necessary with the goal of minimizing light pollution.
Signage

There are many different types of signs. Wall-mounted, free-standing, projecting, and window signs are typical signs located within a commercial area. While the types of signs are numerous, too many signs on a building can detract from the visual appearance of the commercial district. Further, the quality, material, and design of a sign can add to or detract from the character a community is trying to achieve.

Sign Design:

32. Signage should be in scale with the building facade.

33. Signs should be compatible with the placement, size, graphics, colors and style of the building as well as with neighboring buildings and signs.

34. Signs should be illuminated from the exterior rather than interior, if lighting is required. All sign lighting should be shielded and directed towards the signs. When internally illuminated, the background should be darker than the lettering.

35. Signs should be simple, unobtrusive and legible.

Wall Signs:

36. Wall signs should be placed above storefront display areas on the traditional sign cornice, sign band or lintel above the ground floor.

37. Wall signs should not conceal windows or the architectural details of the storefront and their placement should reinforce architectural features.

38. Signs should be of high quality materials. Flashing signs or signs with moving parts or changing electronic displays are prohibited.
Window Signs

39. Window signs should be simple. Window signs should cover less than 25% of the window area.

These signs located within a sign band work harmoniously with the architecture and create a more orderly and traditional appearance.

Projecting Signs

40. Projecting signs should be placed above the storefront display on the sign band or lintel above the ground floor and should fit within building modules.

Freestanding Signs

41. The use and type of free standing signs should be considered in the context of the overall setting. Monument or structured free-standing signs are preferred over single-pole (lollipop) free standing signs.
Service Areas

All buildings require space for loading, storage and utility areas. These service areas should be designed to be as unobtrusive, both visually and physically, as possible.

42. All exterior service, loading, storage and utility areas should be located at the side or rear of the building and be screened or sheltered so as not to be visible from the street or adjacent parcels.

43. Loading docks should be located away from the main pedestrian thoroughfares and removed from public view. No direct loading should be permitted to be visible from Grand Avenue.

44. Outdoor service and storage areas, including garbage collection areas, should be screened from public view with landscaping and/or fencing.
Parking

Parking, either surface or parking structures are a necessary component of developments. However, parking areas do not need to be the focal point of the development. Parking can be incorporated into the overall layout and design to ensure that the building and exterior architecture are the primary visual elements.

Surface Parking

45. Parking in front of buildings is discouraged. Wherever possible, parking should be located to the side or rear of buildings. Where parking is in the front, landscaped buffers should be used between the sidewalk and parking area to assure that the visual effect of paved areas and standing automobiles is minimized.

46. Parking areas containing more than 20 spaces should incorporate landscaped islands, dividers and screenings.

47. The number of curb cuts should be minimized. Entrances and exits to parking areas should be designed so that they do not interfere with vehicular traffic movement, unduly inconvenience pedestrian travel, or create unsafe conditions.

48. Drive-through lanes should be located so that traffic does not conflict with pedestrian travel and should be allowed only for financial institutions.

Examples of Surface Parking

Parking should be located to the side or rear of buildings. Where parking is in front, landscaped buffers should be used, as in the figure above.
Parking Structures

49. Large blank walls should be avoided in favor of fenestration patterns more closely resembling inhabited buildings.

50. Where possible, landscaping should be provided to minimize the visual impact of parking decks.

51. Parking garages, including entrances, should not be located on Sunrise Highway, Merrick Road, or Grand Avenue.

52. Parking structures should be designed to have an external skin comprised of high quality materials to improve the visual character when exposed to prominent public view.

53. Ground floor treatments should provide screening to block views of parked vehicles, bumpers, and headlights from pedestrians using the adjacent sidewalk.

54. Where possible, the first-floor level of the garage should include retail or service uses that will maintain activity at the ground level.

For parking garages, large blank walls should be avoided in favor of fenestration patterns more closely resembling inhabited buildings, as in the example above.
Streetscaping

Streetscaping is an essential part of creating the pedestrian experience. It provides for street amenities and visual elements at the pedestrian level. It also incorporates safety elements for the pedestrian or bicyclist. While sidewalks and streetscaping furniture including benches, planters, and light poles are typically in the public right-of-way, many times these elements are requested by the community to be incorporated or upgraded as part of a redevelopment project.

All streetscaping improvements associated with new construction or rehabilitation of a site should be consistent with the design and function of the public realm and incorporate the parameters and recommendations of the 2017 Next Stop Resilient Baldwin Downtown and Commercial Corridor Resiliency Study. These recommendations include:

55. Installation of landscaping and street trees, in addition to other pedestrian amenities, such as trash receptacles, decorative street lamps, and wayfinding signage, to “green” the streetscape and create an atmosphere that attracts visitors and patrons.

56. Retail and services catering to pedestrians should be encouraged at street-level to create an active streetscape.

57. Street amenities, such as continuous sidewalks, bus shelters, well designed crosswalks, lower-scale lighting, seating areas, waste receptacles, planters, and trees should be encouraged to make the sidewalk environment more comfortable for users.

58. New development should be designed to require compact growth, opportunities for increased choice of transportation modes, and a safe and pleasant pedestrian environment by ensuring an attractive streetscape, a functional mix of uses, green infrastructure and the provision of facilities that support transit use, bicycling and walking.
Landscaping

Landscaping refers to all vegetative and ornamental features incorporated into a site to improve its appearance and attractiveness. Landscaping can also be used as a buffer or screen to parking and storage areas or to separate incompatible uses.

59. New development should be designed so as not to increase impervious surface areas, but rather, to decrease impervious surface areas when possible, and to provide additional opportunities for infiltration of runoff. Landscaping of new development should incorporate green infrastructure, in the form of vegetative controls or permeable pavements, to the extent possible.

Suggested vegetative controls for decreasing impervious surface and increasing infiltration of stormwater runoff include: 1) native and/or adaptive plants, or cultivated varieties of same for hybridized increased performance in disease/pest resistance, improved form, dwarf form, increased aesthetic traits, drought tolerance, etc.; and 2) including a post-plant establishment maintenance plan for the performance of green infrastructure vegetative controls (e.g. bio-retention facilities, bio-swales, stormwater planters, etc.). See Appendix A for a suggested general list of native/adaptive plantings, however final plant species-selection appropriateness should account for site-specific conditions (e.g. soil type and pH, sun exposure, wind, soil volumes, current pest/disease risks, height/size goals and/or restrictions, fruit litter, site visibility, maintenance expectations, etc.).

Examples of green infrastructure that reduces impervious surfaces (top left), well-designed landscaping features (bottom left), and consistent paving materials (right).
60. Parking and service areas should be screened from major streets and public spaces with dense evergreen trees or shrubs. Brick walls and fences can also be used where spaces will not allow the use of plantings for screening.

61. Accent planting should be used around entries and key activity hubs. Screening should be used to protect less intensive uses from the impacts of more intrusive uses and to block views of less desirable features from public view (trash enclosures, etc.).

62. Plantings at building foundations should consist of a combination of lawn areas and low plantings. In high exposure areas such as building entrances, plantings should be appropriately scaled and include plant materials selected for year-round attractiveness.

63. Plantings should be both functional and visually appealing. The use of native plants is preferred. Xeriscaping is encouraged to promote water conservation, reduce maintenance requirements, and decrease flooding.

64. Paving materials and patterns for walkways, drives and parking areas should be consistent in order to tie together development within the district.

65. Trees and shrubs should be located and spaced to allow for long-term growth. Evergreen and deciduous or flowering trees should be used in combination to create visual interest and to create a dynamic landscape.

66. For evergreen screening along adjacent residential land uses, a double-staggered row of evergreen screen tree species 7 feet on center is suggested. Consideration should be given to sun-exposure, expected mature size of the plant species, and the available soil volumes; alternatively, upright tall dense evergreen shrub species may be substituted (e.g. Upright Cherry Laurel, Guifride False Holly, etc.) in tighter spaces and growing conditions.
Sustainability and Green Building Design

Sustainability and green building refers to the practice of creating structures using a process that is environmentally responsible and resource-efficient throughout a building's life-cycle: from siting to design, construction, operation, maintenance, renovation, and demolition. Elements include the construction of buildings that are energy efficient (high levels of insulation, high performance windows), use renewable resources (passive solar heating, daylighting), are designed for durability, future reuse and adaptability, and use low maintenance building materials with low embodied energy.

67. All rehabilitation and new construction should incorporate energy efficiency and design elements into the rehabilitation or design of the new additions or buildings.

68. Building materials should be locally sourced, with a high percentage of salvaged and recycled materials. Install high efficiency heating and cooling equipment, high efficient lights and appliances and water efficient equipment.

All rehabilitation and new construction should adhere to green infrastructure recommendations of the 2017 Next Stop Resilient Baldwin: Baldwin Downtown and Commercial Corridor Resiliency Study when applicable. These recommendations include:

69. Install permeable pavers or low-maintenance turf grass within select areas, as appropriate.

70. Install pervious surface curb extensions with storm drains, as appropriate.

71. Replace trees in declining health and/or those that have wire-conflicts with wire-friendly trees adaptable to sidewalk conditions.

72. Install stormwater planters and reuse technology at new development sites.
Appendix A
Native/Adaptive Plantings

The following list of plants are suggested general native/adaptive plantings at the time of writing, however final plant species-selection appropriateness should account for site-specific conditions (e.g. soil type and pH, sun exposure, wind, soil volumes, current pest/disease risks, height/size goals and/or restrictions, fruit litter, site visibility, maintenance expectations, etc.).

Shade Trees (for Open Space)

- Acer x freemanii 'Jeffersred'
- Acer rubrum 'Frank Jr.'
- Acer saccharum 'Legacy'
- Betula nigra 'Heritage'
- Cedrus occidentalis
- Cladrastis kentukea
- Corylus colurna
- Eucommia ulmoides
- Ginkgo biloba 'Autumn Gold'
- Ginkgo biloba 'JFS-UGA2'
- Gladitsa triacanthos 'Shademaster'
- Liquidambar styraciflua 'Rotundifolia'
- Liriodendron tulipifera 'JFS-Oz'
- Metasequoia glyptostroboides
- Nyssa sylvatica 'David Odom'
- Ostrya virginiana
- Platanus x acerifolia 'Bloodgood'
- Quercus bicolor
- Quercus muhlenbergii
- Quercus phellos
- Quercus rubra
- Syphingobium japonicum
- Taxodium distichum
- Ulmus americana 'Valley Forge'
- Ulmus x 'Morton'
- Ulmus pumila 'Emeril II'
- Zelkova serrata 'Green Vase'

- Autumn Blaze Maple
- Redpointe Maple
- Legacy Sugar Maple
- Heritage River Birch
- Hackberry
- American Yellowwood
- Turkish Filbert
- Hardy Rubber Tree
- Autumn Gold Ginkgo
- Golden Colonade'
- Shade Master Honeylocust
- Sweetgum
- Emerald City Tulip Tree
- Dawn Redwood
- Afterburner Tupelo
- American Hophornbeam
- Bloodgood London Planetree
- Swamp White Oak
- Chinkapin Oak
- Willow Oak
- Red Oak
- Japanese Pagodatree
- Bald Cypress
- Valley Forge Elm
- Accolade Elm
- Allee Elm
- Green Vase Japanese Zelkova
Street Trees
Acer x freemanii 'Jeffersred'
Acer rubrum 'Frank Jr.'
Celtis occidentalis
Craeinastis kantelrea
Corylus colurna
Eucommia ulmoides
Ginkgo biloba 'Autumn Gold'
Ginkgo biloba 'JFS-UGA2' - Golden Colonnade
Ulmus americana 'Valle Frye'
Ulmus 'Morton'
Ulmus parvifolia 'Emer II'
Zelkova serrata 'Green Vase'

Autumn Blaze Maple
Redpointe Maple
Hackberry
American Yellowwood
Turkish Flibert
Hardy Rubber Tree
Autumn Gold Ginkgo
Emerald City Tulip Tree
American Hopladrome
Bloodgood London Planetree
Swamp White Oak
Chinkapin Oak
Willow Oak
Japanese Pagodatree
Bald Cypress
Valley Forge Elm
Acclad Elm
Allee Elm
Green Vase Japanese Zelkova

Upright Shade Trees
(for narrow spaces e.g. next to train tracks, building facades, between overhead utility lines and buildings, etc.)
Acer saccharum 'Barrett Cole'
Acer rubrum 'JFS-1078'
Acer rubrum 'Scarsen'
Carpinus betulus 'Frans Fontaine'
Liquidambar styraciflua 'Slender Silhouette'
Populus tremula 'Britzii'
Quercus bicolor 'Bonne and Mike'
Quercus x 'JFS-1010X'
Quercus palustris 'Pringle's'
Zelkova serrata 'Musashino'

Appollo Sugar Maple
Armstrong Gold Maple
Scarlet Sentinel Maple
Upright European Hornbeam
Upright Sweetgum
Swedish Columnar Aspen
Beacon Oak
Streetspire Oak
Green Pillar Oak
Upright Japanese Zelkova
Wire-Friendly / Ornamental Trees (for open space and street trees)

*Acer campestre 'Panacek'
*Acer triflorum
*Aesculus x carnea 'Fort McNair'
*Amelanchier laevis 'JFS-Arb'
*Amelanchier canadensis 'Trazam'
*Cercis canadensis
*Cornus mas 'Golden Glory'
*Cornus x 'Rutcan'
*Crateagus crusgalli var. inermis 'Cruzan'
*Koelreuteria paniculata
*Lagerstroemia x
*Maackia amurensis
*Malus 'JFS-KWS'
*Malus x 'Sutyzam'
*Magnolia x 'Galaxy'
*Parrotia persica 'Inge's Ruby Vase'
*Prunus virginiana 'Canada Red'
*Syringa reticulata 'Ivory Silk'
*Taxodium distichum 'Skyward'
*Zelkova serrata 'JFS-KWY'
*Zelkova serrata 'Schmidtlow'

Evergreen Screen Trees

*Abies concolor
*Chamaecyparis thyoides
*Cryptomeria japonica 'Yoshino'
*Juniperus virginiana 'Emerald Sentinel'
*Picea abies
*Picea alba
*Picea omorika
*Picea orientalis
*Thuja occidentalis 'Nigra'
*Thuja occidentalis 'Smaragd
*Thuja plicata 'Green Giant'

 Metro Gold Hedge Maple
 Three-Flowered Maple
 Fort McNair Horsechestnut
 Spring Flurry Serviceberry
 Tradition Serviceberry
 Redbud
 Golden Glory Cornelian Cherry
 Constellation Dogwood
 (Rutger's Hybrids)
 Crusader Thornless Cockspur Hawthorne
 Goldenrain Tree
 Crape Myrtle Hybrids
 Amur Maackia
 Royal Raindrops Crabapple
 Sugar Tyme Crabapple
 Galaxy Magnolia
 Ruby Vase Parrotia
 Canada Red Improved Chokecherry
 Ivory Silk Japanese Tree Lilac
 Lindsey's Skyward Bald Cypress
 City Sprite Zelkova
 Wireless Zelkova

White Fir
Atlantic White Cedar
Yoshino Japanese Cryptomeria
Emerald Sentinel Eastern Redcedar
Norway Spruce
White Spruce
Serbian Spruce
Oriental Spruce
Nigra Eastern Arborvitae
Emerald Green Arborvitae
Green Giant Western Arborvitae
Shrubs
Abelia x grandiflora ‘Rose Creek’
Caryopteris x clandonensis ‘Dark Knight’
Comptonia peregrina
Hydrangea macrophylla 'Ballmer'
Hydrangea paniculata 'Little Lime'
Hypericum perforatum
Ilex glabra ‘Shamrock’
Ilex verticillata (Dwarf Varieties)
Moraea pustulata ‘Morton’
Nandina domestica ‘Firepower’
Osmanthus heterophyllus ‘Guftide’
Potentilla fruticosa ‘Abbotswood’
Prunus laurocerasus ‘Otto Luyken’
Prunus laurocerasus ‘Schipkaensis’
Rhus aromatica ‘Gro-Low’
Rosa x ‘Radrazz’
Spirea japonica ‘Trecy’
Syringa x (Dwarf Varieties)

Perennials / Ground Cover
Ageratum
Amsonia hubrichtii
Ceratostigma plumbaginoides
Galillarda x grandiflora
Hemerocallis x
Heuchera villosa ‘Citronele’
Hypericum calycinum
Liriope muscari ‘Big Blue’
Liriope muscari ‘Variegata’
Nepeta x faassenii ‘Junior Walker’
Perovskia atriplicifolia ‘Little Spire’
Penstemon digitalis ‘Dark Towers’
Salvia x superba ‘Blue Hill’
Sedum ‘Autumn Joy’
Stachys byzantina ‘Helen Von Stein’

Rose Creek Abelia
Dark Knight Blue Mist Shrub
Sweetfern
Endless Summer Hydrangea
Little Lime Hydrangea
St. John’s Wort
Dwarf Inkberry Holly
Dwarf Winterberry Holly
Silver Sprite Bayberry
Firepower Nandina
Guftide False Holly
White Shrubby Cinquefoil
Otto Luyken Cherry Laurel
Upright Cherry Laurel
Gro-Low Fragrant Sumac
Knockout Rose
Double Play Big Bang Spirea
Dwarf Lilacs

Ageratum
Threadleaf Amsonia
Plumbago
Blanket Flower
Daylily (Reblooming Varieties)
Citronele Coral Bells
St. John’s Wort
Big Blue Lilyturf
Variegated Lilyturf
Junior Walker Catmint
Dwarf Russian Sage
Purple Beardtongue
Blue Hill Garden Sage
Sedum
Helen Von Stein Lamb’s Ear
**Ornamental Grasses**

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<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
<th>Variety</th>
<th>Common Name</th>
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<tbody>
<tr>
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<td>Deschampsia cespitosa 'Goldtau'</td>
<td></td>
<td>Goldtau Tufted Hairgrass</td>
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<tr>
<td></td>
<td>Deschampsia flexuosa</td>
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<td>Wavy Hairgrass</td>
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<td>Purple Lovegrass</td>
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<td>Festuca ovina 'Glaucica'</td>
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<td>Blue Fescue</td>
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<tr>
<td>Muhlenbergia capillaris</td>
<td>Panicum virgatum 'Shenandoah'</td>
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<td>Pink Muhly Grass</td>
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<tr>
<td>Pennisetum alopecuroides 'Little Bun</td>
<td>Pennisetum alopecuroides 'Burgundy Bunny'</td>
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<td>Purple Switchgrass</td>
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<tr>
<td>Dwarf Fountain Grass</td>
<td>Schizachyrium scoparium 'Standing Ovation'</td>
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<tr>
<td>Purple Dwarf Fountain Grass</td>
<td>Standing Ovation Little Bluestem</td>
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Exhibit "C"

Baldwin Mixed-Use Zoning Overlay District (B-MX) Map
Baldwin Mixed-Use Overlay Zone

Source: Town of Hempstead, VHB
September 9, 2019

Mr. Richard Regina, Esq. EA
Town of Hempstead Town Board
1 Washington Street
Hempstead, NY 11550

Re: Proposed Amendments to the Town of Hempstead Building Zone Ordinance Baldwin Mixed-Use Overlay District

Dear Mr. Regina:

I am writing to express Community Development Corporation of Long Island (CDCLI)’s support for the proposed amendments to the Town of Hempstead’s Building Zone Code. These changes are envisioned to provide a framework for future development and revitalization in downtown Baldwin, goals which are aligned with the work and mission of CDCLI.

CDCLI is a regional non-profit organization that was founded 50 years ago by government, business, and civic leaders who came together to address the growing demand for affordable housing. Our mission is to invest in the housing and economic aspirations of individuals and families by providing solutions that foster and maintain vibrant, equitable and sustainable communities.

We are regional and national leader in community development, working to revitalize and build strong communities by providing a variety of programs and services that address the dynamic challenges faced by those who live and work on Long Island. CDCLI has partnered with private developers to construct more than 1,800 affordable multifamily residences on Long Island, with about 400 units currently in the pipeline. We also provide affordable housing marketing and management services. Please see attached flyer for a full description of CDCLI’s programs and services.

CDCLI has experience in developing transit-oriented development as envisioned in the Town’s proposed Baldwin Mixed-Use (B-MX) Overlay District. Our next development slated to open at the end of 2019 in partnership with the Albanese organization is a 124-unit development of affordable housing in Wyandanch Village. This building is the latest phase of an award-winning redevelopment project which includes renovations and new parking garage for the Wyandanch LIRR station, a public plaza, neighborhood retail and mixed-use affordable and workforce housing.

We also partnered with Conifer Development on Peconic Crossing, a mixed-use development in the heart of downtown Riverhead which provides 45 units of affordable housing with preferences for artists and ground floor space occupied by the East End Arts Council. Peconic Crossing is highlighted in the Baldwin Downtown Commercial Corridor Resiliency (DCCR) Study as an example of a higher density mixed use project similar to the Resilient Baldwin development concepts (Baldwin DCCR Study pp 68, 124).

The DGEIS notes diversified housing options in downtown Baldwin that can capture and retain young working professionals are amount the community benefits that would be

We Invest in Your Dreams℠
achieved with the proposed rezoning. CDCLI agrees this is an important goal, not only in Baldwin but across our region. According to the recently published nextLI report ‘Who is the Next Generation of Long Islanders’, a comprehensive survey based on 1,800 interviews with 18-34 year old Nassau and Suffolk residents, 78% of respondents expressed support for building more affordable housing and increasing diversity in housing stock. 

This is not surprising - it is well known that housing on Long Island is very expensive to rent or buy, and housing costs have continually increased at a rate which is higher than the growth of household income. Census statistics indicate that 57% of Long Island households are paying more than 30% of their income on housing costs (defined as rent burdened), and 32% are paying more than 50% of their income for housing (severely rent burdened). Further, the availability of affordable rentals is very limited, particularly in transit-oriented, walkable, downtown communities.

Creation of new affordable housing has been a critical early component of successful economic revitalization efforts across Long Island in downtown areas like Baldwin. With this rezoning the Town would allow multi-family and mixed-use development, but there is more that can be done to specifically address the desires and needs of the community for diverse, affordable housing. CDCLI recommends that the Town consider incorporating enhanced standards for inclusionary housing (i.e. blending affordable with market rate units). At a minimum, the provisions of the LI Workforce Housing Act requires that developers of 5 or more units are required to set aside 10% of units as affordable to families at or below 130% of median income for the Nassau-Suffolk area. Other municipalities across Long Island have adopted affordability standards that go further by setting income limits lower and/or requiring a higher percentage of units to be designated as affordable, often in connection with density bonus provisions. CDCLI welcomes the opportunity to discuss further options to consider in setting meaningful, yet achievable affordability requirements either as part of this rezoning process or in the future as proposals for housing are considered.

In our 50 year history, we have been involved at every level of community development—from concept, to community engagement, to resource and financial investment identification for both rental and home ownership opportunities. CDCLI supports the Baldwin Mixed Use Overlay District rezoning proposal as consistent with smart growth, neighborhood revitalization, and Transit Oriented Development concepts. We stand ready to assist the Town of Hempstead in achieving these goals.

Very truly yours,

Gwen O'Shea
President & CEO

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1 DGEIS for Proposed Amendments to Town of Hempstead Building Zone Ordinance, Baldwin Mixed Use Overlay District Section 2.3 Purpose, Needs and Benefits p43
2 https://next.newsday.com/research/survey-the-next-generation-of-long-islanders/
Community Development Corporation of Long Island (CDCLI), a regional non-profit organization, was founded in 1969 by government, business, and civic leaders who came together to address the growing demand for affordable housing. That strong tri-sector support continues today. CDCLI is a nationally connected, locally focused organization, and has developed a strong reputation in its 50-year history of serving the Long Island community. The organization is a regional and national leader in community development, working to revitalize and build strong communities, and employs a team of more than 85 highly committed, expert professionals. CDCLI serves Nassau and Suffolk Counties and parts of Brooklyn, and provides a variety of programs and services that address the dynamic challenges faced by those who live and work on Long Island.

From providing a voice for fair and sustainable community development to homeownership education to residential lending, CDCLI remains steadfast in its commitment to three pillars of focus: Community Development and Housing for All; Economic Stability; and Advocacy, because home matters for all people.

As a chartered member of NeighborWorks®, CDCLI is recognized as an “exemplary organization,” meeting a high standard of fiscal integrity and service performance to assist local residents in achieving their dreams, however they define them.

Our programs and services include:

**Homeownership Center** – Offering education, counseling, training, and coaching to help people achieve and sustain a healthy home, however they define it, and to gain financial independence. Pre-purchase programs include homebuyer education and financial literacy. Post-purchase programs include foreclosure counseling, reverse mortgage counseling, and home maintenance training.

**Rental Housing Assistance** – Providing rental subsidies to low-income families, seniors, disabled persons, and veterans using federal and state funds.

**Real Estate Development** – Increasing affordable housing opportunities throughout Long Island that meet each community’s needs, including single and multifamily homes for rent and sale. Wherever there is opportunity and community need, CDCLI works with residents, government officials, community leaders, and other partners to accomplish affordable housing development.

**Home Improvement & Optimization** – Enabling Long Islanders to make their homes healthier, more energy efficient, and structurally sound. CDCLI provides construction oversight for the weatherization of single and multifamily homes, accessibility improvements, home improvements, and critical safety repairs.

**Resident Services** – Using housing as a platform to help low-income, vulnerable populations build a stable life and achieve sustainable tenancies as they work toward self-defined goals on a journey to personal and economic empowerment. This initiative integrates health, human services, housing, and community development providers to holistically
address resident needs by identifying service gaps and connecting them to appropriate supportive services.

**Lending** – As a Community Development Financial Institution, we are able and committed to provide affordable and responsible lending in under-resourced and under-served communities; encouraging and empowering individuals to join the economic mainstream. Residential lending services provide a variety of innovative, low-interest loans and grants to assist with down payments, closing costs, emergency repairs, and septic system replacements. CDCLI’s CDFI also provides pre-construction, short-term and permanent financing to multi-family developments.

**Affordable Housing Marketing and Management** – Assisting municipalities and developers to advance the creation of inclusive and affordable housing and ensure ongoing compliance of such developments with regulatory requirements.

**Clean Energy Communities & Green Initiatives** – Assisting local governments to implement clean energy actions, save energy costs, create jobs, and improve the environment.
From: Erin King Sweeney
To: Vassallo, Alex
Date: 9/10/2019 11:50 AM
Subject: Fwd: Baldwin

>>> Vince Kish <vincekish@gmail.com> 9/10/2019 11:42 AM >>>
Good morning, Councilwoman Sweeney,

I wrote to you a year ago regarding my concerns about the decades-old promises for the revitalization of downtown Baldwin. I received a gracious reply from your colleague, Alex Vassallo, encouraging me to submit additional concerns and comments. Given the recent announcement about the NYS grant, it appears that this pipe dream may well finally become a reality. So, here goes.

I have two big concerns. The first is that we somehow attract quality businesses to the area. Please, no more hair salons, nail salons, eyebrow weaving, cash for gold and jewelry, fast food eyesores, etc. I'd like to be able to buy a book or a gift, sit down for dinner at some place a little more high-end than Applebees or Dunkin Doughnuts, or take my wife for a drink at a bar that's not a dive or doesn't have a sign in the window indicating No Weapons. I understand that there is only so much anyone can do to attract better businesses, but all we can do is try.

My second concern is something that is controllable: traffic on Grand Avenue. Almost every day, I walk to my local supermarket here in North Baldwin and I see the following: a TOH lot near the Lutheran Church which never has more than 6-7 cars. But then I will see cars pulling in and out of 7/11, then MacDonald's, then the bank, then KFC; etc. three, or four, or five stops, all within a few blocks, - all of it unnecessary, a waste of gas, and dangerous.

If I venture South on Grand, depending on the time of day, I'll often see traffic backed up a good deal by a Popeye's restaurant. On several occasions, I've seen the shutdown of the entire Grand Avenue, and I am not exaggerating. Cars from every possible angle, some of them perpendicular to the traffic lanes, will jockey for position, and a ridiculously long wait, not to enter the parking lot, but to be on-line for the take-out window.

Many Long Islanders, and Baldwin residents in particular, can be pig-headed and rude in their attitudes regarding driving and parking. The only way to get some people to use a parking lot and then walk is to force them to do so by eliminating other options. I strongly suggest that for any new businesses that come to Baldwin, especially for downtown, that both drive-in windows and store-owned parking lots not be allowed.

Thanks for listening, Councilwoman. I wish you the best of luck in handling this project.

Sincerely,
Vincent Kish
Hello

My initial comments concern the breadth and width of the zoning coverage itself and if the flexibility outside of the designated areas would still be the case for developers interested in project either north or south of the highlighted zones. I was told that there would be flexibility and that each case would be determined on an individual basis. I am still not quite sold on all of the attributes of this project, but I have been trying to keep an open mind. What role if any does the $10 million have regarding this project?

Next, I have concerns regarding the vendors who would be participating in the various projects as the Town still does not have a formal MWVBE program. Because of the diverse pool of funds being used for this endeavor; residents want to know what outreach would be incorporated to provide for diverse supplier participation especially inclusive of minority, women and veteran-owned businesses. Ongoing violations of laws and operating procedures has a growing detrimental effect on the local, diverse business community. What will change in how potential businesses are attracted to the area? Residents are not looking for more nail salons. Besides window dressing and side walks to cover up bad roads, what else is being done that could reduce the taxes for residents?

Also, older residents do not feel that their needs are being addressed by the ongoing attention to Millennials with little regard for the mobility issues of WW2 and older Baby Boomers. Long Island has a large proportion of residents in that age segment than any other part of the country and the push for transit-oriented housing and pathways that eliminate parking, seating and other direct access amenities for people with physical challenges is doing a disservice to the core tax paying constituency.

Finally, the community at large is still very confused about all the different projects that are underway almost simultaneously. Many residents felt that they were not heard at the limited public meetings and others are still in the dark regarding the nature of this project and whether it overlaps with other projects. The prevailing mindset for a number of residents is that they want a replacement for Pathmark, they do not want Grand Ave "calmed" between Merrick and Sunrise and they want something done about the damaged town and county roads. Residents had concerns that the number of public meetings were not enough and the format was not structured for open discussion. The meetings were convenient for those who were a part of the planning who are in support of the project, which gave a slant to the number of attendees in that direction while many who were in opposition felt they were
advised later. Better outreach and more advance information is vital to making sure more residents are aware.

That is about all I can recall from my own thoughts and from conversations with residents.

Thank you,

Meta J. Mereday
Baldwin resident
November 22, 2019

Mr. Richard Regina, Esq.
Counsel, Town Board
Town of Hempstead
One Washington Street
Hempstead, New York 11550

Re: Comments on the Baldwin Mixed-Use Overlay District DEIS

Dear Mr. Regina:

Staff of the Nassau County Planning Commission appreciates the opportunity to review and provide comments on the SEQRA Draft Environmental Impact Statement (DEIS) prepared for the Baldwin Mixed-Use Overlay District. The proposed zoning district and design guidelines are intended to create new mixed use, transit-oriented development (TOD) opportunities in the hamlet of Baldwin in the area surrounding the Baldwin Long Island Rail Road station, as well as modify parking requirements and bulk dimensional regulations to facilitate such development.

Staff finds the proposed zoning district and design guidelines to be fully consistent with the recommendations and findings set forth in the Baldwin Downtown and Commercial Corridor Resiliency Study (2017) and the Nassau County Infill Redevelopment Feasibility Study (2014). Incentive Bonuses and Incentive Zoning are key components of the proposed legislation and are a way for the Town to achieve the desired objective of redeveloping under-utilized properties within the proposed district. The proposed ordinance includes a list of eligible Community Benefits or Amenities in exchange for zoning incentives to the developer such as FAR Development Bonuses. Not included in this list of Community Benefits or Amenities is the provision of an affordable/workforce housing set-aside. Staff strongly recommends that the proposed zoning ordinance be revised to reference a minimum 10 percent workforce housing set-aside as an eligible Community Benefit or Amenity. Incorporating this language would not only conform with Nassau County’s policy of encouraging diverse housing options at locations close to public transit but would also be in compliance with the GML Section 699-B (Long Island Workforce Housing Program) which requires a minimum 10 percent workforce housing set-aside under certain development scenarios, particularly when density bonuses are involved. Attached is a copy of the County’s model zoning provisions relating to inclusionary housing, which is intended to offer guidance for local governments. Should you have any questions concerning our comments, please feel free to contact me at 571-9342.

Sincerely,

Sean Sallie, AICP
Deputy Commissioner

Cc: Marty Glennon, Chair, Nassau County Planning Commission
    Martin Katz, Planner III
EXHIBIT 1
REQUIRED CHARACTERISTICS OF MODEL INCLUSIONARY ZONING ORDINANCE

(1) requires residential developments with five or more units to include at least 20% affordable (meaning a household is paying no more than 30% of its income for gross housing costs, including utilities) housing units;

(2) requires developers to engage in affirmative marketing to ensure outreach to racially and ethnically diverse households, including those who are least likely to apply;

(3) provides density bonuses, parking requirement reductions, and expedited review of proposals for affordable housing including procedures for streamlining the approval process for the design, permitting, and development of these units;

(4) requires the good faith consideration and encouragement of the grant of zoning or other variances or exceptions where necessary to allow for development of housing that will qualify as affordable housing;

(5) provides for deed restrictions or similar legal mechanisms to ensure continued future affordability of affordable housing units;

(6) does not provide for current or prior residency or employment preferences; and

(7) does not include an “opt out” provision.
<table>
<thead>
<tr>
<th>Description</th>
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<td>Transcript of Public Hearing</td>
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APPEARANCES:

DEPUTY SUPERVISOR/COUNCILMAN BLAKEMAN

SENIOR COUNCILWOMAN GOOSBY

COUNCILMAN D’ESPOSITO

COUNCILMAN DUNNE, SR.

MAJORITY LEADER/COUNCILWOMAN KING-SWEENEY

COUNCILMAN MUSCARELLA

TOWN CLERK CABANA

DEPUTY TOWN CLERK SEDACCA

TOWN ATTORNEY RA

TOWN BOARD COUNSEL REGINA

RECEIVER OF TAXES CLAVIN, JR. (ABSENT)

MICHELE HANSON, TOWN CLERK OFFICE
SUPERVISOR GILLEN: All right, good morning everybody. Welcome to this regularly scheduled Town Board meeting.

Before we begin, I'd like to just point out that September is Pediatric Cancer Awareness Month, and the international symbol for childhood cancer is the gold ribbon.

So you may have noticed outside we have gold ribbons placed on lampposts throughout the Town of Hempstead. And in addition, our Town clock tower will be illuminated in gold to bring awareness to this very important cause.

I'd like to thank our partners, the Christina Renna Foundation and the Mary Ruchalski Foundation, who are joining us in efforts to bring -- spread awareness of pediatric cancer.

I'd also like to give a really big round of applause for our Town of Hempstead EMTs and lifeguards.
Morgan Rinn rescued a 17-year-old woman from a riptide yesterday -- or Sunday. And the woman was not breathing. And due to their efforts, they saved this woman's life.

So we have amazing lifeguards in the Town of Hempstead. I'd like to give them a big round of applause.

(Whereupon, applause from the audience was heard. After, the following ensued.)

SUPERVISOR GILLEN: All right. For those of you who never attended a Town Board meeting before, we will first have Public Hearings, followed by an Administrative Calendar.

There are agendas available in the rear of the Pavilion. If you'd like to be heard on any matter, please fill out a slip, which you can get right by the agendas. Fill it out for anything on which you'd like to be heard, and hand it over to one of our clerks and they will bring it up to us.
After the Meeting is adjourned, we will remain in session to hear Public Comment on any other matters on which members of the Public would like to address the Town Board.

Madam Clerk, will you please call the roll.

CLERK CABANA: Supervisor Gillen?
SUPERVISOR GILLENN: Here.
CLERK CABANA: Councilman Blakeman?
COUNCILMAN BLAKEMAN: Here.
CLERK CABANA: Councilman D'Esposito?
COUNCILMAN D'ESPOSITO: I'm here.
CLERK CABANA: Councilman Dunne?
COUNCILMAN DUNNE: Here.
CLERK CABANA: Senior Councilwoman Goosby?
SENIOR COUNCILWOMAN GOOSBY: Here.
CLERK CABANA: Councilwoman King-Sweeney?
COUNCILWOMAN KING-SWEENEY: Here.
CLERK CABANA: Councilman Muscarella?
COUNCILMAN MUSCARELLA: Here.
SUPERVISOR GILLENN: I'd now ask Senior Councilwoman Goosby to lead us in the Pledge of Allegiance.
Everybody please rise.

SENIOR COUNCILWOMAN GOOSBY: Hand over heart.

(Whereupon, Senior Councilwoman Goosby led us in the Pledge of Allegiance. After, the following ensued.)

SUPERVISOR GILLEN: All right Madam Clerk, will you please call our first Public Hearing.

CLERK CABANA: Proposed Local Law Re: "Regulations and Restrictions" to limit parking in Baldwin, Bellmore, Merrick Roosevelt, Uniondale, Wantagh, West Hempstead (To amend Chapter 202 of the Code of the Town of Hempstead)

SUPERVISOR GILLEN: I do not have any slips on this Public Hearing. Is there anyone who'd like to be heard?

(Whereupon, no response was heard. After, the following ensued.)

SUPERVISOR GILLEN: Hearing none, may I have a motion?

COUNCILWOMAN KING-SWEENEY: Supervisor,
I move the hearing be closed and the item be adopted.

SENIOR COUNCILWOMAN GOOSBY: Second.
SUPERVISOR GILLEN: Madam Clerk.
CLERK CABANA: Supervisor Gillen?
SUPERVISOR GILLEN: Aye.
CLERK CABANA: Councilman Blakeman?
COUNCILMAN BLAKEMAN: Aye.
CLERK CABANA: Councilman D'Esposito?
COUNCILMAN D'ESPOSITO: Aye.
CLERK CABANA: Councilman Dunne?
COUNCILMAN DUNNE: Aye.
CLERK CABANA: Senior Councilwoman Goosby?
SENIOR COUNCILWOMAN GOOSBY: Aye.
CLERK CABANA: Councilwoman King-Sweeney?
COUNCILWOMAN KING-SWEENEY: Aye.
CLERK CABANA: Councilman Muscarella?
COUNCILMAN MUSCARELLA: Aye.
SUPERVISOR GILLEN: Madam Clerk,
please call the next Public Hearing.

Valley Stream, (NR) Westbury and West Hempstead. (To amend Section 202-1 of the Code of the Town of Hempstead)

SUPERVISOR GILLEN: I do not have any slips on this Public Hearing. Is there anyone who'd like to be heard?

(Whereupon, no response was heard. After, the following ensued.)

SUPERVISOR GILLEN: Hearing none, may I have a motion?

COUNCILMAN BLAKEMAN: Supervisor, I move that the Public Hearing be closed and that the Local Law be adopted.

COUNCILWOMAN KING-SWEENEY: Second.

SUPERVISOR GILLEN: Madam Clerk.

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: Aye.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Aye.

CLERK CABANA: Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: Aye.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: Aye.
Clerk Cabana: Senior Councilwoman Goosby.

Senior Councilwoman Goosby: Aye.

Clerk Cabana: Councilwoman King-Sweeney?

Councilwoman King-Sweeney: Aye.

Clerk Cabana: Councilman Muscarella?

Councilman Muscarella: Aye.

Supervisor Gillen: Madam Clerk, please call the next Public Hearing.


Supervisor Gillen: I do not have any slips on this Public Hearing. Is there anyone who'd like to be heard?

(Whereupon, no response was heard. After, the following ensued.)

Supervisor Gillen: Hearing none, may I have a motion?

Councilwoman King-Sweeney: Supervisor, I move the hearing be closed and the
item adopted.

COUNCILMAN BLAKEMAN: Second.

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: Aye.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Aye.

CLERK CABANA: Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: Aye.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: Aye.

CLERK CABANA: Senior Councilwoman Goosby?

SENIOR COUNCILWOMAN GOOSBY: Aye.

CLERK CABANA: Councilwoman King-Sweeney?

COUNCILWOMAN KING-SWEENEY: Aye.

CLERK CABANA: Councilman Muscarella?

COUNCILMAN MUSCARELLA: Aye.

SUPERVISOR GILLEN: Madam Clerk, please call the next Public Hearing.

CLERK CABANA: Proposed Local Law Re: "Bus Stops" in Bellmore (To amend Section 202-52 of the Code of the Town of Hempstead)

SUPERVISOR GILLEN: I do not have any slips on this Public Hearing.

Is there anyone who'd like to be
heard?

(Whereupon, no response was heard. After, the following ensued.)

SUPERVISOR GILLEN: Hearing none, may I have a motion?

COUNCILWOMAN KING-SWEENEY: I move that the hearing be closed and the item adopted.

COUNCILMAN DUNNE: Second.

SUPERVISOR GILLEN: Madam Clerk.

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: Aye.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Aye.

CLERK CABANA: Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: Aye.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: Aye.

CLERK CABANA: Senior Councilwoman Goosby?

SENIOR COUNCILWOMAN GOOSBY: Aye.

CLERK CABANA: Councilwoman King-Sweeney?

COUNCILWOMAN KING-SWEENEY: Aye.

CLERK CABANA: Councilman Muscarella?

COUNCILMAN MUSCARELLA: Aye.

SUPERVISOR GILLEN: Madam Clerk,
please call the next Public Hearing.

CLERK CABANA: Proposed Local Law Re: "Traffic Regulations in the vicinity of schools" in Oceanside (To amend Section 197-13 of the Code of the Town of Hempstead)

SUPERVISOR GILLEN: I do not have any slips on this Public Hearing. Is there any who'd like to be heard? (Whereupon, no response was heard. After, the following ensued.)

SUPERVISOR GILLEN: Hearing none, may I have a motion?

COUNCILMAN D'ESPOSITO: I move that the Public Hearing be closed and the Local Law adopted.

COUNCILWOMAN KING-SWEENEY: Second.

SUPERVISOR GILLEN: Madam Clerk.

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: Aye.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Aye.

CLERK CABANA: Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: Aye.

CLERK CABANA: Councilman Dunne?
1 COUNCILMAN DUNNE:  Aye.
2 CLERK CABANA:  Senior Councilwoman Goosby?
3 SENIOR COUNCILWOMAN GOOSBY:  Aye.
4 CLERK CABANA:  Councilwoman King-Sweeney?
5 COUNCILWOMAN KING-SWEENEY:  Aye.
6 CLERK CABANA:  Councilman Muscarella?
7 COUNCILMAN MUSCARELLA:  Aye.
8 SUPERVISOR GILLEN:  Madam Clerk, please call the next Public Hearing.
9 CLERK CABANA:  Proposed Local Law Re: "Prohibition of Left Turns" in or (NR) Westbury (To amend Section 197-15 of the Code of the Town of Hempstead)
10 SUPERVISOR GILLEN:  I do not have any slips on this Public Hearing. Is there anyone who'd like to be heard?
11 (Whereupon, no response was heard. After, the following ensured.)
12 SUPERVISOR GILLEN:  Hearing none, may I have a motion?
13 COUNCILMAN MUSCARELLA:  Motion to close, adopt the item.
COUNCILMAN DUNNE: Second.
SUPERVISOR GILLEN: Madam Clerk.
CLERK CABANA: Supervisor Gillen?
SUPERVISOR GILLEN: Aye.
CLERK CABANA: Councilman Blakeman?
COUNCILMAN BLAKEMAN: Aye.
CLERK CABANA: Councilman D'Esposito?
COUNCILMAN D'ESPOSITO: Aye.
CLERK CABANA: Councilman Dunne?
COUNCILMAN DUNNE: Aye.
CLERK CABANA: Senior Councilwoman Goosby?
SENIOR COUNCILWOMAN GOOSBY: Aye.
CLERK CABANA: Councilwoman King-Sweeney?
COUNCILWOMAN KING-SWEENEY: Aye.
CLERK CABANA: Councilman Muscarella?
COUNCILMAN MUSCARELLA: Aye.
SUPERVISOR GILLEN: Madam Clerk,
please call the next Public Hearing.
CLERK CABANA: Proposed Local
Law Re: "Assault Upon Town of
Hempstead Enforcement Officials" (To
enact a new Section 2-4 of Chapter 2
of the Code of the Town of Hempstead)
SUPERVISOR GILLEN: I have a
slip from Felix Procacci on this
HEMPSTEAD TOWN BOARD   9/3/19

1    hearing.

2    FELIX PROCACCI: Felix

3    Procacci.

4    First, I'd like to know how

5    does this law differ than from

6    existing New York State Law that

7    defines the various degrees of assault

8    and battery in, you know, within the

9    State Law?

10   I read extensively on this and

11   there's a --

12   COUNCILMAN BLAKEMAN: It makes

13   it a specific offense against the Town

14   of Hempstead Enforcement Official.

15   FELIX PROCACCI: Yeah, I get

16   that. But there is -- what would be

17   the difference if, you know, according

18   to New York State Law, what you

19   describe in your Law, it's the same

20   thing. And in some cases, I think the

21   State Law might even be harsher in the

22   punishment.

23   I understand how the history of

24   this. And no need to go through it, I

25   think we all do.
But the idea behind it was that they wanted to make the punishment stronger, that they wanted to make this, the liquid thing throwing water on a police officer a felony and not a misdemeanor. It's already a misdemeanor.

And I looked at if someone just blocks me from going into a public building, that could be considered, you know, assault.

And, you know, I read all this other stuff. We don't need to go through it, because I don't have enough time for it.

But, you know, it seems like you're just being redundant here. You're not adding anything to State Law. You're not adding anything to anything.

And I think that if you don't have police powers in the Town for that purpose anyway, you know, the Public Safety Officers are only here to prevent it. They can't initiate an
arrest or something to come and take someone away --

COUNCILMAN D'ESPOSITO: Right.

But it's --

FELIX PROCACCI: -- unless they're doing something violent.

COUNCILMAN D'ESPOSITO: -- not just --

FELIX PROCACCI: So I'm not sure what the purpose of this is, because the State Law seems to take care of all this and more.

And I think it's just confuses the issue. If you bring it to Court, I think they would just throw this Law out, and just go by State Law and follow those guidelines.

BOARD COUNSEL REGINA: Mr. Procacci, my understanding is the New York State Penal Law classifies specific people as protected from certain attacks, police officers, peace officers, MTA transit workers.

What the Town Board is proposing to do is create its own
special class of protected people in our enforcement officials.

FELIX PROCACCI: Yeah, I just think it's just redundant.

And I said -- like I said, the punishment if someone threw water on me or any other resident, that would be considered assault. If someone spit on you, whether you are a Town Official or not, it would still be considered assault.

So I just think it's a bit redundant.

I just want to go, you know, bring up one point, because this --

COUNCILMAN BLAKEMAN: But what's the harm, Felix?

FELIX PROCACCI: This is --

COUNCILMAN BLAKEMAN: What's --

FELIX PROCACCI: Well --

COUNCILMAN BLAKEMAN: -- what's the harm?

FELIX PROCACCI: -- they're --

COUNCILMAN BLAKEMAN: They're
providing a little extra protection
for the --

FELIX PROCACCI: -- well, I
don't --

COUNCILMAN BLAKEMAN: -- for
the --

FELIX PROCACCI: -- think --
making a convoluted set of laws, there
is always a problem when you confuse
the issue.

Like I always spoke about like
with the Breastfeeding Law, I thought
that that was redundant.
But I just want to bring up
this one point.

COUNCILMAN D'ESPOSITO: And
Felix, if I could just point out --

FELIX PROCACCI: Let me just
finish my thought, then you have all
the time in the world.

SENIOR COUNCILWOMAN GOOSBY: I
have a letter. I should have --

FELIX PROCACCI: In 2016, you
know, Dorothy Goosby told the Public
Safety officers to throw me out of the
building, because I was talking about windows in restaurants. Right away Joe Ra jumped up and told them not to touch me.

You know, at that time, I didn't know the Law. But it turns out if they had touched me, I would have been able to consider that assault.

And the thing is, like I said, this was already existing Law. And all you're doing is just adding redundancy and confusion to it, because it's already a crime under New York State Law.

Now, you could say whatever you want.

COUNCILMAN D'ESPOSITO: Okay.

SENIOR COUNCILWOMAN GOOSBY: I'm done.

FELIX PROCACCI: Okay, that's it.

Bye.

SUPERVISOR GILLEN: Thank you, Mr. Procacci.

SENIOR COUNCILWOMAN GOOSBY: Supervisor, I would like for him to,
when he makes statements, to make sure they're correct.

I did not ask him to throw him out. I just pointed my hand, because then they knew, because he was very obnoxious and very disrespectful.

I just received a letter. I'm sure you received a copy of it too, from some people in the audience who are speaking very bad about some of the things, the way he treats us and the way he does not respect anyone, not even himself.

SUPERVISOR GILLEN: Okay. I do not have any other slips on this Public Hearing. Is there anybody else who'd like to be heard?

(Whereupon, no response was heard. After, the following ensued.)

SUPERVISOR GILLEN: Hearing none, may I have a motion?

COUNCILWOMAN KING-SWEENEY: Supervisor --

COUNCILMAN D'ESPOSITO: Supervisor --

COUNCILWOMAN KING-SWEENEY: I'm sorry, you go. It's yours, I'm sorry.
COUNCILMAN D'ESPOSITO: No problem.

Supervisor, I move the Public Hearing be closed and the Local Law adopted.

COUNCILWOMAN KING-SWEENEY: Second.

Sorry.

SUPERVISOR GILLEN: Madam Clerk.

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: Aye.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Aye.

CLERK CABANA: Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: Aye.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: Aye.

CLERK CABANA: Senior Councilwoman Goosby?

SENIOR COUNCILMAN GOOSBY: Aye.

CLERK CABANA: Councilwoman King-Sweeney?

COUNCILWOMAN KING-SWEENEY: Aye.

CLERK CABANA: Councilman Muscarella?

COUNCILMAN MUSCARELLA: Aye.

SUPERVISOR GILLEN: Madam Clerk, please call the next Public Hearing.

CLERK CABANA: To review the
recommendation of Town of Hempstead Landmarks Preservation Commission,
that the "Franklin Square Movie Theatre", 989 Hempstead Turnpike,
Franklin Square, New York.

TOWN ATTORNEY RA: Supervisor, if I might, we received a letter last
Friday from the property owner questioning the method of service and
it's a jurisdictional issue.

Rather than have -- go through with the hearing and take a chance
that they're right and we're wrong, I respectfully request that the matter
be adjourned to October 2nd, so we can send out the proper notices.

COUNCILMAN BLAKEMAN: Mr. Ra, is it possible that they are wrong,
and that we can just pass it today,
and that we could pass a remedial resolution if, in fact, the procedures
were not followed?

TOWN ATTORNEY RA: Well, I don't like to talk about litigation in
a public forum.
But let me just say that from a prospect if there were to be litigation, that would not be a good idea.

SUPERVISOR GILLEN: So I think we need -- do we need a Board Member to make that motion?

TOWN ATTORNEY RA: Yes.

SUPERVISOR GILLEN: Okay.

Anyone willing to make that motion in Franklin Square?

COUNCILMAN D'ESPOSITO: Well, I'm going to defer to the Councilman from the area.

COUNCILMAN BLAKEMAN: Well, I got to tell you, I'm very, very unhappy that this wasn't calendared properly.

The people in Franklin Square have been very patient in waiting for us to take action with respect to the recommendations made by the Historical Committee, who unanimously voted to create an historical site of the Franklin Square Movie Theater.
And I just feel that we should pass it. And if there's a procedural issue, we can always take remedial action.

Are you saying that that would jeopardize our position?

TOWN ATTORNEY RA: It's a jurisdictional issue. It's not procedural.

It will obviate the -- anything that goes on here today.

SUPERVISOR GILLEN: So Mr. Ra?

TOWN ATTORNEY RA: It's much better to wait the one month and do it right, make sure we do it 100 percent right.

COUNCILMAN BLAKEMAN: All right. Well, I'm not going to move to adjourn it. If it doesn't have a motion to be passed, it's held anyway, so --

SUPERVISOR GILLEN: Is there anyone who'd like to be heard on this Public Hearing?

(Whereupon, no response was
heard. After, the following ensued.)

TOWN ATTORNEY RA: Councilman Blakeman, the community was also advised that there would be --

COUNCILMAN BLAKEMAN: Well, I know. But if there is no --

TOWN ATTORNEY RA: -- a request for an adjournment.

COUNCILMAN BLAKEMAN: -- if there's no motion -- procedurally if there's no motion to adopt this, it's the same thing as adjourning it; correct?

TOWN ATTORNEY RA: Well, we'd need a motion to adjourn to October 2nd.

COUNCILMAN BLAKEMAN: 'Cause if it's jurisdictional, you can't adjourn it because you can't bring it back. Am I right or wrong?

TOWN ATTORNEY RA: We'll re -- yes, we'll re-notice for October 2nd.

COUNCILMAN BLAKEMAN: Thank you.

SUPERVISOR GILLEN: Is there
anyone who'd like to heard on this Public Hearing?
(Whereupon, no response was heard. After, the following ensued.)
SUPERVISOR GILLEN: So are we having a motion on this hearing?
TOWN ATTORNEY RA: We can just move on.
SUPERVISOR GILLEN: Okay.
Madam Clerk, please call the next Public Hearing.
CLERK CABANA: Application of CarMax Auto Superstores, Inc. for a special exception (public garage) to allow the introduction of CarMax used car dealership with a proposed automotive service and repair area, automated car wash facility and underground fuel storage tanks and fueling station, premises located at 2000 Hempstead Turnpike in East Meadow.
ATTORNEY BONESO: Good morning, Supervisor Gillen, members of the Board.
William Bonesso, Forchelli
Deegan Terrana, 333 Earle Ovington Boulevard, Uniondale, New York, here on behalf of the applicant Carmax Auto Superstores, Inc.

Seated to my right is Mr. Jason Pruitt, a representative of CarMax.

We also have with us today, Mr. Barry Nelson, a recognized real estate expert, as well as John Hotter -- Harter who's also a recognized traffic expert.

The clerk or Michelle Hanson from the Clerk's Office is providing the Board members with a handout, a set of handout sheets to allow you to get a little bit of information about CarMax as we proceed through the presentation.

This property is known as 2000 Hempstead Turnpike in East Meadow.

The Board probably knows it better as the site of the former Home Depot on Hempstead Turnpike in
East Meadow.

The proposal for this project is to demolish a portion of that Home Depot building and replace it with a CarMax operation.

It will entail construction of two smaller buildings and the operation of an automotive -- used automotive sales and buying business. CarMax is a national retailer.

You may have seen their ads on television.

They are very different from the -- from what you may think of when you think of used car lots with the flashing light and the banners.

This is a very professional, very attractive operation that is run. And I'll get into that in just a moment with Mr. Pruitt.

Before I do that though, just to discuss what relief we require from this Board, used car sales is a special use permit. But that's something that we have to go to the
Zoning Board to obtain approval for.

We're before this Board today, because of the automotive repair and servicing work that they provide as well, that is open to the public.

We're also here, because they will be maintaining an automated car washing facility on the premises that will not be open to the public, but it will be used by the employees who are preparing vehicles for delivery or cars that have been serviced are being washed there.

And then there's also a storage, a gasoline storage tank that is on the premises, 12,000 gallon storage tank filled with regular grade gasoline only.

And again, that too is only operated by the employees of CarMax. It's not open to the public.

It's there to fuel the vehicles that they are ultimately selling.

So the special exception that we need from this Board is for those
uses.

That being said, this site fronts on Hempstead Turnpike. It also has frontage on Front Street in East Meadow.

Same access points will be used. We're not making any changes to those access points on either State road.

All activity will be occurring within the CarMax leasehold.

It's approximately 4-and-a-half, 4.6 acres of the overall 10-acre parcel of property that makes up the overall property.

This is an operation which is very well run. It is one that has become very successful across the Country.

The first CarMax will be opening in Smithtown on Long Island. This will be the second CarMax.

So now if I may, I'd like to just have Mr. Pruitt provide some information about CarMax, a little bit
about its history and just how the
operation works.

Mr. Pruitt, would you tell us a
little bit about CarMax and the
compny itself?

JASON PRUITT: Sure.

So thank you for having us here
today.

My name is Jason Pruitt. I'm a
real estate manager with CarMax.

CarMax is the nation's largest
used vehicle retailer, as Bill
mentioned. We currently have over 200
stores throughout the Country and
we're growing rapidly.

We're growing at a rate of
about 10 to 15 stores a year. But
we're not in the New York market yet.

So we are new to this area. As
Bill mentioned, this would be part of
our first wave of Long Island stores
here in Hempstead, with the other
being in Smithtown.

CarMax is a "Fortune 500"
company. And we're also on "Fortune
What really sets CarMax apart from other vehicle dealers though, is our customer experience. So we're known for offering a very transparent and open sales process.

When you go to a CarMax, the price you see in a car is the price you pay. There is no haggling, no negotiation. So it's very much like a traditional retail experience, more so than what you often expect in a car-buying experience.

All of our cars have been very thoroughly reconditioned and go through a roughly 12-hour reconditioning process. So you know any car that you buy from CarMax has been very thoroughly examined and you have less likelihood of getting a lemon.

We also offer a great selection of vehicles. You can go on our website at any time and look at over 50,000 cars at any of our CarMax
stores throughout the Country, and
have any of those cars brought to your
local CarMax store for a no-obligation
test drive.

If you like the car and want to
buy it, great. If not, that's fine
too. No obligation to buy.

We also buy cars from our
customers and offer free no-obligation
appraisals of any vehicle and will buy
any vehicle a customer brings us.

So unlike other dealers, we
don't do trade-ins. If you buy a car
from CarMax and you sell us your car,
those are separate transactions.
Those are not handled as trade-ins, as
at other dealers.

That's the brief CarMax
overview.

ATTORNEY BONESSO: Now, tell
us, you also have a service and
maintenance facility. Tell us a
little bit about that.

JASON PRUITT: Sure.

So this particular CarMax
location will have a service operation. It will be a retail service operation. It will be light vehicle service and maintenance. When you think of, you know, oil changes, tire rotations, that kind of thing, that's what'll be taking place here. We won't be doing any sort of heavy engine work, or body work or painting at this location. Also, any sort of reconditioning work will be done off site at our Smithtown location. So when inventory's prepared FOR sale --

ATTORNEY BONESSO: Let me ask a question.

JASON PRUITT: -- it will be reconditioned in Smithtown, then brought to this particular location. Whenever a customer buys an extended service plan from us or has a vehicle still under warranty, they can still bring that car to CarMax, but we
then partner with other new car
dealers in the area to send that work
to those other dealers.

And so it actually also results
in additional service work for other
dealers when CarMax comes to Town.

ATTORNEY BONESSO: What are
your typical hours of operation?

JASON PRUITT: So our retail
sales operation is open generally from
9 to 9, Monday through Saturday. And
we also offer Sunday hours as
permitted locally.

Those hours are not set in
stone though. Those hours tend to
vary by location. We set those closer
to the store opening.

Our service retail operation is
typically open from 7:30 to 6 each day
from Monday through Friday.

ATTORNEY BONESSO: Monday
through Friday. It's not open on
Saturdays?

JASON PRUITT: Correct.

ATTORNEY BONESSO: And when
somebody comes in with a vehicle that they either want to sell or they come in to see cars that they may want to buy, what -- what's that experience? How does it work?

JASON PRUITT: Sure.

So when a customer comes to CarMax -- and you'll have a site plan in the package of information that was presented to you -- they will park in our customer employee lot. That's a public parking lot. It also is going to be shared with the adjacent shopping center.

They'll come and park in that parking lot, and they'll enter our sales building where they'll be greeted by a sales associate. That associate will then either take them on a tour of the vehicles in the sales lot, or the customer has the option of browsing the sales lot on their own.

Then from there, if they decide to take a test drive of a vehicle,
they can test drive any vehicle on site. And a sales associate will take that sales vehicle out of -- to the gate at the sales lot, and then the customer will start the test drive.

So the sales lot is basically a private inventory area where customers don't drive cars.

If a customer has arranged for a vehicle to be transported from another CarMax to this location for a test drive, they can set an appointment, go into the sales building.

Then from there, their vehicle will be waiting for them in the presentation lanes that are, in this particular case, immediately south of the sales building. And then from there, they can take it for a test drive.

You'll also notice there is a vehicle staging area on the site plan. That is another private secured area for vehicles that are either waiting
for service, or have been serviced or
vehicles waiting to be put out on the
sales lot.

ATTORNEY BONESO: Now, in
terms of deliveries of vehicles, they
will be brought by car carrier?

JASON PRUITT: They will. So
vehicles will be brought in by car
carriers.

We have a designated loading
and unloading zone on site. So unlike
other dealers, we do provide for that
space on site.

So there's never a need for our
carriers to load or unload in adjacent	right-of-ways or outside of our leased
premises.

ATTORNEY BONESO: So you would
accept a condition, if the Board were
to see fit to approve this. In a
Declaration of Restrictive Covenants,
you would accept a condition that
there would be no off loading or
loading of car carriers, either on
Front Street or Hempstead Turnpike?
JASON PRUITT: Correct. And we plan for that at all of our locations.

ATTORNEY BONESSO: Now, do you also control the times that those trucks come and make their deliveries?

JASON PRUITT: We do.

So we only accept deliveries during our operating hours, so just because, of course, we don't want vehicles loaded, unloading in a public area. They need to be taken to a secure area. So we only accept vehicles during those hours from carriers.

ATTORNEY BONESSO: Okay.

Now, I think you indicated that this operation would generate approximately 55 to 65 total jobs, and that it would about 20 to 30 employees present at any given time on the site.

JASON PRUITT: That's correct.

And I'll just add that CarMax is a "Fortune 100 Best Companies to Work For," because of the great work environment and wages we pay our
employees. So we have been cited as
providing quality jobs to the
communities we're in.

ATTORNEY BONESSO: And what
community activities does CarMax
engage in?

JASON PRUITT: Well, we operate
the CarMax Foundation, which is a
non-profit, which makes grants to
other local non-profits, as chosen by
the local store employees.

We also encourage all of our
employees to take part in public
service, and we allow them paid time
off to do that.

We actually have 100 percent
participation rate for stores, not for
employees, but for stores. So
basically, all of our stores have
public service programs that employees
are encouraged to participate in.

ATTORNEY BONESSO: And I
understand you actively recruit
veterans, Military veterans for
employment?
JASON PRUITT: We do.

So CarMax recognizes the
important role that our Military plays
and the transition those people often
face when they leave the Military.

We actively recruit ex-Military
for employment. Roughly 10 percent of
our hires are ex-Military.

ATTORNEY BONESSO: Okay.

I have no further questions for
Mr. Pruitt.

If the Board has any questions,
otherwise I'll call our next witness.

COUNCILMAN MUSCARELLA: All
right. I have some questions.

COUNCILMAN DUNNE: I have a
question.

COUNCILMAN MUSCARELLA: I have
a question.

COUNCILMAN DUNNE: The --

COUNCILMAN MUSCARELLA: Do you
sell electric cars?

JASON PRUITT: So --

COUNCILMAN DUNNE: Excuse me?

That I'm --
COUNCILMAN MUSCARELLA: Oh, you were talking. I'm sorry.

(Whereupon, laughter was heard. After, the following ensued.)

COUNCILMAN DUNNE: Gees.

COUNCILMAN MUSCARELLA: Okay.

COUNCILMAN DUNNE: It takes me a little longer to spit out what I wanted to spit out.

20 to 30 employees at any one specific time that are going to be sitting there?

ATTORNEY BONESSO: Correct.

COUNCILMAN DUNNE: And so that's going to be a good for the economy around there. They're going to eat lunch.

They're going to have to get their cars -- they're not going to have to gas up in your place, the employees; right.

ATTORNEY BONESSO: No.

COUNCILMAN DUNNE: That's for the people that purchase and the cars themselves. The --
ATTORNEY BONESSO: Not only that, Mr. Dunne, Councilman --

COUNCILMAN DUNNE: Speak into the mic. please.

ATTORNEY BONESSO: I'm sorry, not only that, Councilman Dunne, you're right, the employees will be using services and buying goods in the area.

But Jason also informed me that in terms of their service and repair, if there's work that their facility cannot do or does not do, they actually farm out to other local automotive repair and auto body repair facilities in the area. So it will also generate business for those entities.

COUNCILMAN DUNNE: Okay. So that's like body work, painting and all of that, you'll be sharing with the community, whoever is with the Chamber, or whomever, whatever. Just the local merchants will get some kind of business from your business?
JASON PRUITT: So we actually partner with new vehicle dealers in the area.

So if a customer buys a Toyota from CarMax, and they bring that Toyota back and it needs engine work, or body work or work that we don't do, then we partner with that local Toyota dealer to have that work done.

COUNCILMAN DUNNE: Okay. The School Districts, and Little Leagues and all that, you're neighborhood friendly? You contribute to them if they come and ask?

Generally, you have a good neighbor policy; correct?

You just said you give grants, as corporate gives grants to certain things. Is that considered Scouts, and the Little Leagues and all that too or no?

JASON PRUITT: It does.

So we basically allow our local stores to determine how they want local grant money to be distributed.
And local non-profits can actually work with the store.

You know, we support, you know, our local boys and girls clubs and various non-profits.

But it's all at the discretion of local store, in terms of who they partner with.

COUNCILMAN DUNNE: I read that there was no objection from the Nassau Planning Commission. Have you gone before the Commission?

ATTORNEY BONESSO: Yes.

In they're -- in the 239m referral that was sent to the Nassau County Planning Commission, they came back with the Local Determination, which is as close as an approval or support as they give. So they have no objection.

COUNCILMAN DUNNE: Okay. I've gone to a number of tournaments throughout the Country, athletic tournaments and some of the hotels that are right next to CarMax. And I
got to tell you, they are very professional looking.

I think the community would like to have a decent business in its -- in that empty vacant store for so long.

So I'm welcome you, providing that the community has an input. Has there been a community meeting where people can give they're -- I've not heard of it, but can you tell me about it then?

ATTORNEY BONESSO: Some time ago when CarMax first started looking at this site and even before we filed our application to the Town Board, we held a community meeting.

We contacted CEMCO --

COUNCILMAN DUNNE: Yes.

ATTORNEY BONESSO: -- the East Meadow Community Organization.

We also invited everyone who received a notice of this hearing today to the East Meadow Fire Department. And we had a lengthy
discussion explaining exactly -- I had
Jason there, I had another person from
CarMax there. Did just what we did
here today, explained the operations,
explained how the site would be used.
And we got very good feedback.

COUNCILMAN DUNNE: Okay.

And the diesel trucks that are
delivering these vehicles, they're not
going to be there early in the morning
with the fumes going through the
community.

I like that that's --

ATTORNEY BONESSO: No, I
understand that that was a problem
with Home Depot.

We talked to Jason specifically
about that. And because they only
allow deliveries during their business
hours, which would be 9 to 9, there
won't be vehicles coming in at 6 in
the morning, or at 3 in the morning or
whatever the case may be, idling and
waiting to unload.

COUNCILMAN DUNNE: Okay. A
couple of other things and now I'll --
Blakeman would like to have a couple
questions.

But, you know, the good
neighbor thing, you know, this is a
very heavy Veteran area. And you're
going to be employing the men and
women coming out of the Military and
veterans that are looking for
employment. That's -- did I
understand that correctly?

JASON PRUITT: That's correct.

COUNCILMAN DUNNE: And what
about a Veteran's discount for -- is
that included in your corporate thing?

I know that Burger King and
Dunkin Donuts gives a veteran
discount.

I don't know if you guys give a
discount too. That has nothing to do
with whether you're going to get it or
not.

It's just, I'm a retired Marine
that's why I'm -- I'm not going to buy
a used car, believe me.
Anyway, go ahead. That's --

JASON PRUITT: Sure.

And so we consider ourselves a retailer like, you know, like a Target. You know, the price you see on the car is the price you pay. So we actually don't do discounts for Veterans or any group.

So that is truly a no-haggle price you see on our cars.

COUNCILMAN DUNNE: Excellent.

So you met with the community. You met with the Planning Board. And there's been no -- the only thing I ever heard was one person said they wanted something else there. And, you know what, it didn't happen.

And I was wondering why we didn't have a CarMax on Long Island.

And now we're going to have two of them.

Because it was -- I slept right next to your parking lot, right next to the building. And I said this is great.
It's not like a used car lot. Like you usually think there's a used car lot, it's going to be -- it's not going to be a nice thing for the neighborhood.

And I thought that was -- if we're going to get any kind of a used car lot, this is the kind we would want in our community.

So I'm sure the people have seen the same, and that that's probably why you got the --

Now, the pictures you show are mostly the ruins that are there, I'm thinking as to this.

But I appreciate your doing the display, because you really did come prepared.

The questions you asked, a lot of them were mine. And you asked them, so I -- I've had my questions answered.

And I'd like to now remit to Mr. Blakeman. You had some questions?

COUNCILMAN BLAKEMAN: Yes, I
just had a couple of questions.

In the spirit of former Councilman Gary Hudes, who was our residence arborist, I looked at your site plan.

And it is going to be an improvement, but I did think that the trees along Hempstead Turnpike were a little light.

And maybe you could supplement that a little more. A little less concrete, a little more greenery.

That's number one.

And number two is with the test drives, I'm a little concerned, because you're starting off in Councilman Dunne's district. You might end up in my district.

I'm a little bit concerned about the test drives, that they not be done in a residential area, or away from schools. So that's something you might want to pass on to the local manager.

ATTORNEY BONESSO: Councilman?
COUNCILMAN BLAKEMAN: The last thing -- go ahead.

ATTORNEY BONESSO: I had neglected to point that out. We had actually covered that subject with the neighbors back when we had a community meeting.

They are prepared to agree to a covenant that they may not do test drives in -- on the residential streets; that they'll limit their test drives to the main commercial thoroughfares.

COUNCILMAN BLAKEMAN: Great.

Thank you.

I think that will be a big help.

ATTORNEY BONESSO: That's my mistake for not mentioning that.

COUNCILMAN BLAKEMAN: The last thing is don't make the car, you know, the used car buying experience too good, because then used car dealers will have a better reputation than politicians and we can't have that.
(Whereupon, laughter was heard. After, the following ensued.)

COUNCILMAN DUNNE: Now, that you did mention the shrubbery, that the greenery around it.

And I understand there's already been an agreement, there will be an American Flag at this facility.

ATTORNEY BONESSO: Yes, there'll be a Flag prominently displayed on the property.

COUNCILMAN DUNNE: Excellent.

Councilman Muscarella had a question on the other side.

I'm sorry.

COUNCILMAN MUSCARELLA: Hi.

My question is do -- are you selling electric cars?

JASON PRUITT: So we sell passenger vehicles that are late model, low milage.

And we sell -- we do sell electric cars as well.

COUNCILMAN MUSCARELLA: Are you planning any charging stations on the
premises?

JASON PRUITT: No, we don't have charging stations at our stores.

COUNCILMAN MUSCARELLA: Okay.

ATTORNEY BONESSO: If there are no further questions for Mr. Pruitt, I'll call up Mr. Nelson.

BARRY NELSON: Good morning. It's Barry Nelson, 220 Pettit Avenue, Bellmore, New York 11710.

Quickly, I'd like to hand in: Some photographs that include the subject property, and uses and pattern of development surrounding the subject property; I also have some aerial views; And attached to that would include the Nassau County Department of Assessment Tax Map and the Zoning Map for the Town of Hempstead, Maps No. 37 and 38.

(Handing documents. After, the following ensued.)

BARRY NELSON: The application before the Board is for a special use,
as counselor went over it. And it's
included in the verified petition.

And it would be for the use of
the repair facility, the automated car
wash, the gas and the gas storage on
the site.

If you look at my photographs,
you'll see that this property is part
of a development that'll encompass
Hempstead Turnpike to the north,
Front Street to the south and
East Meadow Avenue to the west.

It's a triangular block that
includes various uses. It's all
within the business district.

In fact, that entire block
contains over 35 acres and it does
have uses that would be special
use-type permits, that includes:

A car wash which is off the
premises to the east, Miami Car Wash;

It also has at the triangle of
Front Street and Hempstead Turnpike, a
Arby's drive-through;

To the west, in fact, the
northeast corner of East Meadow Avenue and Front Street, which was former Pathmark Shopping Center, now is Stew Leonard's, has undergone a substantial upgrading. Renovations, new storefronts, new parking field and signage.

That now encompassing the block itself with the subject property under a substantial renovation, the elimination of a -- which would -- can -- could be considered a more onerous use as a former site of Home Depot, it will maintain some retail, as far as Modells and a smaller addition to the east of Modell's.

But they're removing what used to be an old building built in the late 50s, early 60s, approximately 80-plus thousand square feet that will be removed.

The west, to the west, the southeast corner of Hempstead Turnpike and East Meadow Avenue, it includes a
five-story office building, retail. It includes two night clubs. That encompasses the entire block.

Hempstead Turnpike is the main arterial road. You'll look at my photographs, the last several sections of the photographs will depict similar uses that you'll find on Hempstead Turnpike.

And you can just begin, just to west of the subject property and continue east up to approximately Wantagh Parkway, maybe further east, there are additional car dealerships, new and used auto sales display, auto repairs, including Ford on the north side, Chrysler Lincoln -- Chrysler Jeep on the south side near Newbridge Road, Kia.

And they are all within the business zone on Hempstead Turnpike. They are adjacent and near residential communities. They are amongst commercial uses, retail, professional services.
In this immediate vicinity of the subject property, as I mentioned, you'll find auto repairs, gas stations and car washes. You'll see drive-thrus, office buildings, et cetera.

The redevelopment of this site for an auto repair facility, for CarMax, is less than 4,500 square feet. The car wash, which maintains a setback of almost 100 -- over 181 feet from Front Street, and from -- to the nearest facility of commercial on the block is -- in the subject block is over 160 feet.

It's approximately a 17 by 52 building for the car wash.

The repair facility is approximately 65 by 65, like I said, less than 4,500 square feet. And it's in the center of the block.

The criteria for granting the special exception would be under the Town Law 267D2. I reviewed that. I could read each one, but to keep it
brief and to the point, it's online.

It's available.

I looked at the pattern of
development, the nature of character
of this area, the uses found on
Hempstead Turnpike, and on Front
Street, I recognize and I'm sure the
Board recognizes to the south side of
Front Street. And that'll include the
residential streets nearby of
single-family dwellings.

The proposed development
mitigates any impact to the
residential. You'll see the
development is towards the center of
the property, closer to Hempstead
Turnpike.

There's provided landscaping
and the fencing along the southerly
property line.

We'll --

COUNCILMAN BLAKEMAN: So Mr. Nelson,
did you make a thorough investigation
of the whole neighborhood and uses?

BARRY NELSON: Yes, sir.
COUNCILMAN BLAKEMAN: And is this use consistent with the uses that currently exist in that area?

BARRY NELSON: Yes, sir.

COUNCILMAN BLAKEMAN: And would there be any adverse effect on the property values in that area, if we approved this application?

BARRY NELSON: No, sir, none at all.

Thank you.

ATTORNEY BONESSO: Thank you, Mr. Nelson.

And now very briefly, I'd just call Mr. John Harter of Atlantic Traffic, just to speak to the site circulation and the trip generation for this use.

ENGINEER HARTER: Thanks, Bill.

Hi.

ATTORNEY BONESSO: Go ahead.

ENGINEER HARTER: Go ahead?

John Harter H-a-r-t-e-r, Principal of Atlantic Traffic and Design Engineers, located in 2929
Expressway Drive North in Hauppauge, New York.

I've been there 25 years and I am a licensed engineer as well, in the State.

ATTORNEY BONESSO: Very briefly if you would, I know you had performed an analysis of this proposed operation, the CarMax project.

And you've made some, drawn some conclusions with regard to the safety of site circulation, with regard to trip generation, with regard to overall potential impacts on parking and traffic.

ENGINEER HARTER: Right.

A good story to tell from a traffic perspective. The site today has about 135,000 square feet of retail and 60 -- roughly 60 percent of that will be removed, 84,000 square feet.

And the remaining, or the proposed used car dealer or CarMax facility will be a very low generator
in terms of traffic.

We've done ITE trip generation estimates for that retail 84,000 square feet that's being removed and the car dealership.

And a car dealership generates in the order of 25 to 45 trips in a peak hour, two-way trips in and out. Whereas, the retail was roughly 150 to 300-plus trips.

So if that were to be re-occupied as retail, it would be a significant generator compared to what our proposal is.

The site access is being maintained.

We've received preliminary comments from DOT. So assuming locally we're approved, we would address those and move forward with little issue.

The site circulation, we will maintain the access as noted.

We will -- that will include a 30-foot, very generous two-way aisle
around the CarMax area that will serve
almost as a loop road. That will
serve all vehicles, including car
carrier that's proposed. And just in
perspective, a 24-foot aisle is
typical, so it's an oversized
circulation plan for that.
The parking is -- we're
proposing 412 overall spaces and we
exceed the requirement of 408.
So again, I think all the
traffic components here are very, you
know, well addressed.
ATTORNEY BONESSO: Thank you.
ENGINEER HARTER: Thank you.
ATTORNEY BONESSO: That's our
direct presentation.
I would just like the
opportunity to respond to any Public
comment.
COUNCILMAN DUNNE: Now, there's
cars going to be parked outside that
are going to be up for sale, or are
they going to be inside?
ATTORNEY BONESSO: The way --
if you take a look at the site plan
and the handout, there is a gated and
enclosed area where the vehicle
display takes place.

And then exterior of that,
there is parking for customers. The
people do not park in and amongst the
cars that are out for display.

COUNCILMAN DUNNE: And that'll
be handicap accessible?

ATTORNEY BONESSO: Oh,
absolutely.

COUNCILMAN DUNNE: You have to
comply with the ADA rules anyway?

ATTORNEY BONESSO: Yes.

COUNCILMAN DUNNE: All right.

And you said that there won't be any
traffic, there won't be a ton of
traffic?

When Home Depot was there,
there was a ton of traffic. But this
isn't a Home Depot kind of place.

ATTORNEY BONESSO: It's a much
smaller generator --

COUNCILMAN DUNNE: Traffic's
not going to be, you know --

ATTORNEY BONESSO: Correct.

COUNCILMAN DUNNE: Okay, that's good.

SUPERVISOR GILLEN: Thank you.

Thank you, Mr. Bonesso.

COUNCILMAN DUNNE: Thank you.

SUPERVISOR GILLEN: I have a slip from Vanessa Masell.

ATTORNEY BONESSO: She was the first --

SUPERVISOR GILLEN: Oh.

ATTORNEY BONESSO: -- she's with CarMax.

SUPERVISOR GILLEN: Okay.

Teresa Bainton.

Good morning, Ms. Bainton.

If you could just state your name and address for the record.

TERESA BAINTON: Teresa, T-e-r-e-s-a, Bainton, B-a-i-n-t-o-n.

SUPERVISOR GILLEN: Thank you.

TERESA BAINTON: 2108 Seventh Street, East Meadow.

Thank you for this opportunity,
just to raise a concern.

Presently we have test wells on our block, because of a dry cleaner's contamination, which was located on Front Street between Hempstead Turnpike and Front Street, I think probably adjacent to this particular business.

And the concern that I have is in reference to storage tanks for the gasoline, and any oil that's going to be removed, and oil changes and things of that sort.

SUPERVISOR GILLEN: Mr. Bonesso, would you like to speak to that?

ATTORNEY BONESSO: Sure.

In terms of the storage tank, this is a very small tank as compared to --

SUPERVISOR GILLEN: If you could just speak into the mic.

Thank you.

ATTORNEY BONESSO: This is a very small tank as compared to what a gasoline service station would have on
site. This is a twelve thousand gallon tank.

Gas stations can have upwards of fifty and sixty thousand gallon tanks.

But be that as it may, it still is going to be installed and having to meet all of the requirements that apply to underground storage tanks.

It's a double walled, state-of-the-art facility. It will have monitors and sensors, so that if one wall breaches, there's a notice that -- there's an electronic notice that goes to the thing.

It's -- they're much safer than even the generation 20 years ago.

Additionally, any oils or by-products resulting from lubrications, car, car oil changes and the like, those are all removed by licensed professional from the premises. Nothing goes into the ground.

They have strict requirements
for that, too, that they adhere to.

SUPERVISOR GILLEN: Ms. Bainton, does that answer your question?

TERESA BAINTON: Yes, it does. Thank you very much.

SUPERVISOR GILLEN: Thank you. COUNCILMAN DUNNE: Thank you.

Teresa, that was good questions.

Thank you, Teresa.

SUPERVISOR GILLEN: I have Andrew Bainton also.

ANDREW BAINTON: I don't need to speak.

SUPERVISOR GILLEN: Okay, thank you.

I do not have any other slips on this application. Is there anyone else who'd like to be heard?

(Whereupon, no response was heard. After, the following ensued.)

SUPERVISOR GILLEN: You want to conclude?

ATTORNEY BONESSO: That sums up
our presentation.

Thank you very much for your time.

COUNCILMAN DUNNE: Thank you.

SUPERVISOR GILLEN: We have Ms. Kreye. She's coming to say a few words.

MARY ELLEN KREYE: Good morning.

Mary Ellen Kreye, 436 Locust Avenue, Uniondale.

My question is about the car wash. Is this for the dealership or for the general public?

ATTORNEY BONESSO: Strictly for the dealership.

MARY ELLEN KREYE: Okay. Then I have no objection, because I feel there are plenty of car washes and we have concerns about water usage. Thank you.

SUPERVISOR GILLEN: Thank you, Ms. Kreye.

Is there anybody else who'd
like to be heard on this application?
(Whereupon, no response was heard. After, the following ensued.)
SUPERVISOR GILLEN: Hearing none, may I have a motion?
COUNCILMAN DUNNE: I'd like to make a motion that being there was no objection from the Planning Committee, and that CEMCO and the Fire Department are on board, and the traffic's going to be less than Home Depot was, that I'd like to close the hearing and move the item.
COUNCILMAN BLAKEMAN: Second.
SUPERVISOR GILLEN: Madam Clerk.
CLERK CABANA: Supervisor Gillen?
SUPERVISOR GILLEN: Aye.
CLERK CABANA: Councilman Blakeman?
COUNCILMAN BLAKEMAN: Aye.
CLERK CABANA: Councilman D'Esposito?
COUNCILMAN D'ESPOSITO: Aye.
CLERK CABANA: Councilman Dunne?
COUNCILMAN DUNNE: Aye.
CLERK CABANA: Senior Councilwoman Goosby?
SENIOR COUNCILWOMAN GOOSBY:
I'm very happy to see a profitable business coming to that area.

SUPERVISOR GILLEN: So vote.

SENIOR COUNCILWOMAN GOOSBY: So moved, I vote yes.

(Whereupon, laughter was heard.

After, the following ensued.)

CLERK CABANA: Councilwoman King-Sweeney?

COUNCILWOMAN KING-SWEENEY: Aye.

CLERK CABANA: Councilman Muscarella?

COUNCILMAN MUSCARELLA: Aye.

SUPERVISOR GILLEN: All right.

Madam Clerk, please call our next Public Hearing.

CLERK CABANA: Application of S&S Realty Inc. for a modification of declaration of restrictive covenants affecting real property located on the northeast corner of Atlantic Avenue and Davidson Avenue in Oceanside.

SUPERVISOR GILLEN: Okay, good morning.

ATTORNEY GUARDINO: Good morning.

Good morning, Supervisor
Gillen, members of the Board.

   My name is Anthony Guardino.

I'm a partner with the law firm of Farrell Fritz in Hauppauge, New York.

   I represent the applicant, S&S Atlantic Realty in connection with this application, which is for a modification of a restrictive covenant that was imposed by a predecessor Board back in 2010, so that it can now construct a fully-compliant, from a zoning point of view, 23-unit luxury rental development on an assemblage of five properties that it owns in Oceanside, at 404 and 418 Atlantic Avenue.

   I also have with me Michael Bonacassa, a registered architect and the principals of S&S Atlantic Realty are also here if you have any questions.

Essentially as I mentioned, this is a modification of a covenant and restriction.

   It sounds like a change of
The change was zone already done, so this is not a change of zone application.

And the Board may recall back in July of this year, the Board voted to reinstate the prior change of zone. So the change of zone now is still effective.

However we do need -- my clients need a modification of the covenant, because originally when they made the application in 2010, and also when they came back in 2011, it was for an 18-unit condominium complex with a recreational club house, et cetera.

Now, they are proposing to have the units be rental apartments. There would be 23 rental apartments.

As I mentioned, it fully complies with zoning. It complies with density, which is allowed on this site, which is a little over an acre size. It has sufficient parking. It meets all of the setbacks. It meets
the height.

It is -- it needs nothing,

other than the relief from this Board

at this point.

The -- there was a petition

that was filed. There was a proposed
draft, I guess of a modified covenants
and restrictions, which would have to
be modified a little bit more, because
the original application changed in
terms of parking spaces, et cetera.

It kind of evolved. We did
have many meetings with the Building
Department. There were a number of
comments. The comments had to be
addressed.

What you have before you in
terms of a site plan which is in your
packet, I believe at Exhibit 5, is the
product of the back and forth with the
Building Department.

And we believe it resulted in a
far-improved application from what was
originally submitted.

My client -- just without
getting into anymore detail here, 'cause it is kind of a simple application from a zoning point of view. My client did start this process in 2010, as I mentioned. They applied for the 18 condominium units. It was approved for the change of zone.

They came back in 2011. Asked to allow for some of -- for the units to be rented. The Board, at the time, allowed them to be rented, but only for a period of three years. So that doesn't work for today.

And then there was a complete, you know, collapse of the condominium financing market in 2011. Then of course Sandy hit. And my clients actually own a bunch of properties in the area, so they were forced to divert their attention and their economic resources to correct the damages or remedy the damages on the other properties they had.

So they kind of shelved this
for a little while. So I just wanted to give you an explanation as to why we're coming back now. And it's been -- well, we started last year. So it was probably a seven-year delay. But that's the reason.

And at this point, you know, I don't really have much more to add. I did give you the booklet. You -- there are photos of the subject property. You could see what's on it.

It was split zoned. So there's some commercial use of the property and there's some residential use of the property, because each parcel, 404 was I believe zoned Business "X" and 418 was zoned Residential. So you see a mix of uses on the property today.

All of the buildings will come down. There are a number of buildings on the property. Everything will be come down in order to build this new development.

So I don't really have much
more. I'm happy to answer any
questions that the Board may have.

COUNCILMAN D'ESPOSITO: I just
have actually one question.

The -- all the parking for the
units is on site; correct?

ATTORNEY GUARDINO: That's
correct.

COUNCILMAN D'ESPOSITO: There's
no --

ATTORNEY GUARDINO: No, no.

COUNCILMAN D'ESPOSITO: --

street parking?

ATTORNEY GUARDINO: And it
complies. It --

COUNCILMAN D'ESPOSITO: Right.

And it's --

ATTORNEY GUARDINO: -- meets
the Town requirements.

COUNCILMAN D'ESPOSITO: -- a
decent distance from the train
station, so --

ATTORNEY GUARDINO: Yes,

Councilman.

Actually I put an exhibit, I
think it's Exhibit 10, which I took from Google Maps and basically shows, you know, we're close to two train stations. This is a very unique piece of property.

COUNCILMAN D'ESPOSITO: Right.

ATTORNEY GUARDINO: If you see on the first page of Exhibit 10, it shows you that it's a .3 miles away from the East Rockaway Train Station, which it says here a 7-minute walk. And if you flip the page, you have the Oceanside Train Station, which is .7 miles, so a little further away. But still it's only a 13-minute walk.

COUNCILMAN D'ESPOSITO: Right.

ATTORNEY GUARDINO: So you have two, you know, in proximity to mass transit is tremendous.

COUNCILMAN D'ESPOSITO: My biggest concern was the parking --

ATTORNEY GUARDINO: No.

COUNCILMAN D'ESPOSITO: -- that's all.
ATTORNEY GUARDINO: Fully compliant.

SUPERVISOR GILLEN: Any other member of the Board have any other questions?

(Whereupon, no response was heard. After, the following ensued.)

ATTORNEY GUARDINO: No.

SUPERVISOR GILLEN: Thank you, Mr. Guardino.

ATTORNEY GUARDINO: Thank you very much.

SUPERVISOR GILLEN: I have a slip from Kenneth Coleman.

KENNETH COLEMAN: Good morning.

SUPERVISOR GILLEN: Good morning.

If you would just state your name and address for the record please, sir.

KENNETH COLEMAN: Kenneth Coleman. I live at 2881 Davison Avenue, Oceanside, New York 11572.

SUPERVISOR GILLEN: Thank you.

KENNETH COLEMAN: I had a
couple of questions about, number one, is it going to be senior living? Is it going to be low-income living? Is it going to be rental units?

SUPERVISOR GILLEN: Mr. Guardino, would you come back and answer some of these questions?

ATTORNEY GUARDINO: Of course.

SUPERVISOR GILLEN: Thank you.

ATTORNEY GUARDINO: Happy to.

So it will not be -- it'll be market rate. It will not be age restricted. And it will actually be luxury housing is what we're proposing, on the higher end.

KENNETH COLEMAN: And the next question I had was where would they do the curb cuts for the traffic?

I know across the street there's a Dee's Nursery, there's Contractor Express and there's a lot of traffic.

In fact, there's 18-wheelers that park on Atlantic Avenue, right now every day. And obviously they
can't fit in a 12-foot lane, so they
stick into the street. That's another
concern for another day.

But I'm just concerned about
how are the car's going to pull out
safely?

I was hoping that it'd become a
post office, but that didn't happen.

ATTORNEY GUARDINO: Yeah,
the -- I'll just show you the plan
here.

Exhibit 5 of our booklet shows
that there's a single curb cut that
serves the site. And it's in the same
location as the curb cut or driveway
that serves 418 Atlantic.

KENNETH COLEMAN: Uh-huh.

ATTORNEY GUARDINO: Okay. So
it's going to be -- right now there
are two curb cuts on the site, one for
404, one for 418.

So we're eliminating a curb
cut, so that's a good thing. So
there'll be less conflict or
interaction I should say, with the
vehicles that are traveling on
Atlantic Avenue.

KENNETH COLEMAN: So is this
going straight across to Silver Lane?

ATTORNEY GUARDINO: Well, it
doesn't go through, no.

KENNETH COLEMAN: Okay.

ATTORNEY GUARDINO: It doesn't.

There's no opening. There's just a
single access.

KENNETH COLEMAN: And the other
thing is I spoke to my neighbors. And
today being the first day back to
school was kind of a hard day to meet.

And the other thing was that
the location was given at northeast
corner. The northeast corner's a
church.

So everybody was -- and this
has nothing to do with the church
that's there. And the other thing was
the street was the wrong street.

So a lot of my neighbors who
got this thought it was either
something for the church, or were
misrepresented by how it was proposed
to us and how it was delivered.

And even though it did come
registered mail -- well, my next door
neighbor, Donald Decker, well his --
the -- his nanny signed for it. So he
got it, but just assumed it was
something for the church, 'cause it
said northeast corner which is the
church.

And the street is wrong. It's
Davison Avenue, when it's clearly
Davison Street.
So there would have been more
people here today.

ATTORNEY GUARDINO: Well,
that -- we didn't generate the legal
notice. But you are here, and your
neighbor, as you mentioned, did
receive it.

The fact that their nanny
signed for it, that's, you know,
that's up to them. You know, that
there's --

KENNETH COLEMAN: Right, but --
ATTORNEY GUARDINO: -- nothing we could do.

KENNETH COLEMAN: -- he thought it was just for the church, which is the northeast corner.

ATTORNEY GUARDINO: Well, it's, I believe it said that it was northeast of the intersection of Davison Avenue and --

KENNETH COLEMAN: Which is the church.

ATTORNEY GUARDINO: -- and Atlantic.

Well, but this is still northeast. It is still the northeast intersection.

KENNETH COLEMAN: But, I think it was specifically address wasn't given.

COUNCILMAN D'ESPOSITO: Sir, you wouldn't happen to have a copy of the --

KENNETH COLEMAN: I don't --

COUNCILMAN D'ESPOSITO: -- the letter?
KENNETH COLEMAN: -- but my
next door neighbor, Joe Noon, who
maybe has one.

Oh, there you are.

SUPERVISOR GILLEN: Could you
give it to Ms. Hanson, so she could
bring it up for us?

JOE NOON: The address isn't in
there.

SUPERVISOR GILLEN: If you'd
hand it over to Ms. Hanson please.

KENNETH COLEMAN: Do you want
to see this (indicating)?

SUPERVISOR GILLEN: Yeah, yeah.

If you'd hand it to Ms. Hanson,
she'll bring it up.

ATTORNEY GUARDINO: You have
it?

(Whereupon, no response was
heard. After, the following ensued.)

ATTORNEY GUARDINO: There you
go. (Handing document.)

KENNETH COLEMAN: And I live on
Davison Street.

ATTORNEY GUARDINO: Do you have
a copy of this? Do you have another?

(Whereupon, no response was heard. After, the following ensued.)

COUNCILMAN D'ESPOSITO: And obviously I don't know the dimensions off the top of my head. But we'll look at it after the hearing's over and we'll figure out where we're at; okay?

ATTORNEY GUARDINO: Can I just make a comment here?

I'm looking at the official legal notice that was sent. And it -- what it says here, that it's a parcel that's 1.18 -- 1.187 acres, which is located 145.19 feet from the northeast corner --

COUNCILMAN D'ESPOSITO: Right.

ATTORNEY GUARDINO: -- of the intersection.

That's the way you describe things. You know, you give the distance from the corner. We have to work from the corner, 'cause that's the landmark or the milestone, you
know, or the specific location.

KENNETH COLEMAN: On the corner of what street?

ATTORNEY GUARDINO: It says Davidson Avenue.

KENNETH COLEMAN: Well, it's not Davidson Avenue. That's the problem.

ATTORNEY GUARDINO: It's Davison Street. I can tell you --

KENNETH COLEMAN: And my wife and I don't have tape measures. I'm a police officer, I know a little bit more about feet.

But I just saw this the other day. My wife signed for it. She's the one that received it.

And she didn't know what 150 feet was. She just assumed it was the church, because that is the northeast corner of Davison Street.

SUPERVISOR GILLEN: So does it say the wrong street? It says?

COUNCILMAN D'ESPOSITO: It says, "An irregular shaped 1.187 acres
of land located 145.19 feet from the northeast corner of Davidson Avenue and Atlantic Avenue, situate lying and being in the Hamlet of Oceanside, Town of Hempstead, Nassau County." And then it lists a section, block, lots of the parcels.

SUPERVISOR GILLEN: So it isn't Davidson Avenue; is that right? It's Davison Street?

KENNETH COLEMAN: Davison Street, yes, ma'am.

ATTORNEY GUARDINO: I have to just point out the official documents that I have from the Town says Avenue. So I mean I've never seen an application, you know, tripped up by the fact of whether something is a road, or a street or an avenue.

I mean you clearly, you live on the street. You did get the notice. The notice comes to people within a certain radius. You know, there's no Davison Avenue somewhere else that's within the radius.
KENNETH COLEMAN: Yes, there is.

ATTORNEY GUARDINO: So --

KENNETH COLEMAN: Yes, there is.

ATTORNEY GUARDINO: Yeah, not within 200 feet?

KENNETH COLEMAN: Well, again my wife is not clear about 200 feet. But there is a Davison Avenue about two blocks away.

ATTORNEY GUARDINO: Right.

I --

COUNCILMAN D'ESPOSITO: So I think the best bet here is to -- we'll go through the proceedings. I will have somebody from my office get in touch with you and we'll, you know, we'll figure this all out.

KENNETH COLEMAN: And have they done anything with as far as the traffic?

And, you know, and again --

COUNCILMAN D'ESPOSITO:
Counsel?

KENNETH COLEMAN: -- and I love the nursery. I love --

COUNCILMAN D'ESPOSITO: Dee's?

KENNETH COLEMAN: -- Contractor Express I use.

We -- everybody uses Dee's Nursery. And we're very happy with their service to the community.

And I'm just worried about the traffic on Atlantic Avenue is a second issue I have.

COUNCILMAN D'ESPOSITO:

Understood.

ATTORNEY GUARDINO: On that issue, I, you know, again, this is a reinstatement of a covenant.

It's not -- I'm not asking for any relief.

This is a use that was or a zoning designation that was decided ten years ago. It was recently restated.

I'm just asking to modify the covenants.
COUNCILMAN D'ESPOSITO: Right.

ATTORNEY GUARDINO: So this is more housekeeping than anything, from my perspective.

But I'm happy to address, you know, your concerns.

COUNCILMAN D'ESPOSITO: Yeah, I think what would work out best, sir, if you don't mind, we could have Kathy from my office kind of link you guys together and open up a line of communication.

This way if you or your neighbors have any specific questions, we can get them answered for you.

KENNETH COLEMAN: Okay, thank you.

Thank you.

SUPERVISOR GILLEN: Thank you, sir.

Joe Noon?

KENNETH COLEMAN: Thank our Veterans.

(Whereupon, laughter was heard.

After, the following ensued.)
COUNCILMAN D'ESPOSITO: Sir,

I'm going to give you back your --

JOE NOON: I appreciate that.

COUNCILMAN D'ESPOSITO: --

yeah.

JOE NOON: My name is Joe --

first of all, good morning, if it's

still morning.

My name is Joe Noon. I'm a --

I live at 2887 Davison Street,

Oceanside, right next to Kenny.

My family's has been in

Oceanside since Oceanside was called

Christian Hook and Davison Avenue was

clearly, you know, two or three blocks

away where Oceanside Library is.

So I understand where they got

Davison Avenue was Davison Street was

Davison Avenue back when Oceanside

was Christian Hook, 'cause it's on

all of my old paperwork from my

over-a-hundred-year-old house.

So that being said, I have a --

first of all, I'd like to know what

the modification is. The one thing I
did hear the gentleman say is that it
was going to be switched from condos,
which people own, to rentals. And I
have a concern about that.

I also have -- I just want to
get through my time with what I have
to say. This is the first time I'm
speaking in a Public Hearing like
this.

It was clearly a wrong address
on the sheets given to us.

I work during the day and
everything. It was very hard to get
my certified letter, that only got to
my house around a week-and-a-half to
two weeks ago. I think I'm fair in
saying that. And I only got my letter
in the middle of last week, right
before Labor Day Weekend.

What exactly is being done to
this property is my main question?
Whose property is it? It's the one
right behind say Davison Street or is
it the one over by the old American
Legion Hall -- because I know there
was supposed to be 70 units over in
the corner. But I believe it's on the
property directly behind my --

    COUNCILMAN D'ESPOSITO: Mr. Noon,
it's definitely not the American Legion.

    JOE NOON: Okay. So it's
directly behind me --

    COUNCILMAN D'ESPOSITO: It's
not the Grossman property.

    JOE NOON: So it's -- the
gentleman Sammy owns the property?

    COUNCILMAN D'ESPOSITO: I don't
know who the --

    JOE NOON: Is that who owns it?

    ATTORNEY GUARDINO: Yes.

    JOE NOON: I believe Sammy's
here in the back.

    So that's right behind our
house.

    Now, it was always commercial
for the first 100 feet.

    My main concern is that behind
100 feet, it clearly, clearly stays
residential.

    And I believe that it's always
been 100 feet Class "B" Commercial and then behind that is was 100 percent Residential property.

The difference between this legal letter and CarMax who was on the docket before this, was they clearly stated their address on Hempstead Turnpike.

It's right next door to her girlfriend's house and all that.

I realize that they're welcoming that property coming into that area.

But this did not have a clear address on this. And it's been an ongoing fight just with the properties behind us.

Sammy's has been a very good owner behind us. Him and I have had contact with each other in a very professional manner.

I don't have any problems to say about Sammy. But I do, if it's going to be commercial property behind my house.
Main thing is what this modification exactly is?
And what -- where these condos are going to be built -- or excuse me, you said apartments.
That's the problem with the neighborhood, I know that. There'd probably be around 20 people in here from the neighborhood, if they knew that behind us is going to be apartments. I could tell you that much right now.

SUPERVISOR GILLEN: Okay, Mr. --

JOE NOON: That's all I have to say.

Thank you very much for listening to me.

SUPERVISOR GILLEN: Thank you, Mr. Noon.

If you want to stay for a moment, Mr. Guardino can answer some of your questions.

ATTORNEY GUARDINO: Just a couple of comments.
JOE NOON: Certainly.

ATTORNEY GUARDINO: Yeah, and before I get into you substantive comment.

You know, I think what you had said about Davison Avenue or Davison Street being Davidson Avenue prior, I think that's probably the genesis of why some of the Town records say Davidson Avenue. I can only go by what's in the official record.

So when the notices are prepared, and when I mail them and we do the radius, we work off of what the Town has. If that's not accurate, I can't do --

JOE NOON: There was no address though --

ATTORNEY GUARDINO: -- do anything about that.

JOE NOON: -- in the letter.

ATTORNEY GUARDINO: So the well, the letter describes a legal -- has a legal description of the property, 'cause that's what's
required by the Town Code.

With respect to the timing of
the letter, you have to understand
that there's a window of time. I
can't send them too early, because
then I'd violate the law. I can't
send them too late, because I'd
violate the law.

I understand that it may not
have worked for you and you would have
liked it earlier. I can't do that
legally.

I'm bound by what the Code
says, so that's why the letter came
when it came.

And then with respect to your
concern about the zoning, about it
being only 100 feet of commercial,
first of all, this is a "CA" Residence
District, which is multi-family
residential.

But the zoning was done
already. The zoning was done ten
years ago. So we're not here to talk
about whether it's going to change the
All we're here to discuss is -- or to request is a modification of the covenants and restrictions to allow the number of units to go from 18 condominiums to 23 rental units, in a development that complies with all other requirements of the Town's Code.

JOE NOON: There's presently a two-family house behind me. So I don't know where it went from -- maybe this room could tell me when it did change from a residential to the different zone commercial property.

COUNCILMAN D'ESPOSITO: I think it was --

SUPERVISOR GILLEN: 2010.

ATTORNEY GUARDINO: 2010.

COUNCILMAN D'ESPOSITO: Yeah,

2010 or '09?

ATTORNEY GUARDINO: 2010.

JOE NOON: And what modification are we looking for here?

COUNCILMAN D'ESPOSITO: They're just looking to go from 18 units to
ATTORNEY GUARDINO: 23.

COUNCILMAN D'ESPOSITO: 23 units.

SUPERVISOR GILLEN: Originally it was supposed to be condominiums, and there were going to be 18 condominiums.

And now they're going to be -- they're changing to make it 23 rental units, instead of condominiums.

COUNCILMAN D'ESPOSITO: Right.

The zoning from the single-family residential or two-family residential home, whichever's there, to the zoning that allows buildings like this was passed in -- I'm sorry, I think it was '10?

SUPERVISOR GILLEN: 2010.

COUNCILMAN D'ESPOSITO: 2010.

JOE NOON: Well, I would say that the neighborhood would probably have a problem with it.

COUNCILMAN D'ESPOSITO: Okay.

SUPERVISOR GILLEN: The zoning
has already passed, though. That happened years ago.

So it -- they can -- they have the right to build it. They're just changing it from --

JOE NOON: So what's that mean, a third level up on top of two stories, so now they're looking into my yard?

COUNCILMAN D'ESPOSITO: I'm not sure.

Is it three stories?

KENNETH COLEMAN: Two stories.

ATTORNEY GUARDINO: Two stories.

COUNCILMAN D'ESPOSITO: So the entire units --

JOE NOON: How far off the property lines?

ATTORNEY GUARDINO: Well, it fully complies with all the zoning. I'm happy to share the plan with you.

JOE NOON: I've never seen a plan.
ATTORNEY GUARDINO: I know, but I'm happy to give you a copy of the plan.

The -- I will point out then, maybe this helps you or -- is that the building will be located on the east side of the property. And only the parking will be behind your property, not the building.

So you -- the building is further away from where you live.

JOE NOON: So I have the cars running in my backyard, and smelling the gas with the children and the grandchildren.

ATTORNEY GUARDINO: It's the cars or the building, you know. And so the --

JOE NOON: Uh-huh.

SUPERVISOR GILLEN: Mr. Guardino, maybe your client can just speak to some of the adjacent owners to try to work with them to get them to support, and understand what the project is and accommodate some of their concerns.
ATTORNEY GUARDINO: I'm happy to do that.

COUNCILMAN D'ESPOSITO: Yeah.

Perhaps we could, you know, increase fencing, increase, you know, shrubbery, whatever helps.

ATTORNEY GUARDINO: Yeah, we're happy to continue a dialogue.

JOE NOON: Uh-huh.

I'm just going to take a picture of that.

ATTORNEY GUARDINO: Sure.

SUPERVISOR GILLEN: Thank you. And maybe if, Mr. Guardino, if you could give Mr. Noon your contact information.

ATTORNEY GUARDINO: I will.

SUPERVISOR GILLEN: You could exchange, you could give him some documents as well.

ATTORNEY GUARDINO: Absolutely.

SUPERVISOR GILLEN: Thank you.

ATTORNEY GUARDINO: I'm happy to do that.

Thank you.
JOE NOON: Thank you.

COUNCILMAN D'ESPOSITO: Thank you, Mr. Noon.

JOE NOON: Thank you.

ATTORNEY GUARDINO: Thank you.

SUPERVISOR GILLEN: Thank you.

I do not have any other slips on this Public Hearing. Is there anyone else who'd like to be heard?

META MEREDAY: (Gesturing.)

(Whereupon, laughter was heard. After, the following ensued.)

ATTORNEY GUARDINO: I almost got away.

(Whereupon, laughter was heard. After, the following ensued.)

META MEREDAY: This close.

Meta J. Mereday, Baldwin resident.

I had a question with regard to the possibility of "PILOTs" with this project. Since you mentioned we're looking at luxury accommodations, what happens if they're not fully rented?

ATTORNEY GUARDINO: Well, the
intention is that the market right now is very, very strong for rental units, particularly, for rental units that are within walking distance of two train stations.

You know, we fully anticipate that these units will all be rented. My client is, you know, is proceeding with this development with the thought that it will be very successful.

And I, you know, again, I'm a land use attorney. I think this is an excellent site for what they're proposing here.

META MEREDAY: Unfortunately, the market doesn't always accommodate the workforce on Long Island.

We have a very high unemployment rate. We have lack of affordable housing. We have lack of housing for workforce, lack of housing for senior citizens and lack of housing for Veterans.

I'm always uncomfortable when I hear about additional luxury
accommodations, when residents are fleeing, because they cannot afford to live here.

So again, because of the increase in "PILOTs" in this region and the tax burden on the middle class, I would like to know, what are the assurances that residences will not be seeing a PILOT brought to this body with regard to this project?

ATTORNEY GUARDINO: Well again, there's -- I can't give you an assurance that my client is not going to seek "IDA" benefits, because it's entitled to do.

So where that ends up, I can't tell you. But, you know, they're not going to give up their right to request the right to those -- to be eligible for those benefits.

I just I do want to point out for just maybe this will answer some of your questions. The rents here, while this is, you know, considered luxury housing, you know, that these
are not, you know, this is not waterfront housing.

So the rents here I just -- and I'm just going to mention them, because they're in the public record and they're estimated rents. But for the one -- for a one-bedroom unit $1,950 is what is being estimated at this point. For a two-bedroom unit on the second floor $2,650, and for a two-bedroom unit on the first floor it would be slightly higher at 2,750.

That's what we're targeting and estimating at this point. That could change. But, you know, these are not, you know, these are not some of the -- I know the Town has seem some luxury units that -- where rents are in the $3,000 ranges. That's not we're proposing here.

So they would be somewhat affordable to a greater number of people.

META MEREDAY: And who are you advertising these to?
ATTORNEY GUARDINO: I'm the land use attorney. I don't know who they're advertising them to. I'm thinking they're advertising them to the local community and to, you know, people who are empty nesters who might want to downsize and young professionals who might want to get into the housing market.

META MEREDAY: And my last comment has to do with the Town itself.

The last two presentations, residents had to sit back in this gold building and watch these blank screens yet again that we pay for. It is a disservice for residents not to be able to see the projects and all of the exhibits for us to bring healthy dialogue and discussion, for the amount of money that we pay to live in this jurisdiction. It is appalling because it continues to happen.

And again, I wanted to make the
point with regard to the ongoing lack of outreach for -- and support services for our seniors and our Veterans, as it pertains to housing, and our young residents, because again, that is a luxury that most of us cannot afford on the back end.

Thank you.

SUPERVISOR GILLEN: Thank you, Ms. Mereday. I hope your voice gets better.

META MEREDAY: Thank you.

SUPERVISOR GILLEN: Thank you, Mr. Guardino.

ATTORNEY GUARDINO: Thank you.

SUPERVISOR GILLEN: Is there anybody else who'd like to be heard on this Public Hearing?

(Whereupon, no response was heard. After, the following ensued.)

SUPERVISOR GILLEN: Hearing none, may I have a motion?

COUNCILMAN D'ESPOSITO: I move that the Public Hearing be closed and we reserve decision.
SENIOR COUNCILMAN GOOSBY: Second the motion.

SUPERVISOR GILLEN: Madam Clerk.

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: Aye.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Aye.

CLERK CABANA: Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: Aye.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: Aye.

CLERK CABANA: Senior Councilwoman Goosby?

SENIOR COUNCILWOMAN GOOSBY: Aye.

CLERK CABANA: Councilwoman King-Sweeney?

COUNCILWOMAN KING-SWEENEY: Aye.

CLERK CABANA: Councilman Muscarella?

COUNCILMAN MUSCARELLA: Aye.

SUPERVISOR GILLEN: Madam Clerk, please call the next Public Hearing.

CLERK CABANA: Resolution finding the draft generic environmental impact statement, DGEIS, for proposed Baldwin mixed-use overlay district (b-mx) to be complete and adequate for public review and
comment, in terms of both its scope, and content, and calling a combined Public Hearing on the creation of a new Chapter -- I don't know, what is this -- xlii of the Baldwin Zone Ordinance of the Town of Hempstead entitled "Baldwin mixed-use overlay district (b-mx)" and the draft generic environmental impact statement (DGEIS) for the proposed b-mx, Baldwin.

SUPERVISOR GILLEN: Thank you.

Good afternoon.

MARWA FAWAZ: Good afternoon.

Thank you, Supervisor and Town Board.

My name is Marwa Fawaz. I'm with VHB. I'm a Senior Project Manager, located at 100 Motor Parkway, Hauppauge, New York 1174 -- 117 -- well, you have the zip code.

I'm joined today by Eric Alexander from Vision Long Island, as well as Elissa Kyle from Vision Long Island, and Daniel Winkelman from VHB.

Next slide please.

Today we're here to discuss the
proposed "B-MX" Overlay District
within the Hamlet of Baldwin. It's
along the Grand Avenue corridor.

Our presentation will be pretty short. We want to give a brief overview of where we're at in the process, and then open it up to the public for any comments or questions they may have.

We'll start off by giving an overview of the Baldwin Revitalization Project, as well as an update on the SEQRA process, the draft zoning and design guidelines, the specific SEQRA, and Generic Environmental Impact Statement topics and conclusions. And then we will open it up to Town Board and public comments.

Next slide please.

So a brief overview of the process, the Baldwin Revitalization Project has been pretty much ongoing for the last five or six years. And it started off in -- about four years ago with a down -- "Baldwin Downtown
Commercial and Corridor Resiliency study, which outlined implementable strategies to foster economic investment and provide housing options, as well as increased pedestrian amenities and enhance public space within Downtown Baldwin.

One of the core community-based recommendations from this study was transit, a transit-oriented development overlay district that would allow for a compact and walkable mixed-use downtown, centered around the Baldwin Long Island Railroad Train Station.

Specifically, the study called for an overlay zoning framework to allow for a mix of uses and increased densities near the train station.

Following the completion and adoption of the "DCCR" study by the Town of Hempstead, they engaged VHB and Vision Long Island to draft the zoning as well as design guidelines and conduct the environmental review.
in accordance with New York State's SEQRA process of those two documents.

Throughout the process, we've held two large public engagement meetings, as well as we've included quite a bit of close coordination and monthly meetings with the Baldwin community, and coordination with the development community, as well as the civics and the Chamber. And we'll get into a little bit more detail about the detail -- the community outreach that we conducted a little later in our presentation.

Next slide please.

So some of the project goals, as mentioned earlier, are really -- of the "B-MX" Overlay District is to facilitate private investment within this specific corridor. I'll show a little bit later what the boundaries of the corridor are as well as the "B-MX" District.

But specifically, the goals of the "B-MX" Overlay District would be
to facilitate public investment, increase public benefits and economic development within Downtown Baldwin.

It would promote a transit-oriented development around the train station, as well as increase demand for housing alternatives, drive foot traffic and increase the demand for retail uses, including sit-down restaurants.

It would leverage the area's proximity to public transportation, to strengthen economic and physical resiliency within the Baldwin community.

I also want to note that as part of the process, we -- there has been a concurrent study and effort led by Nassau County DPW for the Grand Avenue corridor that would work in cohesion with this, with the "B-MX" Overlay District. And part of that is to implement transportation and infrastructure improvements to accommodate the future growth that is
anticipated from the "B-MX" Overlay District.

It would also enhance visual quality and pedestrian amenities in the Downtown, through the implementation of design standards and streetscape improvements, which we will also discuss in a bit.

ERIC ALEXANDER: So the community engagement's really important in this. We had heard from the community for many years, downtown revitalization projects have been happening across the Island, but Baldwin had somehow had been left behind.

There have been -- not by lack of a lot of efforts here with the Town, and with the community, and with the many property owners and potential developers, there was a 15-year process to try to get some things off the ground.

The -- we started this process in August at a very hot meeting in the
auditorium in -- at the Baldwin High School. And I think most folks, Baldwin folks here remember it. And I remember that Erin, and Supervisor, and Anthony D'Esposito also were there and Dot Goosby, of course, Senior Councilwoman. So we know that we all were there.

We had to turn lemons into lemonade through this process. We had to build up trust that something can happen.

So we started -- the real problem was the economics -- can we create a buildable code? So we first went through the process of interviewing -- I guess what we call it developer speed dating.

But we had meetings. We looked at the 25-transit oriented developers on Long Island, focused on different categories and got through as many of them as possible.

I think we interviewed about fifteen of them, got their inputs on,
you know, parking ratios, the impact
of school kids, all these things.

So we got information from the
developers on the front end. We also
got information from the community
through the meetings. And we had had
those prior studies with the corridor
study, a prior study even before that
with the Federal Government through
the County.

So there's plenty of
information that has been assembled in
short order. We stuck to schedule,
which folks were like, "This is going
to be another two years."

It hasn't been another two
years. It's -- we're just about a
year from that hot meeting that we
had.

And so we've got a lot of
tremendous input. The Civic and
Chamber have worked really great
together. We've had great
participation.

And even to the point where,
you know, all the details, and we'll hear about the design guidelines and the concerns about walkability. And, you know, just making sure that small businesses and vacancies are filled. Those are bottom-line issues, safety, security, maintenance. These are types of things we hear.

So we're excited that we -- we've got a product here that's ready to go. And with that I know, you know, and I don't want to steal your thunder, but the State has been very interested in Baldwin. So I won't take that away from you and Councilwoman's --

COUNCILWOMAN KING-SWEENEY: Ten dollars worth --

ERIC ALEXANDER: -- and the Supervisor --

COUNCILWOMAN KING-SWEENEY: Ten million dollars worth.

ERIC ALEXANDER: Ten million dollars, exactly.

So congratulations to you for
your efforts.

But we're great to be -- we're excited to be on the ground floor with the community.

I know there's community folks here that are ready to say some words about this as well, so I'll stop here and continue on.

COUNCILWOMAN KING-SWEENEY:

Yeah.

If I could just jump in, Eric and Marwa, I can't thank you enough. I mean to the average person sitting here this might not sound overly sexy. But what has gone into this over really the last twenty years is unbelievable.

And the fact that this thing has been pulled off in a year and we're making it sound kind of boring right now and routine is unbelievable. And it is a tribute to you, to all the members on the Board here and also to the Baldwin community.

I know that you have Baldwin
Civic leaders. You've got Karen Montalbano here. I think Erik Mahler, I saw him walk in. "The Lorax" is over there.

And but with all of these people in the community, I think everyone is so well meaning and so ready finally for something to happen. And so at the local Town level, the County level and the State level, everyone has been fully, fully committed to progress in Baldwin.

So thank you for making this happen. I can taste it.

I said I'm doing monthly Town Hall meetings until there's a shovel in the ground, so God, let's bring that shovel, because it's getting onerous -- no, I'm just kidding.

But really thank you for everything. This is great stuff.

SENIOR COUNCILWOMAN GOOSBY: And certainly I would like to thank you as well. I'm not going to try to go through all the words that she said.
(Whereupon, laughter was heard. After, the following ensued.)

SENIOR COUNCILWOMAN GOOSBY: But I think most of them made sense. And I agree with many of them, since I've been here quite some time and had been really wanting this to happen. And so it looks like it's going to.

And I thank you so much for all that you've done.

And I thank the community for being so involved with it too.

COUNCILMAN D'ESPOSITO: Great job.

MARWA FAWAZ: It's been a pleasure working with the community, and with the Board, and with the Supervisor's Office and everybody's just really on board working together to get this happening.

It's definitely a breath of fresh air, because you don't see that a lot in communities. So very exciting.

And a part of the biggest point
of this process wasn't drafting the
zoning or even the design guidelines.
But it's really doing the
environmental review, which is where a
lot of developers get stuck in the
process is getting through the
environmental review process.

So the Town's investment in
doing the "B-MX" Overlay District and
doing the SEQRA that goes along with
that Overlay District to help get rid
of some of that red tape and some of
those hurdles that developers run in
to, and takes up time and money is
going to be a huge, huge bonus to them
when they come in and propose under
this Overlay District.

So with that being said, I'd
like to discuss the SEQRA timeline.
So a little mundane, I know. And this
is just something that we have to go
through under New York State
Regulation.

But a Positive Declaration was
issued on April 16th, 2019. The
DGEIS, which is the Draft Generic Environmental Impact Statement was completed, and accepted as complete and adequate for public review by the Town Board on August 6th. And today we sit here to describe what is in that document.

That document has been made available on the Town's website, as well as hard copies at the Baldwin Library and the Town Hall for review, and comment and question to be provided, so that we can respond to all comments and questions in what will be called a "Final Generic Environmental Impact Statement."

So today we will listen to comments after our presentation, and comments will be accepted until September 16th.

The reason the last three bullets there are kind of "to be determined" is because it'll all be based on how many comments we receive on the Overlay District and design.
guidelines. So after September 16th, which is the close of the comment period, we'll be able to better assess subsequent dates.

Next slide please.

So with that being said, I'd like to get into discussing a little bit about the draft zoning of the "B-MX" Overlay District as well as the design guideline.

Next slide please.

The proposed action that we evaluated under the State Environmental Quality Review Act is the amendment to the Town of Hempstead Building Zone Ordinance, which is creating a new overlay district entitled the Baldwin Mixed-Use Overlay District within -- with accompanying "B-MX" design guidelines.

The "B-MX" zoning map amendment will incorporate 189 parcels.

Next slide please.

Those individual taxed parcels are within an 87, approximately an
87-acre study area along Grand Avenue. As seen, I know it's -- it might be a little hard to see up there, but as seen on this map, the district is bounded by the intersection of Florence Street and Milburn Avenue to the north and Merrick Road to the south.

The Baldwin Long Island Railroad Station is centrally located within the Overlay District at the intersection of Grand Avenue and Sunrise Highway. The Overlay District boundary is shown as the Baldwin Mixed-Use Overlay District Map.

There are three subdistricts designated within this study area that allow for overall density -- in varying allowances of overall density and building height. These subdistricts convey the specific character that the Town wishes to achieve within the study area.

So the pink subdistrict is noted as the Mixed-Use
Transit-Oriented Development subdistrict, which is the area closest to the Baldwin Long Island Railroad's Train Station and would allow for a maximum height of 75 feet. Along Merrick Road and the area -- yes, thank you -- that blue area down there along Merrick Road and the intersection of Grand is known as the Merrick Road Gateway, which includes the southern portion of the study area at the intersection of Grand and Merrick. And it's a maximum height of 60 feet would be allowed within this Overlay District. And then the pink transition areas -- I'm sorry, the green transition areas are the -- known as the commercial transition areas. And these are low-density subdistricts, that are located north, south and west of the "B-MX TOD" Subdistrict with a maximum height of 45 feet. Next slide please. This table summarizes the
proposed lot and bulk controls within each subdistrict. I'm not going to go through everything listed on the table.

But to summarize, the major components are the maximum floor area ratio. There are three different floor area ratios based on each of the subdistricts, and they vary from .5 up to 1.5 near the train station.

Further, the density as noted above is -- varies as well. Within the "TOD" District, there is no maximum density per acre. Within the Merrick Road, it's 45 units per acre. And within the commercial transition, it would be 30 units per acre.

The height, as I discussed earlier, vary from 75 feet in the "TOD" District down to 45 feet in the commercial transition areas.

As part of -- next slide please.

As part of the Overlay District, the Town is also
incorporating something called development bonuses. What these development bonuses are is an inclusion of provisions that would allow and encourage developers to provide public benefits and/or amenities in exchange for FAR bonuses, and/or adjustments to off-street parking requirements as outlined in the "B-MX" District.

This would be provided at the discretion of the Town Board, upon the determination that a public benefit or amenity provided would provide a greater value to the community than the potential impacts of those development bonuses that would be granted.

So eligible activities that would be included are noted above at the slides, which include the provision, renovation or the rehabilitation of the community benefit or amenity, "Brownfield" or derelict property remediation and
restoration, and contributions to
community benefit -- benefits that are
non-site related infrastructure
improvements.

The zoning really outlines, as
well as the DGEIS, a great deal more
than this. But the bottom line is
providing -- for the developer or a
project to provide back to the
community in order to get a little bit
more, it really helps to benefit the
community, as well as the developer on
the overall project, at the end of the
day.

ERIC ALEXANDER: And I just
want to emphasize the point here that
where this has been done on the Island
or else off site, that community input
is key to this. This isn't just a
give away. This has to be really a
solid public benefits that are agreed
upon with the public.

And we know there's a very
active Civic and Chamber here. So we
know you'll hear from folks and you
hear from folks regularly.

But this is something that is not automatic. This is something that there really has to be these tangible benefits that the community is looking for.

MARWA FAWAZ: Next slide please.

I will -- Elissa will talk about the design guidelines.

ELISSA KYLE: Sure.

In coordination with the Overlay Zoning, the design guidelines were created to help ensure that any development that happens here is done in a pedestrian-friendly and attractive manner that really enhances the quality of Downtown Baldwin, looking to create a pedestrian amenities, architecture that facilitates a pedestrian-oriented environment.

The guidelines would have -- they touch upon everything from architecture to signage, exterior
lighting, parking, landscaping, streetscaping, all these issues, and would provide a checklist essentially that developers would need to show that they are meeting all of these requirements.

And then there would be a review board within the Town to review the proposal and ensure that these requirements are being met, and that this proposed development meets these higher levels of aesthetics and walkability.

MARWA FAWAZ: Next slide.

So now we'll get into the details and conclusions of the State Environmental Quality Review Act. But quickly, just for the benefit of everybody, I'd like to go over what exactly that means.

So the New York State Environmental Quality Review Act requires all State and Local government agencies to consider environmental impacts during the
discretionary decision making.

The Draft Generic Environmental Impact Statement, also known as the "DGEIS," was prepared following the development of the proposed zoning for the project area.

There have been conditions and criteria drafted for future development. And I'll get into what that really means later.

But essentially for any proposed project that comes in under the "B-MX" Overlay District, the Town Board will need to look at the conditions and criteria of the environmental analysis that was done for the overall "B-MX" Overlay District, in order to make sure that they are consistent with our -- the findings of the State Environmental Quality Review Act.

So the DGEIS evaluated the impacts associated with the adoption of the proposed zoning amendments, as well as impacts resulting from a
theoretical build-out scenario.

So what is the theoretical
build-out scenario? What we looked at
was basically what is the approximate
and greatest amount of development
that could happen under the proposed
"B-MX" Overlay District within a
10-year period and evaluated the
impacts of that.

We came up with a theoretical
build-out scenario of approximately
1,000 -- 1,000,000 -- 1,700,000
million -- 1,700,000 square feet of
residential and commercial development
on nine potential parcels along the
"B-MX" Overlay District boundary.

Now, those parcels might not
necessarily be the ones that will be
developed. But those are the ones
that have the maximum amount of
potential development.

So we looked at those and
evaluated the impacts within the
DGEIS, to come up with what the
future -- next slide please -- what
the future proposed developments that come in will need, to meet the requirements of this conditions and criteria that's drafted within the DGEIS.

Once we're done with the FGEIS process, this will be streamlined and finalized to be included as part of the findings that the Town Board adopts, so that future projects that come in under the "B-MX" Overlay District will be evaluated for consistency with the conditions and thresholds, or conditions and criteria that are listed under SEQRA.

So any action that contravenes from that conditions and criteria that we've provided to the Town would require a supplemental SEQRA review.

The idea is projects that come in under the "B-MX" Overlay District and want to avoid going through a new SEQRA process should meet the conditions and criteria that are listed within the document there.
And it's meant to fast track, as I mentioned earlier, the environmental review process for those applicants meeting the criteria and conditions.

Next slide please.

So I'm not going to go into every single topic, because then we'd all be here forever. But I did -- we do want to cover a few key topics in greater detail today.

But the DGEIS did evaluate several topics. And we looked at the physical alteration of land, as well as groundwater resources and flooding, aesthetic resources, historic and archeological resources, transportation, energy, noise and light, and community character.

And we looked at the existing conditions, as well as the possible impacts from the proposed "B-MX" Overlay District and any potential development within that Overlay District.
I would -- do you want to add anything?

ERIC ALEXANDER: No.

MARWA FAWAZ: Okay. So with that being said, I will turn it over to Dan, who will go into greater detail about transportation.

DANIEL WINKELMAN: Good afternoon, Supervisors, members of the Town Board.

As part of the SEQRA process, we conducted a very comprehensive traffic and parking study.

Please put up the next slide.

Thank you.

As you can see up here on the screen, we indicated our study intersections as those in red along Sunrise Highway. We started at our Rockwood Avenue. We included Grand Avenue, Milburn and Central, which all lie along Sunrise Highway.

In addition to this, we relied on studies that were conducted by the Nassau County Department of Public...
Works. They were conducting the "Grand Avenue Complete Streets" corridor study, which extended from Merrick Road all the way through Milburn Avenue.

And it's kind of difficult to see, but there is highlighted yellow intersections along Grand Avenue on that. And we relied on the studies for that, as well as the improvements that they were proposing along that corridor.

Next slide please.

As part of our study, we evaluated existing traffic conditions, as well as 2029 no-build conditions and future 2029 build conditions for each of those four intersections highlighted in red. We also reviewed the Nassau County DFW's Grand Avenue corridor "Complete Streets" study, as well as their proposed improvements to Grand Avenue, which were -- all lie within our study area.

We looked at walkability to and
from the train station, as well as in
the Downtown area.

We reviewed vehicle crash data
along Grand Avenue and Sunrise
Highway, to determine if there were
any accident trends or patterns that
need to be mitigated.

We looked at site access
requirements for new development, to
ensure safe access to properties and
so that they don't impact traffic flow
along main corridors.

We looked at off-street parking
requirements for each of the three
separate "B-MX" zoning subdistricts.

And we looked at incentives
to reduce off-street parking
requirements, as well as increase FAR
to increase for certain land uses,
particularly those closest to the
train station.

We also looked at mitigation
funding methods to determine how such
improvements, if necessary, could be
funded.
Next slide please.

The findings of the traffic study indicated that traffic operations in 2029 no-build condition, would be generally comparable to that of the build condition. This is primarily because a lot of retail use would be replaced with multi-family use. And during certain periods traffic volumes would actually go down, such as in the a.m. period -- peak periods on a typical weekday, as well as during the midday peak period. However, during the p.m. peak period, some traffic volumes may increase.

In particular, because Sunrise Highway is such a heavily-traveled corridor, operations at certain intersections may deteriorate, such as that Sunrise Highway and Grand Avenue. And mitigation may be needed, which I will explain a little further detail in a moment.

We also reviewed the County's "Complete Streets" project and we
agree with their improvements, that it would calm traffic, increase walkability and improve safety along the Grand Avenue corridor.

We also reviewed off-street parking requirements. And we agree that certain parking requirements can be reduced, especially for ones closest to the train station.

And we also determined funding source, which could help pay for any mitigation, which I'll discuss in a second.

Next slide please.

In regards to our recommendations, we would recommend modifying signal timings, offsets and traffic progression along Sunrise Highway to help improve traffic flow.

We'd also recommend adding eastbound and westbound left turn lanes at the intersection of Sunrise Highway and Grand Avenue, to help improve the overall operation of that intersection.
That intersection is located in the core of the "TOD" District and would receive the heaviest amounts of increase to traffic.

Density in areas closest to the train station could also be increased, since they promote walkability and would therefore result in lower parking demands. As a result, off-street parking requirements for multi-family, and retail and commercial uses could be reduced.

Recommendations to control access to the new developments were provided in order to provide safer operations and to reduce impacts to traffic flow.

Incentives could be allowed for reduced parking requirements and increased FAR, in exchange for community amenities, as well as payments in lieu. There were thresholds that were outlined in the conditions and criteria section, for which the incentives could be issued.
The Town would also have to establish a traffic mitigation fund, and most particularly for the mitigation improvements to Sunrise Highway at Grand Avenue.

This fund would be created, and developers would pay into it based on the number of Saturday midday peak trips that they generated.

Those funds could then be used to provide the mitigation measures in the future.

That concludes the proposal on traffic.

Unless you have any questions, I'll turn it over and we can talk about groundwater resources.

MARWA FAWAZ: So another core topic that was reviewed in the DGEIS was the groundwater resources and flooding.

A major part of the "Baldwin Downtown and Commercial Corridor" study was to provide resiliency within
the Grand Avenue corridor.

As climate change happens and we are more susceptible to natural disasters and flooding, et cetera, it's very important that we take into consideration, and make sure we are totally aware and regulating the possible storm water and erosion requirements that would be within the "B-MX" Overlay District, since this is an area that is prone to flooding.

So one of -- the findings that we came up with in the groundwater resources and flooding section of the DGEIS includes that any development within the "B-MX" District would be subject to compliance with the Town's storm water and erosion requirements. Those areas within the "B-MX" District that are within a special flood hazard area would need to comply as well, with the Town and FEMA flood mitigation standards. And water efficiency measures and "Green" infrastructure are encouraged in new
development as part of the design guidelines.

Next slide please.

And the last topic we'd like to highlight is the aesthetic resources and community character. A large part and goal of the "B-MX" Overlay District is to make sure that the development is aesthetically pleasing, and in line with what the community has voiced all along that they want to see within their Grand Avenue commercial corridor.

So the increased height and density would be concentrated around the train station, and there would be restrictive height limits proposed near a single-family development. So as I described earlier, those commercial transition areas would be limited to 45 feet.

Redevelopment and development would benefit the aesthetic character of the Downtown through high-quality design, and reduction in retail
vacancies and aesthetic cohesion.

And then finally, the incentives, the development incentives that we discussed earlier will add to public benefits and community character, by incentivizing those public benefits and other types of proposals that could come forth, and really help advance the community and their needs.

Next slide.

So this concludes our presentation.

As I mentioned earlier, the public comment period on the Draft Generic Environmental Impact Statement and zoning ends September 16th. So we will be accepting comments that we will -- and questions that we will respond to in the Final Generic Environmental Impact Statement.

Comments and questions can be submitted via e-mail. The e-mail's up on the screen there. It's "BaldwinScoping@tohmail.org" or
you can send it via mail to Rebecca Sinclair or Richard Regina at Hempstead Town Hall, One Washington Street, Hempstead, New York. And you can also access the Draft Generic Environmental Impact Statement at the web link above. And as I mentioned earlier, there are hard copies at the Baldwin Public Library and Town Hall.

ERIC ALEXANDER: Yeah, and I think, you know, one, we get common questions, kind of "What's next?" Obviously, get your comments in.

There are some folks here who'll want to speak. Stay engaged in the monthly meetings. I know Councilwoman, I think you're going to keep going with --

COUNCILWOMAN KING-SWEENEY: My marathon three-hour sessions?

ERIC ALEXANDER: Yes. (Whereupon, laughter was heard.)
After, the following ensued.)

ERIC ALEXANDER: We have seen some quick wins, small businesses come into Grand Avenue. A "Painting with a Twist" is one opening, and there are others that want to get in.

And then there are three developers that have proposed projects that we hear are coming around and five or six are -- developers are looking.

So we know there's activity. But we obviously have to carry this process towards the end, so we can get that development moving in accordance with the community's goals.

I just want to take a personal preference to say I want to thank the collaboration of Rebecca Sinclair and Rich Regina, who have just been fantastic in this process, as far as staffing, all you guys and Shelley Brazley's also been great.

So that concludes.

MARWA FAWAZ: Yup.
SUPERVISOR GILLEN: Okay, thank you for a very thorough comprehensive presentation that provided a lot of useful information.

I'll ask you to stand close by, in case we have some residents who have questions for you.

Thank you.

Okay. The first slip I have is from Michael Raniere.

ATTORNEY RANIERE: Good morning. My name is Michael Raniere from Ingerman and Smith, 150 Motor Parkway, Hauppauge, New York.

I'm here on behalf of the Baldwin Union Free School District.

The School District had asked me to be present for the Public Hearing and really just asked me to make their presence known for the record.

The School District is -- you know, doesn't take any specific position with regard to the matters before the Board or for the Council
today. But District intends to be an active participant in all phases of this project, as part of the ongoing efforts within the community.

Thank you.

SUPERVISOR GILLEN: Great, thank you.

And we welcome their participation.

Karen Montalbano?

KAREN MONTALBANO: Karen Montalbano, 2611 Park Avenue, Baldwin, New York.

As you know, I'm a Baldwin resident, also a longtime member of the Baldwin Civic Association.

A little bit of a difference here, I want to say thank you. Thank you to all of you for moving this along expeditiously, for giving us a plan after 20 years of stalled development in Baldwin and giving us hope for all working together.

That has been really such a great thing to see and that
bi-partisan fashion has really, along
with the zoning overlay, led to that
$10 million grant, which I am so
looking forward to see what we can do
with that money in our community.

So this working together is
what we need to succeed. And I just
want to let you know that it has been
much appreciated.

Thank you.

SUPERVISOR GILLEN: Thank you,
Karen.

Thanks, Karen.

Erik Mahler.

ERIK MAHLER: Good afternoon,
everyone.

Erik Mahler, Baldwin Chamber of
Commerce President.

We fully support this Overlay
District. And your vote of approval
is a blessing for the Baldwin
community so please, without
hesitation, continue on this process.

Thank you.

SUPERVISOR GILLEN: Thank you,
Erik. And thank you for your participation in this whole process and all that you and Karen have done to move this thing forward.

Thank you.

COUNCILWOMAN KING-SWEENEY:

Thanks, Karen and Erik.

AND we will promise you'll have some trees.

ERIC MAHLER: Thank God.

(Whereupon, laughter was heard.

After, the following ensued.)

SUPERVISOR GILLEN: Nicholas from Sahn Ward.

ATTORNEY CAPPADORA: Good afternoon, Supervisor, members of the Board.

My name's Nick Cappadora from Sahn Ward Coschignano.

We represent Breslin Realty Development with respect to a parcel that's within the Overlay.

And we're very much in support of continuing the work that you started on and are continuing today.
Also want to thank Rich Regina and Rebecca Sinclair for their coordination.

And that we offer our assistance, if we can be of assistance, with the continued development of the regulations. We have some correspondence in that I'm not going to go through, that I don't have enough time. But I'm sure in the coming days, weeks, months, we'll go through it, and just offer our assistance and voice our support.

Thank you.

SUPERVISOR GILLEN: Thank you.

Meta Mereday.

META MEREDAY: Meta Mereday, Baldwin resident.

First of all, I am in support of this process.

But in all things, I still have questions and concerns from many of the residents in Baldwin, who -- who's voices still have not been heard.

Considering that Baldwin runs
from the Bay to the Parkway, there are businesses that have issue with regard to whether there's going to be inclusion, with regard to any of these proposed benefits and assistance to develop all of Baldwin along Grand Avenue.

Secondly, most of the residents are largely concerned about the fact that their major supermarket has yet to be restored. So again, that is a concern.

So I'm just hoping that there is some flexibility within this, because I don't want to have to come back later and be told you we were in the room when you saw how this package was presented and approved, and that there was no wiggle room. So I need know and residents need to know with regard to that, because there are other organizations that predate the Baldwin Civic Association.

And it takes nothing away from the work that they did, but the
Baldwin Oaks Civic Association predates this scenario, and has been looking for a development in this area from the Bay to the Parkway for decades. So we are looking forward to that.

And considering we have a "Brownfield" region across the street from the Town park at Coe's Neck that needs to be remediated, but it is outside of the Overlay District, what do we tell the residents on the northern end of Baldwin with regard to that property?

Secondly, the amenities that are going towards parking, again, what is going to be addressing those issues when you're talking about increasing the lanes on Sunrise Highway and you have a road calming process?

You will now have two lanes turning from Sunrise Highway into one lane on Grand Avenue. And you cannot tell me that that's not going to pose some challenges.
So again, I still have questions. I always will have questions.

And I'm hopeful that we will continue, as Karen said previously, to work as a united front to represent all of the interests of all of Baldwin.

Thank you.

SUPERVISOR GILLEN: Thank you, Ms. Mereday.

And perhaps to address some of your traffic concerns, someone from VH1 can meet with Ms. Mereday out, you know, on the sidelines, and just kind of explain some things that she might have some questions for.

Thank you.

Okay. I don't have any other slips on this Public Hearing. Is there anyone else who'd like to be heard?

(Gesturing.)

SUPERVISOR GILLEN: I think I see a hand, yes.
JESSENIA MENDEZ: This is nerve-racking.

SUPERVISOR GILLEN: Just take a deep breath, just to say your name and address for the record. And then just say whatever you want to say.

JESSENIA MENDEZ: Jessenia Mendez, Baldwin resident, also on the BCA and a business owner in Town.

And do you need the address?

No, you don't need it?

SUPERVISOR GILLEN: Baldwin is fine.

JESSENIA MENDEZ: I'm in Baldwin, that's it.

So I have just like -- well, I have many concerns, but I think we could all talk about that a different, you know, a different time.

But one main thing that I have a big issue with is the weight limit that is able to go through the Town on Grand and on Merrick.

Being that my business is on Merrick, I have two cars that was hit,
you know, where the cars are speeding by that are trucks. And the trucks are there, cars are going around. So it's always a problem, not to mention how many people have gotten hit by a car on that road, because of the speed.

So I was wondering are they going to -- since it's Merrick, are they going to try to slow down the traffic in that area right there between, you know, on Grand and --

SUPERVISOR GILLEN: Is this something that we looked at in our study?

DANIEL WINKELMAN: This is actually something that the County looked at in their study. And they do propose geometric improvements to the intersection of Grand and Merrick, to help better control traffic as it enters the intersection to tighten it up a little bit, which will essentially slow traffic as it goes through that area.
JESENNIA MENDEZ: But they proposed it. Are they really going to do it?

DANIEL WINKELMAN: My understanding is they're in the detail design right now for implementation.

JESENNIA MENDEZ: So that's going to be added to it, hopefully, when everything starts to come together?

DANIEL WINKELMAN: That's my understanding, yes.

JESENNIA MENDEZ: Okay. What about the weight limit?

Meaning we have tractor trailers coming through Grand, you know, and also on Merrick.

And, you know, Rockville Centre doesn't have that. They got to make a left on Sunrise and keep going.

But through us, they just keep flying by, so --

DANIEL WINKELMAN: Yeah.

I would have to coordinate with the County. They are the ones who are
going to put any weight restrictions on the roadways.

So that is a question I can't answer.

SUPERVISOR GILLEN: So if you want, we can take your information. You can share your information and we'll try to get some more information from the County for you, as they're part of their traffic calming measures that they're taking.

JESSENIA MENDEZ: And lots of signage.

In reference to the parking, we do have Town-supplied parking, but nobody ever knows that it's there.

How can -- what are we going to do in reference to showing people, "Hey, there's actually parking back there. There's a parking over here"?

There's no signage that you can see where there's actually Town parking.

SUPERVISOR GILLEN: Well, I think the hope is, is that once this
area kind of becomes revitalized and
you have bustling businesses there,
that certainly the businesses that are
there are going to try to let their
customers know.

And we can probably put up a
sign, "Municipal Parking." I don't
think that's going to be a challenge.

JESSENIA MENDEZ: A sign?
SUPERVISOR GILLEN: Yeah.

JESSENIA MENDEZ: 'Cause I mean
you can put -- you know, people put
the signs in front of their store.

We have back parking, but
nobody ever either sees it. And then
a lot of businesses lose business
because they don't even know that
there's a parking, or the little
parking lot is hard to get to because
they don't know beforehand, "Hey,
there's a parking lot there."

SUPERVISOR GILLEN: Point well
taken.

JESSENIA MENDEZ: And so they
just keep going.
SUPERVISOR GILLEN: Sure. We can make sure that people are properly noticed that there's parking available.

JESSENIA MENDEZ: Yes.

SENIOR COUNCILWOMAN GOOSBY: We're hoping.

SUPERVISOR GILLEN: That's our hope, that we just have cars flowing into our parking lots 'cause businesses are booming in Baldwin.

JESSENIA MENDEZ: I hope so, too.

All right, that's it for me.

SUPERVISOR GILLEN: Thank you.

JESSENIA MENDEZ: Thanks.

SUPERVISOR GILLEN: All right.

Is there anybody else who'd like to be heard on this Public Hearing?

(Whereupon, no response was heard. After the following ensued.)

SUPERVISOR GILLEN: Hearing none, may I have a motion?

COUNCILWOMAN KING-SWEENEY: Okay.

Just some procedural things.

I move to amend Section 431.1C,
such that it reads in pertinent part,
"community benefits or amenities outlined in Section 431.1.B."

I move to close the Public
Hearing on the DGEIS, and the proposed ordinance to keep the record open on the DGEIS 'til 5 p.m. on September 16th, 2009 -- '19.

And to keep the record open on the proposed ordinance for purposes of considering comments and amendments to the ordinance, until such time as the Board renders a decision.

All that's required language, so --

SENIOR COUNCILWOMAN GOOSBY: I forgot the lawyers continue to talk.

(Whereupon, laughter was heard. After, the following ensued.)

SENIOR COUNCILWOMAN GOOSBY: Okay.

But anyway, I second the motion.

SUPERVISOR GILLEN: Madam Clerk.

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: Yes.
CLERK CABANA: Councilman Blakeman?
COUNCILMAN BLAKEMAN: I think it's great for the Town.
Yes.
CLERK CABANA: Councilman D'Esposito?
COUNCILMAN D'ESPOSITO: Aye.
COUNCILMAN D'ESPOSITO: Aye.
CLERK CABANA: Councilman Dunne?
COUNCILMAN D'ESPOSITO: Aye.
CLERK CABANA: Senior Councilwoman Goosby?
SENIOR COUNCILWOMAN GOOSBY: Very happily, yes.
CLERK CABANA: Councilwoman King-Sweeney?
COUNCILWOMAN KING-SWEENEY: Yes, with pleasure.
CLERK CABANA: Councilman Muscarella?
COUNCILMAN MUSCARELLA: Aye.
SUPERVISOR GILLEN: All right.
Okay, that concludes our Public Hearings.
Madam Clerk, will you please call the Administrative Calendar?
CLERK CABANA: Yes, there are Items 12 through 52 on the Administrative Calendar.
I also have an item of an
urgent nature entitled "Resolution
Calling a Public Hearing, to review
the recommendation of the Town of
Hempstead Landmark's Preservation
Commission, that the "FRANKLIN SQUARE
MOVIE THEATER" at 989 Hempstead
Turnpike, FRANKLIN SQUARE, NY,
Section 35, Block 004, Lot 126 be
designated an historical landmark.
This will be Item No. 53 on the
Calendar.

SUPERVISOR GILLEN: With
respect to the Administrative
Calendar, Item No. 41 is an item that
calls for the settlement of certain
lawsuits.

And with respect to the
settlement with Double Eagle Golf
Course, I move that that item be
adjourned until October 2nd, since I
have just become aware of some
information that may be relevant as it
whether or not we should settle this
litigation.

May I have a second on that?
COUNCILWOMAN KING-SWEENEY:
Second.

SUPERVISOR GILLEN: This is me tabling Item No. 41, Double Eagle,
until October 2nd.

Madam Clerk.

COUNCILMAN BLAKEMAN: Well, I have a question, Supervisor.
Is there a chance that by October 2nd, that this matter won't be resolved?

Maybe we should just adjourn it without date.

SUPERVISOR GILLEN: That would be --

COUNCILMAN BLAKEMAN: Does that would make any sense?

SUPERVISOR GILLEN: That would be acceptable to me as well.

COUNCILMAN BLAKEMAN: Does that make more sense?

COUNCILWOMAN KING-SWEENEY: Yeah.

COUNCILMAN BLAKEMAN: So you would be willing to amend that?

COUNCILWOMAN KING-SWEENEY:
Yes.

SUPERVISOR GILLEN: So --

COUNCILMAN BLAKEMAN: On 41?

COUNCILWOMAN KING-SWEENEY: I'm willing to second the amended version.

SUPERVISOR GILLEN: All right, so I will amend my motion to table Item No. 41 without a date.

COUNCILWOMAN KING-SWEENEY: Second.

SUPERVISOR GILLEN: Madam Clerk.

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: Aye.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Aye.

CLERK CABANA: Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: Aye.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: Aye.

CLERK CABANA: Senior Councilwoman Goosby?

SENIOR COUNCILWOMAN GOOSBY: Aye.

CLERK CABANA: Councilwoman King-Sweeney?

COUNCILWOMAN KING-SWEENEY: Aye.

CLERK CABANA: Councilman Muscarella?

COUNCILMAN MUSCARELLA: Aye.

COUNCILMAN D'ESPOSITO: Supervisor,
I also have two proposed emergency resolutions.

The first is an appointment of Dominick Longobardi, as the second deputy comptroller in the office of the Town comptroller.

TOWN ATTORNEY RA: Is there any objection from any member of the Board?

SUPERVISOR GILLEN: I object. I don't know why this is an emergency. I don't know how an emergency just all of a sudden happened, between when we started this meeting and when I just received this, when Ms. Montalbano was speaking about ten minutes ago.

In fact, I did hear rumblings that there is going to be some urgent hand up. I asked Council to the majority if he could even give me the topic of what the emergency hand up was. And he said, "No," he could not share that with me.

I have not seen this. The members of the public haven't seen
This is not the way government should be run. If you have something that's an emergency, you should discuss it with your Board Members before the meeting. And you should talk about it openly. And the members of the public had the right to know that there's going to be something handed up.

Has anybody in the audience seen this (indicating)?

(Whereupon, "No," was heard calling out from the audience.)

SUPERVISOR GILLEN: No, no one's seen this.

Or this (indicating) one, which is coming up next, which, this one I get a kick out of, "Resolution declaring the Supervisor's directive that Averil Smith is acting comptroller and overseeing the day-to-day operations of the office will be null and void." That's quite comical as well.
Under Town Law, I am the day-to-day manager of the Town. And this, there's nothing to even nullify, because there was no action by the Board. So I don't even know what legal merit this has.

But this is ridiculous. This is not the way government should be run.

COUNCILMAN DUNNE: I'm going to second the motion of my Colleague D'Esposito. And I want to thank him for the Board making this appointment. Good job.

Thank you.

COUNCILMAN BLAKEMAN: I'd like to respond, if I might.

So Supervisor, the reason there is an emergency is because you decided that you were going to appoint your finance director as the acting comptroller, which is in violation of the Town Law, which creates a conflict of interest.

The comptroller should not be
representing the Supervisor. The comptroller should not be representing the Town Board.

The comptroller is there to make sure that all of the financial important issues regarding the Town are reviewed by that office. And that includes the budget.

And when the comptroller finds that there's something that is not fiscally sound, it's the comptroller's job to push back when the Town Board or the Supervisor want to do something that's contrary to what the comptroller thinks is prudent and physically sound.

So the bottom line is, you have somebody that you've nominated who isn't in that position. She's in the position of being an advocate for you and your budget, which is perfectly fine. There's nothing wrong with it.

But to carry those two jobs, it's like riding two horses at the same time. It doesn't work.
So what we suggested in a letter to you, and we hope you consider it, is as follows. Let Ms. Smith work with the comptroller's office to prepare your budget, which you are going to present to the Town Board. And if you like, Ms. Smith can make that presentation as if she was the comptroller.

But the Code is very clear that the second deputy comptroller assumes the position of comptroller in the event there's a vacancy.

And for the purposes of making it clear, there's a resolution that just makes it clear that Mr. Longobardi is the second deputy, because that is the mechanism that is in the Town Code.

There is no mechanism for Ms. Smith to be appointed by you. And we want to thank Ms. Smith if she's filled in, in the week or ten days that there's been a vacancy and thank her for helping out.
But really, her role is to represent you. And the comptroller's role is to represent the people of the Town of Hempstead.

SUPERVISOR GILLEN: So I think there lies in the fundamental difference between the way you see things, Mr. Blakeman, and the way I see things.

There's not "my budget."
There's not "your budget." There's the "taxpayers' budget."

The budget is prepared for the best interests of the taxpayers. That's who I represent. That's who Ms. Smith represents. That's who Mr. Longobardi represents. And that's supposed to be who you represent.

So we shouldn't -- there's been a warring budget last year. There shouldn't be a warring budget this year.

We should all be working together collaboratively, to make a budget that is the best budget, the
most responsible budget for our taxpayers, that they can have. That is how we should be working together. But I sent a letter in July of last year, asking the Town Board members to work with me collaboratively on the budget. They declined to do so.

Once the tentative budget was filed, I invited them all to come into my office. I cleared my schedule to meet with them. They didn't meet with me. And instead, on the hearing we're trying to adopt the tentative budget as the preliminary budget, all of these people sitting here held a press conference and dropped 73 amendments to a budget in front of me that I had no time to review, that Ms. Smith had no time to review and that the comptroller had no time to review, because they cut him out of the budget and hired somebody else on your dime to prepare these 73 amendments.
That's bad government.

There's not two budgets.

There's one budget. And the people
it's supposed to serve are the
taxpayers of this Town.

And we should be working
together and not working at odds.

That's Ms. Smith's motion, that's
her desire. I think that's
Mr. Longobardi's desire,
Mr. Capobianco's desire and
Mr. Ramos's desire, all of whom I've
met with and all of who have worked
very collaboratively with Ms. Smith,
who is a licensed CPA; who has done
budgets before; who prepared the
budget in the Town of North Hempstead,
and has done an ample job working
collaboratively with all of these
gentlemen here.

I thank you, Ms. Smith. And I
thank you gentlemen for coming in and
meeting with me and talking about the
best way to move forward together.

COUNCILMAN BLAKEMAN: Yeah, I'd
(Whereupon, applause from the audience was heard. After, the following ensued.)

COUNCILMAN BLAKEMAN: -- I'd like to --

COUNCILMAN DUNNE: Stop.

COUNCILMAN BLAKEMAN: -- I'd like to respond to that.

First of all, the Town Code is very clear that the comptroller, with the assistance of the Supervisor in all the departments in the Town of Hempstead are to collaborate on the Supervisor's budget, that the Supervisor presents to the Town Board.

The Town Board then looks at the budget and they make a decision as to whether or not they want to amend that budget. And they do it according to law, on the day that we did it.

The reason why you claim you weren't part of it is because it was the Town Board's function, at that point, to look at the budget that you
presented and then make changes if we saw fit.

And we didn't vote on it that day. We voted on it I think 25 days after that, which gave the public, which gave you, which gave your office 25 days to review and comment on the changes that the Town Board wanted to make.

And, you know, there are philosophical differences sometimes. You presented a budget with a tax increase. We wanted a budget with a tax cut.

So the fact of the matter is, there is a tension between the Supervisor's budget and the Town Board that's a healthy tension. That's called checks and balances. That's called being able to review what the Supervisor and what the comptroller present, and be able to make amendments if we have a philosophical difference, or if we don't agree with the numbers that are presented with
your budget.

So it's -- the final budget is
the people's budget. But the budget
that you presented, according to law,
is your budget. And the final budget
is the budget we all vote on, which is
the Town's budget, which is the
People's budget.

SUPERVISOR GILLEN: I must
correct you on two points, Mr. Blakeman.

We did vote that day. You
dropped 73 amendments to the budget in
front of me. And that day, you voted
and changed the tentative budget to
be the preliminary budget, with those
73 amendments that I had no time to
review.

And as I recall, I tried to
take a break to try to go talk to the
comptroller and my finance director
about them and they didn't even want
to let me take a break. I had to pull
the clerk out with me so we could take
a break, so I could at least look at
them and count how many amendments
there were.

So yes, in fact, we did vote
that day and you did change the
tentative budget.

And I must correct you again.
I know you're going with this spin,
but the reality is I had proposed
amendments to the budget, to the
tentative budget, which I shared with
all of you well in advance of the
hearing, that would have a zero-tax
increase.

So the budget, as amended, has
zero-tax increase.

Thank you.

COUNCILMAN BLAKEMAN: And I
respectfully disagree with the
characterization, but reasonable
people can differ and disagree.

COUNCILMAN DUNNE: And just to
make it quite simple, the day-to-day
operation is the Supervisor's job.

We lost our comptroller and she
temporarily appointed somebody to fill
that spot until the Board meets.

That's the way it's supposed to be.

The Board is meeting now, so we will
make our appointment.

Thank you for appointing a
temporary person to fill in that gap,
so there is no void.

But Ms. Smith, thank you for
filling in the spot until this time.

At this time, we now we'll
appoint somebody, and the Board will
do that.

COUNCILMAN BLAKEMAN: Second?

SUPERVISOR GILLEN: Well, I
thank you Mr. Dunne.

COUNCILMAN DUNNE: I seconded
the --

SUPERVISOR GILLEN: Thank you.

COUNCILMAN DUNNE: -- the
motion that was made by our Town
Councilman D'Esposito.

SUPERVISOR GILLEN: And so now
we'll have a vote on whether or not
this Item is added to the agenda.

Madam Clerk.
CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: No.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Aye.

CLERK CABANA: Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: Aye.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: Aye.

CLERK CABANA: Senior Councilwoman Goosby?

SENIOR COUNCILWOMAN GOOSBY: Aye.

CLERK CABANA: Councilwoman King-Sweeney?

COUNCILWOMAN KING-SWEENEY: Aye.

CLERK CABANA: Councilman Muscarella?

COUNCILMAN MUSCARELLA: Aye.

SENIOR COUNCILWOMAN GOOSBY: And I vote aye, because of the fact we must follow the Code.

I hear what you're saying, Supervisor. But there are some things that are being done that are incorrect.

COUNCILMAN D'ESPOSITO: I have one more emergency resolution. Do I have to read it or is it yours 'cause you read it already?
BOARD COUNSEL REGINA: Just the caption.

COUNCILMAN MUSCARELLA: Just the caption, okay.

A Resolution declaring the Supervisor's directives that Averil Smith is acting controller and overseeing the day-to-day operations of the Office of the Comptroller, null and void.

COUNCILMAN DUNNE: Second.

SUPERVISOR GILLEN: This again is a vote on whether or not this Item will be added to the Administrative Calendar as No. 55; is that correct?

CLERK CABANA: Yeah, 52.

BOARD COUNSEL REGINA: Yes.

CLERK CABANA: Yes, that's correct.

SUPERVISOR GILLEN: Okay, Madam Clerk.

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: No.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Aye.
CLERK CABANA: Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: Aye.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: Aye.

CLERK CABANA: Senior Councilwoman Goosby?

SENIOR COUNCILWOMAN GOOSBY: I have a statement that I would like to read.

"Supervisor Gillen, fellow Council members and Town Board, Town of Hempstead citizens. I believe that Ms. Smith is very qualified to serve as the Town's comptroller based on her years of experience in municipal finance, which includes serving as the comptroller of the Town of North Hempstead. However, I have concerns about the manner in which Ms. Smith was appointed the acting comptroller, and the fact that she currently holds the position of Secretary to the Supervisor.

The Town Board is the only legal authority that may appoint individuals to the positions at the
Town of Hempstead. It is important that the authority of the Town Board to appoint individuals to positions in Town government be guarded and respected."

I obtain -- abstain from voting on the resolution declaring null and void the appointment by the Supervisor of Ms. Smith as acting comptroller.

So in other words, I abstain.

CLERK CABANA: Councilwoman King-Sweeney?

COUNCILWOMAN KING-SWEENEY: Aye.

CLERK CABANA: Councilman Muscarella?

COUNCILMAN MUSCARELLA: Aye.

SUPERVISOR GILLEN: Okay.

Would any of the Council members like to sever any of the items on the Administrative Calendar?

COUNCILMAN DUNNE: I -- if I may, I move that item 40, insofar as to remove -- I move to amend 40, insofar as to remove the Dolores Sedacca and Gaspare Tumminello -- I hope I pronounced his name right -- from the Committee.
I don't think that four of the eight members of the Committee must be from the Clerk's office. I think the Clerk Cabana and Ms. Powers are all we need.

Is there a second on the motion?

COUNCILMAN D'ESPOSITO: I mean I can't --

COUNCILMAN DUNNE: Oh, that's right.

Bruce?

COUNCILMAN BLAKEMAN: I'm abstaining from it, so I can't second.

COUNCILMAN DUNNE: Well, as -- just let me explain, the Clerk gets four appointees on this. We're just making it two.

It's always been six. We're going to keep it six. We don't need eight, two extras from the Clerk.

The Clerk is serving herself on the Board, as is our Councilman D'Esposito. That's why he can't second the motion.
SUPERVISOR GILLEN: I think we should give the Clerk -- this is the Taxi and Taxi Cab Advisory Committee.

Maybe the Clerk --

COUNCILMAN DUNNE: The Committee that we have put forward --

SUPERVISOR GILLEN: -- do you want to say why you need these people on the Board, if you need these people on the Board?

CLERK CABANA: Yes. Well, I was told that I could appoint that many people.

And there may be times where there are meetings that I can't attend, so I just wanted one of my deputies, either one or the other. So maybe if one of them could at least be included, that's all.

I mean I chose Mr. D'Esposito, because I think his experience is proper, is actually perfect to be on this Committee. So I --

COUNCILMAN BLAKEMAN: I didn't know that Mr. D'Esposito drove a cab.
CLERK CABANA: No, just as --

COUNCILMAN D'ESPOSITO: There's a lot that you don't know about me, Bruce.

(Whereupon, laughter was heard.

After, the following ensued.)

CLERK CABANA: Just his --

COUNCILMAN BLAKEMAN: Has --

CLERK CABANA: -- his law enforcement experience I thought would be relevant and --

COUNCILMAN BLAKEMAN: Well, I like Gaspare very much. I'm not going to vote against him.

(Whereupon, laughter was heard.

After the following ensued.)

COUNCILMAN DUNNE: You like Gaspare? So you want Gaspare to come in too?

COUNCILMAN BLAKEMAN: Well, I vote -- we'll --

SUPERVISOR GILLEN: So you're saying you just wanted four appointments, so you could have someone cover the meeting if you're
not there?
This is like, not really, I
don't think -- Mr. D'Esposito I'll
refer over to you and your expertise.
Is this is controversial stuff, the
Taxi Cab Advisory Committee?
COUNCILMAN D'ESPOSITO: Do I
think it's controversial?
SUPERVISOR GILLEN: Yeah, I
mean it's --
COUNCILMAN D'ESPOSITO: Listen,
I'm happy to serve with the Clerk on
this Committee.
COUNCILMAN DUNNE: If it's a
weighted vote and then you'll lose
votes because -- if it's a weighted
vote in their Committee. That's my
concern.
If it is a weighted vote, then
we'll compromise. And I'll have --
I'll go with Gaspare.
SUPERVISOR GILLEN: What do we
vote on in the Taxi Cab Advisory
Committee that's so controversial,
that we're worried about weighted
votes?

COUNCILMAN DUNNE: I say we don't know.

SENIOR COUNCILWOMAN GOOSBY: It can be.

COUNCILMAN DUNNE: We don't know.

SENIOR COUNCILWOMAN GOOSBY: I observed what we're voting, but it can be --

CLERK CABANA: We're just exploring --

COUNCILMAN DUNNE: Interesting.

CLERK CABANA: -- we're just exploring the existing law and possibly any necessary amendments.

I didn't know it was controversial, but if the Board decides they don't want my deputies that's --

COUNCILMAN BLAKEMAN: I would ask that the motion made by Councilman Dunne be compromised, and that we leave Mr. Tumminello on, and --
COUNCILMAN DUNNE: I agree. I agree. I second it.

COUNCILMAN BLAKEMAN: -- leave it at three appointments. Is that okay with you, Sylvia?

COUNCILMAN DUNNE: And it's seconded, so we have to --

CLERK CABANA: Yeah, without Delores.

COUNCILMAN DUNNE: -- let's vote on it.

CLERK CABANA: It --

COUNCILMAN DUNNE: Those that can vote.

CLERK CABANA: -- it's --

that's fine.

Thank you for leaving Mr. Tumminello on.

SUPERVISOR GILLEN: Okay. So we're moving on the amendment to this Item?

SENIOR COUNCILWOMAN GOOSBY: What is it?

SUPERVISOR GILLEN: I mean we're voting on it, sorry.

Madam Clerk, please call the
CLERK CABANA: Yeah, okay.

Supervisor Gillen?

SUPERVISOR GILLEN: I like Ms. Sedacca very much, so I'm going to vote no.

(Whereupon, laughter was heard. After, the following ensued.)

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: This is nothing against her, but I vote yes on the amendment.

CLERK CABANA: Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: I am abstaining, as I am a part or a proposed part of the Committee.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: Aye.

CLERK CABANA: Senior Councilwoman Goosby?

SENIOR COUNCILWOMAN GOOSBY: Okay, yes.

CLERK CABANA: Councilwoman King-Sweeney?

COUNCILWOMAN KING-SWEENEY: Aye.

CLERK CABANA: Councilman Muscarella?

COUNCILMAN MUSCARELLA: Aye.

SUPERVISOR GILLEN: Okay.
May I have a motion on the Administrative Calendar?

SENIOR COUNCILWOMAN GOOSBY: Are we finished? Is it complete?

Everything's done?

SUPERVISOR GILLEN: Does anybody want to sever or amend anything else or hand up anything else?

SENIOR COUNCILWOMAN GOOSBY: Oh, well, wait a minute.

Do I have get -- my ethics guy, he's on here; right?

BOARD COUNSEL REGINA: He's on there.

SENIOR COUNCILWOMAN GOOSBY: He's on here. Oh, okay, fine.

SUPERVISOR GILLEN: He's on there.

SENIOR COUNCILWOMAN GOOSBY: Oh, okay, fine. So that's done.

So I move that --

TOWN ATTORNEY RA: Move the entire Administrative.

SENIOR COUNCILWOMAN GOOSBY: I
move the entire Administrative Calendar.

COUNCILMAN BLAKEMAN: I second.

SUPERVISOR GILLEN: All right,

I have a number of slips of people who would like to be heard. First, Felix Procacci.

FELIX PROCACCI: I'm Felix Procacci.

I want to bring up the fact that New York State Town Law does require, in the general powers of Town Board, to appoint heads of departments, so it can't be done unilaterally by the Supervisor.

Also, since we're talking about budgets in this case, amendments to the budget should be done according to New York State Law, on recommendation of the Supervisor, approval of modifications and transfers of money.

So we kind of did it backwards, 'cause it's, you know, the Town Board, that's not under their rules. It's under the Supervisor's rules.
Also, what's missing from the Administrative Calendar is, you know, we need to have a resolution accepting the -- the resignation of Kevin Conroy, who retired. That should be part of the resolutions.

And that's just -- it should be, but it's even more important now because a lot of our budget projections are based on a projection of how many people retired.

So if we're going make -- say we're going to save the taxpayers $8 million or $12 million based on the number of retirees, it should be public information when they retire.

So at the end of the year, people who monitor this could see that, well, they projected 100 and only got, according to the FOIL's I got, 44.

But it should be public information. And we still don't put that on the resolution which is required.

I want to bring this up not to
talk about it specifically, but just
we're asking for change funds of $100
each, for each cash register at the
Building Department. I agree with
this. But there was a controversy as
to whether things about $100 should
even come before the Town Board.

Everything should be coming
before the Town Board, like I said
last time. Petty cash funds of $1,500
and less, and how they're -- how they
are actually spent, according to
New York State Town Law, is supposed
to come before the Town Board, because
any ways monies IS spent needs to be
accounted for, because there could be
somebody stealing money at $100 at a
time.

And if you don't have any
accountability, no feedback loop and
you just give it one way discretion on
some commissioner, who doesn't have
any -- requires you give any feedback,
you could steal money $100 at a time.
And you could steal quite a bit of
money $100 at a time. So it should be accounted for.

And just since we're finally appointing the fifth member -- we've been illegal for so many times at the Hempstead Board -- can we please publish all the rules in a clear, understandable way of how to make an ethics complaint?

I know the law's up there. But who is -- it says under Law, Secretary to the Board of Ethics, it would be nice if we put a person's name there.

(Whereupon, the bell rang.

After, the following ensued.)

FELIX PROCACCI: Thank you.

SUPERVISOR GILLEN: Thank you, Mr. Procacci.

Diane Madden.

DIANE MADDEN: Diane Madden, Hempstead.

Full disclosure, I'm running for Town of Hempstead Supervisor.

Item No. 42, the various offices and positions, I understand
that there's some kind of change being
made with Ms. Fogarty at the Animal
Shelter, but it wasn't specific, nor
was it specific in August.

Is there a -- what is that
change being made to this employee?

SUPERVISOR GILLEN: Mr. Sammon,
are you here?

(Whereupon, no response was
heard. After, the following ensued.)

SUPERVISOR GILLEN: Mr. Sammon,
is it -- are you aware of a change for
Ms. Fogarty at the Animal Shelter.

HR DIRECTOR SAMMON: No,
I'm not Supervisor.

SUPERVISOR GILLEN: No, it's
not on --

A VOICE: He's not aware of
anything.

SUPERVISOR GILLEN: No, we're
not aware of anything going on with
her. She's not on the Personnel
Calendar.

DIANE MADDEN: For today? Was
it for an amendment, because she is.
I looked up the documents before the Town Board meeting.

SUPERVISOR GILLEN: No.

Fogarty?

COUNCILMAN D'ESPOSITO: I didn't see that.

SUPERVISOR GILLEN: No.

DIANE MADDEN: Was it the August meeting?

SUPERVISOR GILLEN: I'm not sure, because I don't that calendar in front of me. But there's no Fogarty on today's Personnel Calendar.

DIANE MADDEN: Okay.

With regards to these committees for the towing, for the taxi cab, is this something new?

SUPERVISOR GILLEN: No.

CLERK CABANA: I believe it was provided for in the Town Court -- in the Code, but it was never really officially formed.

So in reviewing it, I thought it would be a good thing to form them.

And I asked Mr. -- Councilman D'Esposito,
as well, to join, so 'cause I think
it's important things that need to be
looked into, so --

DIANE MADDEN: Right,
absolutely.

I'm just wondering, because
there's never been any kind of
committee as such regarding the Animal
Shelter.

So on that subject, I'd like to
know if anything was put together
regarding the RFP responses for the
trainer, for the operational
inspection, anything?

SUPERVISOR GILLEN: So the
operational audit, my understanding is
we only got one response.

So we put it back out again to
try to get, bring in some more
responses.

DIANE MADDEN: Is the current
lawsuit still in place against the
County regarding the County's loss,
the County's audit, the operational
audit?
I know you were going to have a conversation with Mr. Ra at the last meeting, when I had asked how is it possible that an RFP is out to do an audit operationally of the Animal Shelter, while taxpayers are funding a lawsuit to fight an operational audit at the Animal Shelter.

SUPERVISOR GILLEN: I believe that we're moving it -- we're trying to settle that litigation now. Is that right, Mr. Ra?

TOWN ATTORNEY RA: That is correct, Supervisor.

DIANE MADDEN: Okay. So you're in settlement conversations about --

SUPERVISOR GILLEN: Well, it's kind of the whole lawsuit is pretty much moot at this point, since we're doing an operational audit.

So we're trying to just discontinue the lawsuit.

DIANE MADDEN: Well, not really, because an operational audit by the County will require the County
to hand over any findings to the
District Attorney.

Wherein the case of a
hand-picked, cherry-picked audit to be
done by an outsider, you basically get
to choose who's doing the audit, and
especially according to the years and
history of the Town of Hempstead,
basically pick the outcome as well.
And someone from the outside that's
doing an audit operationally of the
Shelter may not know what to look for
and may not understand what possible
criminality is, in comparison to the
Nassau County team of auditors.

So I completely disagree with
that. And if that's the plan to do
away with the operational audit for
the County, to hand pick someone to do
operational audit, that is not in the
best interest the animals. And it's
certainly not in the best interest of
the taxpayers.

Thank you.

SUPERVISOR GILLEN:  Ms. Gordon.
RORI GORDON: Rori Gordon, Hauppauge, New York. On No. 48, building construction administration, there's a little paragraph in there. It says, "It is the intent of these provisions to prohibit impropriety and the appearance of impropriety." What consequences will employees endure that violate this statute?

SUPERVISOR GILLEN: This is just a call for. The Public Hearing will be on at the next Town Board meeting, I think on that.

RORI GORDON: Okay.

SUPERVISOR GILLEN: Yeah.

RORI GORDON: Okay.

SUPERVISOR GILLEN: Yeah, it's September 24th.

RORI GORDON: Oh, all right, let's see. So I have to go -- On No. 35, who is the Secretary for the Town of Hempstead Board of Ethics?
SENIOR COUNCILWOMAN GOOSBY: Who is the Secretary?

SUPERVISOR GILLEN: We've just, I think, and in this calendar, Senior Councilwoman Goosby is just appointing her designee to the Board of Ethics.

So they're going to convene and there's no -- they haven't convened yet, because we've been waiting for people to be appointed.

So now the Town Board Majority has appointed their person. I have appointed my representative or my designee for the Board. And Senior Councilwoman, in this meeting, is appointing her person to be on the Board of Ethics. And the Town Attorney's also on the Board of Ethics.

So they'll decide who's going to have what office when they meet, according to the Code.

RORI GORDON: Prior to this new Ethics Committee, when is the last
time the old Ethics Committee met?

SUPERVISOR GILLEN: Mr. Ra,

do -- can you answer that?

TOWN ATTORNEY RA: I do not

have that information available.

RORI GORDON: Did they ever

meet?

TOWN ATTORNEY RA: I do not

have that information available.

RORI GORDON: Okay.

No. 27, I was not aware there

were eight cash registers in the

Building Department. Where are they

located?

I know the main one. I thought

that was the only one.

SUPERVISOR GILLEN: I don't

know if we should disclose that,

because of when we're keeping cash in

Town Hall, I don't think we want to

say where those cash registers are,

just as a matter of public safety.

SENIOR COUNCILWOMAN GOOSBY: And I

agree with that.

RORI GORDON: Well, what is the
need to have eight people collecting
money, I guess would be a better way
to put it?

SUPERVISOR GILLEN: I mean
Commissioner, what do we collect money
for? Permit fees?

RORI GORDON: That's in the --
that's right in the main room?

TOWN ATTORNEY RA: If I can
just -- before the Commissioner says
whatever it is he'd like to say,
departmental needs would be the
answer. And I do not know how far we
want to go in talking about cash and
cash registers.

But if the Commissioner wants
to add something, but departmental
needs would be the answer.

RORI GORDON: I'm concerned
about eight salaries. I didn't even
know that such a situation existed in
the Building Department.

TOWN ATTORNEY RA: The answer
would be -- my answer would be
departmental needs, but that --
RORI GORDON: Okay.

On No. 25, there's a resolution here about printing.

With the reduction of printing, is there a reduction of payroll since you've taken your office? Because you've really done a good job on getting rid of all those mailers.

Okay, there's occasional mailers. But it's nothing like it was before.

SUPERVISOR GILLEN: This is an award of a contract, No. 25.

RORI GORDON: Right.

SUPERVISOR GILLEN: We got two bids. And this is the lowest bidder that is being awarded the contract.

RORI GORDON: But it's in the printing department; correct?

SUPERVISOR GILLEN: It's an outside vendor that's being brought in.

RORI GORDON: Oh, so that's on top of the salaries that -- what we have already paid for the printing
department? It's not incumbent in the actual?

SUPERVISOR GILLEN: No. I don't know if --

TOWN ATTORNEY RA: It's a maintenance agreement.

SUPERVISOR GILLEN: -- it's a -- oh, it's a maintenance agreement. So they maintain some of our equipment.

RORI GORDON: On No. 23, how does this work when the date's already passed, but we're going to do the resolution today?

SUPERVISOR GILLEN: This is for --

TOWN ATTORNEY RA: They're ratifying and confirming resolutions.

RORI GORDON: I'm sorry.

TOWN ATTORNEY RA: The -- these resolutions ratify and confirm the action that was taken --

RORI GORDON: But --

TOWN ATTORNEY RA: -- to use the parking.
RORI GORDON: -- don't you do that beforehand?

SUPERVISOR GILLEN: We have been trying to make a push in the Clerk's Office to make sure that applicants get their --

RORI GORDON: That makes sense.

SUPERVISOR GILLEN: -- their applications in before the date.

But because especially in the summer when we only have one Board meeting per month, it's been harder for them to do that.

We're trying to get -- in the past, they could get away with doing this. We're trying to push them to get their applications in earlier, with plenty of time so we can do it beforehand. We're trying to move in that direction.

RORI GORDON: Okay.

And No. 22, this file trail thing just eats at my craw, because there's thousands of files just tossed all over the place in the Building
Department. Any day of the week, you could go back there and look.

Any progress in getting into the 21st Century?

SUPERVISOR GILLEN: We're trying to make that migration right now.

This is a sole source company that does -- that maintains the software that they currently use in the Building Department. So this is a sole source, so that's why they have to be the one to get this work.

RORI GORDON: It fails. There's so many files that they can't find or they find the file and there's nothing inside of the file.

It's just a terrible system, and they keep renewing it and renewing it.

You got to go digital, like New York City. And I know you want to. And I appreciate that, 'cause I spend a lot of time in the Building Department.
And Item No. 21, who is the
counsel -- and I don't how you say
this word, e-m-e-r-i-t-u-s.
SUPERVISOR GILLEN: I don't
know. 21 looks like it's --
RORI GORDON: It's one of the
people that has to attend.
TOWN ATTORNEY RA: Is that
authorizing them to go to their
training?
SUPERVISOR GILLEN: Yes, it's a
$500 fee for attendance.
TOWN ATTORNEY RA: This is
mandatory training that members of the
Board of Zoning Appeals must go to
every year. It's required by the
State of New York.
RORI GORDON: I understand
that.
Just so for my own education,
it said, "counsel and counsel" -- and
how do you say the word,
e-m-e-r-i-t-u-s?
COUNCILWOMAN KING-SWEENEY: Emeritus.
COUNCILMAN DUNNE: Emeritus.
SENIOR COUNCILWOMAN GOOSBY: You said 21?

RORI GORDON: Yes, ma'am.

TOWN ATTORNEY RA: So I'm going to guess -- who authorized it?

(Whereupon, no response was heard. After, the following ensued.)

TOWN ATTORNEY RA: I would have to think that that's a typo.

A VOICE: No. It's right here (indicating) and it's counsel emeritus.

A VOICE: Emeritus, it's like a formally --

TOWN ATTORNEY RA: That's a form of counsel.

It might be Richard Regina, but I'm going to guess it refers to a counsel who was here many years ago and they've just copied the wrong -- they just copied a resolution, and it shouldn't say counsel emeritus.

COUNCILMAN D'ESPOSITO: So misrepresenting the training?

(Whereupon, laughter was heard. After, the following ensued.)
TOWN ATTORNEY RA: Who's counsel emeritus?

RORI GORDON: That doesn't need it for the Board of Appeals.

TOWN ATTORNEY RA: Probably ask, I don't know.

BOARD COUNSEL REGINA: It's not me.

SUPERVISOR GILLEN: All right, we'll get back to you with that information, Ms. Gordon.

RORI GORDON: I was just --

SUPERVISOR GILLEN: That probably shouldn't have been in there.

RORI GORDON: -- I was just curious, how many people actually go to that seminar?

A VOICE: The whole Board. The whole board.

TOWN ATTORNEY RA: The entire Zoning Board goes.

RORI GORDON: And Counsel to the Zoning Board?

TOWN ATTORNEY RA: And the Counsel, yes.
RORI GORDON: And Counsel to the Zoning Board?

BOARD COUNSEL REGINA: Yeah.

Under the law, it's not required. But when I was Counsel and the Counsel before me usually went with them.

RORI GORDON: Okay, thank you.

SUPERVISOR GILLEN: Thank you, Ms. Gordon.

SENIOR COUNCILWOMAN GOOSBY: We missed you.

SUPERVISOR GILLEN: Meta Mereday.

META MEREDAY: Okay, it's getting worse and worse. I brought signs, 'cause the conduct today is not hot; okay? It's not, and it's cold in this room. I got a couple of issues. Meta Mereday, Baldwin resident. I'm concerned, as usual, with regard to a number of these contracts. I'm still not seeing any designation, that I'd asked previously to be inclusive of minority women and Veteran businesses.
Generally, as you may or may not be aware, that in government contracting, they do make an effort to be inclusive in their documents when they're doing business, and to designate that a contract has been awarded to a minority woman or Veteran-owned business.

I have yet to see that in our documents. That is disconcerting to me now, in 2019, particularly when we're talking about going into a budget.

I can only hope that this body will finally, at some point, look into actually putting some funding to do some real outreach and development for our service-disabled businesses, so that we when we hear developers coming to the table, I will hear more than a request to have a flag put out in their front of their building.

We need these businesses that have job-creation models, so that we can hire other Veterans, that we can
build up minority and women-owned
firms, so that we can keep residents
here who can provide, who can pay for
affordable housing. We haven't
reached the level of affording luxury
housing as yet.

Unfortunately, I was outside
for the bulk of the discussion with
regard to the appointment for the
comptroller. I do want to commend the
Supervisor for at least trying to keep
the operations of the Town in place.

And unfortunately, there have
been many missteps by this Board with
regard to appointments and cozy
arrangements that have not benefited
the public and the residents. So I do
commend you for that.

If you were outside of the
Code, then you have to follow the
Code. But we all have to follow the
Code. And you all have to follow the
Code.

So it is hopeful that whoever
the appointee is, that there is some
kind of process that we do not have to
go through another family chain to
find that there's another cousin,
brother, sister-in-law, wife, niece or
daughter, that is getting an
appointment for this type of position,
because again, residents are watching.
And we are very concerned about the
atmosphere and the attitude that
continues to prevail in this Township.

It is disheartening to hear the
reputation of this Township and this
County, outside of this area.

So I am hopeful that we can do
a better job this time around, because
residents are distressed. They are in
need. And they to need that our
elected officials are representing
their interests.

Thank you.

(Whereupon, the bell rang.

After, the following ensued.)

SUPERVISOR GILLEN: Thank you,
Ms. Mereday.

Ms. Jacobs, Pearl Jacobs.
PEARL JACOBS: Pearl Jacobs, Uniondale.

Regarding Item 16 on the Administrative Calendar, naming an unnamed street in the Unincorporated Area of Uniondale, 1 Law Enforcement Way, Town of Hempstead, is this pertaining to the new Nassau County Police Department Academy?

SUPERVISOR GILLEN: Yes, it is. And the Commissioner reached out, and asked if we would do this. And so we're doing this to --

PEARL JACOBS: Well, that's fine with me.

Nassau County Police Department does a fantastic job. We're fortunate to have them. And thank you for putting the name Uniondale there. I appreciate that.

Senior Councilwoman Goosby, I have a question for you. Do you -- all the mailings that go out, do you sort of vet and look at the mailings
that go out to your constituents?

SENIOR COUNCILMAN GOOSBY: Which ones?

PEARL JACOBS: Well, I have one here in my hand that's from the Don Clavin Receiver of Taxes, sending it out to Uniondale residents, announcing meetings, Uniondale Public "Livrary," L-i-v-r-a-r-y. It's a misspelling.

SENIOR COUNCILWOMAN GOOSBY: Is that mine? Did I do that?

PEARL JACOBS: I didn't say you. I said it came out from Don Clavin.

SENIOR COUNCILWOMAN GOOSBY: Oh.

PEARL JACOBS: I asked you do you vet the mailings that go out to your constituents?

SENIOR COUNCILWOMAN GOOSBY: When I have to, yes.

PEARL JACOBS: You do?

Did you catch this?

SENIOR COUNCILWOMAN GOOSBY: No.

PEARL JACOBS: Okay.

And the reason why I bring this up -- the reason I bring this is up is
because, you know, this, to me, speaks
to neglect and the lack of oversight
when it comes to public
communications. And I do remember at
a previous Town Hall meeting that
Supervisor Gillen was presented with
great opposition, when she proposed
cutting the budget from mailers.

And in my opinion, when large
amounts of taxpayers' monies are spent
to send out mailers, they should at
least be reviewed and at least spell
checked.

Councilwoman Goosby, do you
agree?

SENIOR COUNCILWOMAN GOOSBY: What is it?

PEARL JACOBS: That they
should -- okay, I'll repeat myself.

SENIOR COUNCILWOMAN GOOSBY: Repeat.

PEARL JACOBS: I said this
speaks to neglect and lack of
oversight when it comes to public
communications.

I remember at a previous Town
Hall meeting, when Supervisor Gillen
was presented with great opposition when she proposed cutting the budget for mailers.

And I -- my opinion is that when large amount of taxpayer's monies are spent to send out mailers -- a lot of money is spent to send out these mailers -- they should at least be reviewed and they should be spell checked.

SENIOR COUNCILWOMAN GOOSBY: Well, you probably -- you should go to the person who is responsible.

PEARL JACOBS: Well, you're my Councilwoman. But if I was the council person, I would review every mailer that's coming out to my community.

SENIOR COUNCILWOMAN GOOSBY: But is it mine? Is that mine?

PEARL JACOBS: I -- you represent your community.

SENIOR COUNCILWOMAN GOOSBY: I did not send that out.

PEARL JACOBS: This is a --
well, I'm not making a -- everybody
makes a mistake, but this a lot of
money.

It's not like you're making a
typo on when you're writing --

SENIOR COUNCILWOMAN GOOSBY: It may
be, but you're speaking to the wrong
person --

PEARL JACOBS: -- a paper.

SENIOR COUNCILWOMAN GOOSBY: --

Ms. Jacobs.

PEARL JACOBS: No, I'm not. Who
else do I go to, Senior Councilwoman Goosby.

SENIOR COUNCILWOMAN GOOSBY: You don't
come -- go to the person who sent it
out.

PEARL JACOBS: Who else do I go
to?

SENIOR COUNCILWOMAN GOOSBY: Go
to the person --

PEARL JACOBS: I -- I --

SENIOR COUNCILWOMAN GOOSBY: -- who
sent it out.

PEARL JACOBS: -- say that you
should at least review every --
SENIOR COUNCILWOMAN GOOSBY: I don't review those.
PEARL JACOBS: -- communication that comes out to your --
SENIOR COUNCILWOMAN GOOSBY: I review my own.
PEARL JACOBS: -- to your constituents.
SENIOR COUNCILWOMAN GOOSBY: Not me.
PEARL JACOBS: -- I'm just explaining to you.
SENIOR COUNCILWOMAN GOOSBY: You're not speaking -- you're wrong.
(Whereupon, the bell rang.
After, the following ensued.)
COUNCILMAN BLAKEMAN: May I add something?
SENIOR COUNCILWOMAN GOOSBY: You're wrong.
PEARL JACOBS: Yes.
COUNCILMAN BLAKEMAN: Yeah, I don't think it's reasonable. And it's certainly not a responsibility for a member of Town Board to review the
mail of any other Town Board member or
any other elected official on the
Town.

I think that that is really an
unreasonable --

PEARL JACOBS: Well,

Councilwoman [sic] -- I'm sorry,

Councilman Blakeman.

SENIOR COUNCILWOMAN GOOSBY: I
don't know why she would pick me for
this. I only take care of my own.

PEARL JACOBS: Because you're
my Council person.

SENIOR COUNCILWOMAN GOOSBY: Not his.

He's a grown man.

PEARL JACOBS: If I was a
council person, I would tell you what
I would do. I would read every mailer
that comes out to my constituents.

COUNCILMAN BLAKEMAN: But we
don't get the --

PEARL JACOBS: That's what I
would do --

COUNCILMAN BLAKEMAN: --

preview.
PEARL JACOBS: Well, that's what I would do.

SENIOR COUNCILWOMAN GOOSBY: And you go to him and speak to him about it.

PEARL JACOBS: That's what I would do. Don't explain it to me --

SUPERVISOR GILLEN: I don't think that the tax --

COUNCILMAN BLAKEMAN: You're wrong.

SUPERVISOR GILLEN: -- collector shared that with everybody. I certainly didn't see it before it went out.

But when I tried to stop his mailings, they passed legislations, so I couldn't stop --

PEARL JACOBS: Well, you know what --

SUPERVISOR GILLEN: -- frivolous mail.

PEARL JACOBS: -- I will bring this to his attention as well.

SENIOR COUNCILWOMAN GOOSBY: But you
send them out too, Supervisor.

I'd think this is very silly

and I think --

PEARL JACOBS: Well, this

(indicating) is thousands --

SENIOR COUNCILWOMAN GOOSBY: -- that's

something that should not be stated

here.

PEARL JACOBS: -- and

thousands.

SENIOR COUNCILWOMAN GOOSBY: That's wrong.

PEARL JACOBS: This is

thousands and thousands of dollars.

SENIOR COUNCILWOMAN GOOSBY: Well, then you

need to --

PEARL JACOBS: Okay.

SENIOR COUNCILWOMAN GOOSBY: -- go speak

to him. He's not here.

PEARL JACOBS: Like I said,

it's neglect and lack of oversight.

Thank you.

SUPERVISOR GILLEN: Thank you,

Ms. Jacobs.

COUNCILMAN D'ESPOSITO: Excuse

me, but not for nothing, if we're
going to criticize mailing and how much things cost about a spelling error, we should also criticize when there's mailings sent out costing nearly $75,000 and they get to homes after the event has even taken place. And that's happened under the Gillen administration, so let's point out the facts and not only focus on a spelling error.

PEARL JACOBS: Well, I'm bringing this to you now. This --

COUNCILMAN D'ESPOSITO: And I'm just clearing up the record to let you know that there's been mailings that have sent, you know, that had to be rushed overnight, overtime, all kinds of stuff, and then they arrive at people's houses after the event's taken place.

PEARL JACOBS: Neglect and oversight.

Thank you.

SENIOR COUNCILWOMAN GOOSBY: And I'd like to say to you too, I don't read
the mailers from your home either.

PEARL JACOBS: Oh, you don't?

SENIOR COUNCILWOMAN GOOSBY: I don't read them.

PEARL JACOBS: Well, there you go.

SUPERVISOR GILLEN: Mary Ellen Kreye?

PEARL JACOBS: I'm sure you don't.

SUPERVISOR GILLEN: I think she left.

All right, that is all the slips that I have -- oh, I'm sorry.

COUNCILMAN BLAKEMAN: There she is.

SENIOR COUNCILWOMAN GOOSBY: We finished?

MARY ELLEN KREYE: It just take me a little longer to get up.

SUPERVISOR GILLEN: I'm sorry, Ms. Kreye. I didn't see you.

COUNCILMAN DUNNE: Before you speak, I just wanted to weigh in that Senior Councilwoman had nothing to do
with that printing. And why she was
being beat up for something that she
had nothing to do with, I just can't
sit back, and let this happen and go
unanswered.

We had nothing to do with that
mailing. And to say something to this
woman whose worked so hard for her
District is really pathetic.

SUPERVISOR GILLEN: All right.
Ms. Kreye, you're up.

MARY ELLEN KREYE: Mary Ellen
Kreye, 436 Locust Avenue, Uniondale.
On No. 16, where exactly is
that 1 Law Enforcement Way?

SUPERVISOR GILLEN: It's going
to be right in front of the new police
academy that they're building.

MARY ELLEN KREYE: And where is
that being built?

SUPERVISOR GILLEN: It's right
near, it's adjacent to like Nassau
Community College.

A VOICE: It is adjacent.

SUPERVISOR GILLEN: Yeah.
MARY ELLEN KREYE: Oh, it's where all that building --
SUPERVISOR GILLEN: It's on the same property.
MARY ELLEN KREYE: -- is going currently right now?
SUPERVISOR GILLEN: Yes, yes.
MARY ELLEN KREYE: That's not part of the Hempstead Plains.
SUPERVISOR GILLEN: It's -- I mean I don't --
COUNCILMAN DUNNE: I think it is.
SUPERVISOR GILLEN: -- I don't --
COUNCILMAN DUNNE: At one time it was, yes. That the whole Nassau Community College and Hofstra was on the Hempstead Plains.
MARY ELLEN KREYE: I'm talking graduated --
SUPERVISOR GILLEN: -- I don't --
COUNCILMAN DUNNE: -- Nassau.
MARY ELLEN KREYE: -- the
current Hempstead Plains.

Thank you.

Item No. --

COUNCILMAN DUNNE: The road exists. The road does exist already, so they're just renaming it. They're not putting any more --

MARY ELLEN KREYE: I'm sorry, I did not catch --

COUNCILMAN DUNNE: The road --

MARY ELLEN KREYE: -- the roads already exist, I see.

COUNCILMAN DUNNE: -- yes.

Yes, ma'am.

MARY ELLEN KREYE: So that is that loopy road that goes around the perimeter?

COUNCILMAN DUNNE: Right, that goes by where the building's going for the Academy.

MARY ELLEN KREYE: And it connects to Endo Boulevard?

COUNCILMAN DUNNE: I believe so. It's been a while since I've been over there. But yeah, I believe so.
MARY ELLEN KREYE: Item No. 19, so this authorizing the renewal application, where is this youth services going? The youth project, where is it going to be located please?

SUPERVISOR GILLEN: It's the Office of Family Services. Commissioner, do you know exactly where it's located?

(Whereupon, no response was heard. After, the following ensued.)

SUPERVISOR GILLEN: Is he here?

(Whereupon, no response was heard. After, the following ensued.)

SUPERVISOR GILLEN: Let me look at the resolution.

Mr. Ra, do you know where this is located?

MARY ELLEN KREYE: 19.

SUPERVISOR GILLEN: 19.

Mr. Bakich is not here. Oh,

Ms. Brooks can you answer this?

MS. BROOKS: What's this?

TOWN ATTORNEY RA: It's an
application for --

SUPERVISOR GILLEN: Yeah.

TOWN ATTORNEY RA: -- a grant.

MS. BROOKS: Yes, it's just a

grant.

SUPERVISOR GILLEN: Okay.

TOWN ATTORNEY RA: It's a

grant.

MS. BROOKS: That's correct.

SUPERVISOR GILLEN: It's just a grant that we're applying for from the State of New York; is that right Ms. Brooks?

MS. BROOKS: That's correct.

SUPERVISOR GILLEN: Thank you.

MARY ELLEN KREYE: So for not any particular project?

SUPERVISOR GILLEN: That's right.

MARY ELLEN KREYE: Well, I would like to express my thanks for the funding for Uniondale Community Council Youth Project, for our summer camp. Thank the Board. Thanks,

Senior Councilwoman Goosby for your
advocacy, because it makes a big difference to the children of Uniondale.

And on No. 28 for the Department of Parks, the splash pad, our summer camp used the splash pad at Bernard Brown Park every week during its summer camp. So that's a very useful and helpful thing that we need during the summertime.

SENIOR COUNCILWOMAN GOOSBY: I'm glad you enjoyed it. I'm glad they're doing something very nice over there for you.

MARY ELLEN KREYE: Yes. It makes a big difference and the children really do appreciate that, especially this summer when it was so hot.

On Item No. 34, so I'm wondering is this on the east or the west side of Merrick Avenue? Is it where the Jewish Center was or near Corporate Drive, this six-story apartment building with the --
TOWN ATTORNEY RA: I think it's Simms.

MARY ELLEN KREYE: Oh, where Simms was?

TOWN ATTORNEY RA: Correct.

Yeah, it's Simms' property.

MARY ELLEN KREYE: Okay, all right.

So there is no residential area behind it. That was my concern, six stories.

On Item No. 47, I'm in favor of this, because the news on the these devices continues to gets worse every time and --

TOWN ATTORNEY RA: That's a Public Hearing.

MARY ELLEN KREYE: -- we look forward to the hearing.

Thank you.

SUPERVISOR GILLEN: Thank you, Ms. Kreye.

Okay. I do not have any other slips on the Administrative Calendar.

Is there anyone else who'd like to be
SUPERVISOR GILLEN: Hearing none, Madam Clerk, will you please call the roll for the Administrative Calendar?

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: On the Administrative Calendar, I vote yes with certain exceptions.

On Item No. 18, while the RFP Committee may have selected this vendor, I feel that his work on behalf of the Town for the past years has been subpar at best. Because of the poor work done by this contractor, we have been sued by basically every major telecom carrier. And whatever we may have collected in permit fees has been lost to outside counsel costs.

I'm not sure how this conclusion was reached, but there is no way I support this vendor to
continue working with the Town. I vote no on Item 18.

On Item No. 42, which is the Personnel Calendar, I vote yes on all personnel with the exception of Marc Mercado and James Vouloukos.

Neither of these raises were discussed with my office.

I object to the Town Board continuing to put forward these unwarranted items onto the Agenda and onto the Personnel Calendar.

There is still 22 part-time workers who we are required to make full-time, off the Tosner list. And throwing money away to things we don't need, makes it harder to get the things that we have to do done.

Additionally, as I stated, a major concern of mine during the budget process last year -- Felix, here you go -- we are missing the less savings, that artificial accounting trick that was put into the budget over my objection, we are missing
it -- the Board's promise that we
would see.

Based on the numbers shared by
the Comptroller's Office, we are
currently $3.5 million in the hole on
our full-time salaries, because we are
not achieving the savings the Board
alleged last October that we would
see.

Un-budgeted raises and
promotions only make matters worse.
And I cannot support that kind of
irresponsibility.

I vote no on those two
individuals, again, because they were
never discussed with my office.

With respect to Item No. 54, I
think Mr. Longobardi has done great
work for the Town. He's been a real
asset for us.

However, he did express to me,
that he had a -- he had thought there
was a potential conflict of interest
from him taking on the role of
comptroller, because he is also the
Mayor of Floral Park. And to avoid any appearance of a conflict of interest, he inclined -- he declared to me that he thought that that was maybe a problem. So that's why I vote no on him.

Again, no comment on your professionalism, Mr. Longobardi, and your help that you have been throughout this year and now with the budget process.

And with respect to No. 55, I have power under Town Law to manage the day-to-day operations of the Town, and I will continue to do so. And I don't even think there's anything to nullify, but I vote no to 55.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Yes, I'm going to vote yes on the Administrative Calendar.

SENIOR COUNCILWOMAN GOOSBY: No, I abstain on that.

And you're not on microphone.

COUNCILMAN BLAKEMAN: The
microphone's not on.
And --
A VOICE: Council Blakeman,
your mic's not on.
TOWN ATTORNEY RA: Your
microphone's not on.
COUNCILMAN BLAKEMAN: I vote
aye for the Administrate Calendar.
I'd like to point out that with
respect to Item 18, I am going to vote
for that, but I was distressed to
learn that this particular contract
had been going on for some time
without Town Board approval.
I bought it to the attention of
the Town Board. I'm happy that it
went out for RFP, because basically we
can't have a practice where we're
going to just continue contracts
without Town Board oversight.
CLERK CABANA: Councilman D'Esposito?
COUNCILMAN D'ESPOSITO: I vote
aye, with the exception of 39 and 40
to which I recuse myself, being that I
am a proposed member of each
Committee.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: I vote aye on all the items, and including 40 as amended.

CLERK CABANA: Senior Councilwoman Goosby?

SENIOR COUNCILWOMAN GOOSBY: I vote yes on all except 55, which I abstain.

CLERK CABANA: Councilwoman King-Sweeney?

COUNCILWOMAN KING-SWEENEY: Yes on all, except No. 38 I abstain, because I received a campaign donation from one of the principals involved.

CLERK CABANA: Councilman Muscarella?

COUNCILMAN MUSCARELLA: I vote aye on all.

SUPERVISOR GILLEN: Okay. That concludes the formal portion of today's Town Board's meeting. We will remain in session to hear Public Comment.

The first person we have is Felix Procacci.

TOWN ATTORNEY RA: We need a
motion to adjourn.

SUPERVISOR GILLEN: I'm sorry, yes, we do need a motion to adjourn.

May I have a motion to adjourn?

SENIOR COUNCILWOMAN GOOSBY: I make a motion to adjourn.

COUNCILMAN D'ESPOSITO: Second.

SUPERVISOR GILLEN: Madam Clerk.

CLERK CABANA: Supervisor Gillen?

SUPERVISOR GILLEN: Aye.

CLERK CABANA: Councilman Blakeman?

COUNCILMAN BLAKEMAN: Aye.

CLERK CABANA: Okay.

Councilman D'Esposito?

COUNCILMAN D'ESPOSITO: Aye.

CLERK CABANA: Councilman Dunne?

COUNCILMAN DUNNE: Aye.

A VOICE: He'll be out in a minute.

CLERK CABANA: Okay.

COUNCILMAN BLAKEMAN: I make a motion to adjourn.

CLERK CABANA: All right.

Senior Councilwoman Goosby?

SENIOR COUNCILWOMAN GOOSBY: Yes.
CLERK CABANA: Councilwoman King-Sweeney?
COUNCILWOMAN KING-SWEENEY: Aye.
CLERK CABANA: Councilman Muscarella?
COUNCILMAN MUSCARELLA: Aye.

(Whereupon, the official meeting of the Hempstead Town Board was concluded at 1:46 p.m.)
CERTIFICATE BY COURT REPORTER

I, do hereby certify that the foregoing testimony in the matter of the Hempstead Town Board Meeting held on September 4, 2010, consisting of pages 1 through 244 inclusive is an accurate transcription of my cryptic notes.

IN WITNESS WHEREOF, I SET MY HAND THIS DAY.

STEPHANIE J. VALDER
CERTIFIED COURT REPORTER
NOTARY PUBLIC - STATE OF NEW YORK
Appendix C

Description

Modified Proposed Zoning Amendments
TOWN OF HEMPSTEAD

Building Zone Ordinance

Proposed Zoning Amendments to Create a Baldwin Mixed-Use Zoning Overlay District

Article XLII. Baldwin Mixed-Use Overlay District (B-MX)

§ 422. Statement of intent and purpose.

A. Background.
   (1) Downtown Baldwin, centered along Grand Avenue and the Baldwin LIRR station, is the commercial backbone of the Baldwin community. However, the economic health and resiliency of this commercial corridor has been affected by its lack of private sector investment, discontinuity of uses, and history of vacancies. Development patterns along this corridor have been varied and inconsistent.
   (2) The Baldwin community has long recognized the importance of the Grand Avenue corridor. The community envisions a downtown that is vibrant and pedestrian-friendly, with an active, compact, multi-modal LIRR station area at the center of the hamlet. This vision also incorporates a mix of land uses and innovative green infrastructure components to create a place where residents, commuters and visitors can shop, dine, and recreate.
   (3) In May 2017, the Baldwin Downtown and Commercial Corridor Resiliency (DCCR) Study was published. This report was the culmination of a comprehensive planning effort that reviewed existing economic and physical conditions along the corridor and outlined a series of strategies and projects that would address critical issues and contribute to a more resilient, safe, and sustainable future for the Baldwin community. A key recommendation of the DCCR Study is the creation of a new overlay district along the corridor that would encourage the development of a walkable, compact and transit-oriented downtown with a mix of residential, retail and commercial uses supported by enhanced transportation and infrastructure improvements.

B. Purpose and legislative intent.
   (1) In response to the needs of the Baldwin community, and following the recommendations put forth in the DCCR Study, the Town of Hempstead hereby enacts a new Article of the Town of Hempstead Building Zone Ordinance, which will create a new overlay district to be known as the “Baldwin Mixed-Use Overlay District (B-MX).”
   (2) The primary goal of the B-MX District is to facilitate private investment, public benefits and economic development within downtown Baldwin. The new overlay district seeks to leverage the area’s proximity to public transportation by promoting mixed-use transit-oriented development around the Baldwin LIRR station to meet increasing demands for housing and retail uses, drive foot traffic, implement transportation and infrastructure improvements necessary to accommodate future growth and enhance the visual quality and pedestrian amenities through the implementation of design guidelines, which are contained as an appendix to the Building Zone Ordinance (see “Baldwin Mixed-Use Zoning Overlay District (B-MX) Design Guidelines”).
   (3) The B-MX District regulations, as an overlay district, have been designed to minimize the creation of non-conformities with underlying zoning.
   (4) With the stated goals in view, this article is enacted with the intention of promoting the health, safety and general welfare of the Town of Hempstead and its residents.
§ 423. Title.

This article shall be known and cited as the “Baldwin Mixed-Use Overlay District (B-MX) Article” of the Town of Hempstead.

§ 424. Definitions.

In addition to the definitions of this Building Zone Ordinance, the following definitions are applicable to this article. In the event of conflict, the following definition shall be controlling:

**Assisted Living**
An establishment for the long-term residential care of the aged and infirm, such as congregate-care and assisted living facilities, but not including nursing homes, convalescent homes or substance abuse treatment centers.

**Incentive Bonuses**
Adjustments to the floor area ratios and parking requirements of the provisions of the Town of Hempstead zoning and land use laws for a specific purpose, that is beneficial to the community, when authorized by the Town Board.

**Incentive Zoning**
The system by which specific incentives or bonuses are granted to applicants pursuant to this subsection on condition that specific physical, social, or cultural benefits or amenities would inure to the benefit of the community.

**Mixed-Use Building**
A building with more than one type of land use (e.g. residential and commercial).


A. Interpretation; conflicts with other provisions.
   (1) In interpreting and applying the provisions of this article, the rules of interpretation applicable to remedial legislation shall be used so that the spirit and intent of this article shall be observed.
   (2) In the event of a conflict between the provisions of this article and other provisions of this Building Zone Ordinance, the provisions of this article shall control.

B. Severability. If any clause, sentence, section, paragraph or provisions of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this article but shall be confined in its operation to the clause, sentence, section, paragraph or provision directly involved in the controversy in which such judgment shall have been rendered.

§ 426. Applicability; Design Review; Subdistricts.

In the B-MX District, the following regulations shall apply:
   A. The area within Baldwin designated B-MX is largely developed. As a result, the B-MX District has been designed as an overlay district, with the zoning regulations and Design Guidelines
described herein, applicable to new development, redevelopment, and building expansions which result in a 10% or greater increase in the building's floor area. For existing uses and rehabilitations and expansions less than 10% of the gross floor area, existing zoning regulations shall still apply, and the Design Guidelines shall not apply.

B. Design Guidelines have been established for the B-MX Overlay District in order to create a high-quality, pedestrian friendly environment. The principles described in the Baldwin Mixed-Use Design Guidelines are not mandatory development standards. However, all projects shall incorporate and demonstrate how these design principles meet the purpose and intent of the guidelines. In reviewing applications, the Design Review Board, which is hereby established, shall follow the criteria of the Baldwin Mixed-Use Design Guidelines and B-MX Overlay District Design Guidelines Checklist contained as an appendix to the Building Zone Ordinance. The ultimate approval of projects will be judged in accordance with these design guidelines.

[1] Editor's Note: Said guidelines are an appendix to the BZO.

C. For purposes of this article, the B-MX District shall be divided into three subdistricts as indicated on the Zoning Map described in § 431 of this article. These subdistricts include:
(1) Baldwin – Mixed-Use, Transit-Oriented Development (B-MX, TOD).
(2) Baldwin – Mixed-Use, Merrick Road Gateway (B-MX, MRG).
(3) Baldwin – Mixed-Use, Commercial Transition (B-MX, CT).

§ 427. Permitted uses.

A. In the B-MX Zoning District, the following uses shall be permitted uses:
(1) Professional office, bank or financial institution
(2) Pharmacy/drugstore
(3) Retail trade and personal services, including supermarkets
(4) Restaurants, including outdoor dining as an accessory thereto, but excluding lunch wagons, drive-in restaurants, drive-in luncheonettes, drive-thrus, drive-in counter or drive-in refreshment stands.
(5) Health and fitness establishments
(6) Multiple-family dwelling
(7) Assisted living
(8) Mixed-use, as defined in this article
(9) Parking field, either public or private, for the parking of passenger vehicles only, but not for display or sale of automobiles.

B. Special permit uses. The following special uses, when approved by the Town Board, are permitted:
(1) Hotels.
(2) Dormitory/Graduate Student style housing.
(3) Cabarets.
(4) Bowling alleys, skating rinks, and arcades.

C. Accessory uses. The following uses customarily incidental to permitted, and special permit uses if approved, shall be permitted in the B-MX Overlay District:
(1) Off-street parking and loading, including parking structures.
(2) Open space or plaza areas.

D. Religious and educational uses shall be governed by Article XXXIX of this Ordinance.
§ 428. Prohibited uses.

A. In the B-MX Zoning District, the following uses shall be prohibited:
(1) Any use prohibited by Article XXXVII of this Ordinance.
(2) Car wash
(3) Check-cashing establishment
(4) Drive-in theater
(5) Dry cleaning or laundromat services done on-site (drop-off/pick-up permitted).
(6) Gambling or games of chance establishment
(7) Gasoline station, motor vehicles repair or auto body shop
(8) Kennel or pet-boarding facility
(9) Motel
(10) New or used automotive showroom or car lot
(11) Outdoor storage use
(12) Pawnshop, including auction house
(13) Tattoo Parlors
(14) Residential dwelling units on the ground floor of any building.
(15) Any use not permitted in section §427 Permitted Uses.

§ 429. Lot and bulk controls.

A. Consistent with primary goals of the B-MX District, the following lot and bulk controls allow for greater intensities of development for properties fronting Grand Avenue and Sunrise Highway closest to the Baldwin LIRR station (B-MX, TOD). The lot and bulk controls for the B-MX, MRG subdistrict facilitate private investment, public benefits and economic development within the area around the intersection of Merrick Road and Grand Avenue. The B-MX, CT subdistrict facilitates appropriately scaled mixed-use commercial development in transition areas along the Grand Avenue corridor.

<table>
<thead>
<tr>
<th></th>
<th>B-MX, TOD</th>
<th>B-MX, MRG</th>
<th>B-MX, CT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Maximum floor area ratio (FAR)</td>
<td>1.5</td>
<td>1.0</td>
<td>.5</td>
</tr>
<tr>
<td>2. Maximum building area coverage</td>
<td>90% for commercial buildings</td>
<td>90% for commercial buildings</td>
<td>75% for commercial buildings</td>
</tr>
<tr>
<td></td>
<td>80% for mixed-use or multiple-family buildings</td>
<td>60% for mixed-use or multiple-family buildings</td>
<td>40% for mixed-use or multiple-family buildings</td>
</tr>
<tr>
<td>3. Maximum residential density for multifamily and mixed-use buildings</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>4. Maximum building height</td>
<td>75 feet</td>
<td>60 feet</td>
<td>45 feet</td>
</tr>
<tr>
<td>5. Maximum building setback from front lot line (build to line), except for pedestrian plaza areas</td>
<td>0 feet</td>
<td>0 feet</td>
<td>10 feet</td>
</tr>
<tr>
<td>6. Minimum building setback from 45 feet height and above</td>
<td>5 feet from streetside, ground level building line.</td>
<td>5 feet from streetside, ground level building line.</td>
<td>5 feet from streetside, ground level building line.</td>
</tr>
<tr>
<td>7. Minimum side yards</td>
<td>None required</td>
<td>None required</td>
<td>None required</td>
</tr>
<tr>
<td>8. Minimum rear yard</td>
<td>g</td>
<td>g</td>
<td>g</td>
</tr>
<tr>
<td>9. Minimum landscaped buffer area when adjacent to residential uses</td>
<td>1025 feet</td>
<td>1025 feet</td>
<td>1025 feet</td>
</tr>
<tr>
<td>10. Minimum front yard</td>
<td>Minimum 10 feet</td>
<td>Minimum 10 feet</td>
<td>Minimum 10 feet</td>
</tr>
</tbody>
</table>
from the curb; Maximum 10 feet from the property boundary.

(1) For purposes of this Article, the floor area ratio (FAR) shall exclude any structure, or portion of a structure, exclusively dedicated for off-street parking.

(2) To be determined by the Town Board upon review of any application that it must review and approve in accordance with the provisions of this Article.

(3) The depth of the rear yard shall be increased five feet for each 12 feet or portion thereof by which the building exceeds forty (40) feet in height.

(4) The depth of the landscaped buffer area shall be increased five feet for each 12 feet or portion thereof by which the building exceeds forty (40) feet in height.

B. Yard setbacks.

(1) Front yards. Notwithstanding the foregoing, a roof, mansard, awning, or similar projection not exceeding 24 inches beyond the front property line shall be a permitted encroachment.

C. Screening. Any storage area or parking area shall be screened from all abutting uses, including public rights-of-way. Such screening shall consist of a hedge, fence or wall, with a minimum height of four feet and a maximum height of six feet, except that within a radius of 20 feet of the point formed by any intersecting property lines adjacent to roads or highways, the maximum height shall be 30 inches, such screening to be sufficient to obscure such area in an effective manner and during all seasons of the year.

D. Fences. No fence or wall more than six feet in height may be erected without a permit and authorization by the Board of Appeals pursuant to Article XXVII hereof. No fence shall be permitted in the front yard or the side yard if located on a corner lot.

E. Signs. Signs, which are authorized under the provisions of Article XXIV, are permitted, subject to consistency with the Baldwin Mixed-Use Design Guidelines.

§ 430. Off-street parking.

Accessory parking. Accessory off-street automobile parking spaces shall be provided on the same lot or premises or off the premises within 300 feet of such premises. The minimum number of accessory parking spaces required shall be determined by the type of each included use and shall be calculated as follows.
<table>
<thead>
<tr>
<th>Use</th>
<th>B-MX, TOD</th>
<th>B-MX, MRG and B-MX, CT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail/Commercial</td>
<td>1 space per 300 square feet</td>
<td>1 space per 300 square feet</td>
</tr>
<tr>
<td>Multifamily Apartment: Studios</td>
<td>1 space per unit</td>
<td>1 space per unit</td>
</tr>
<tr>
<td>Multifamily Apartments: One-bedroom units</td>
<td>1 space per unit</td>
<td>1.3 space per unit</td>
</tr>
<tr>
<td>Multifamily Apartments: Two-bedroom units</td>
<td>1.5 spaces per unit</td>
<td>1.75 spaces per unit</td>
</tr>
<tr>
<td>Multifamily Apartments: Three or more bedroom units</td>
<td>1.75 spaces per unit</td>
<td>2 spaces per unit</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>1 space per bed</td>
<td>1 space per bed</td>
</tr>
<tr>
<td>Graduate student housing</td>
<td>1 space per bed</td>
<td>1 space per bed</td>
</tr>
<tr>
<td>Other permitted uses</td>
<td>In compliance with §319 of this ordinance; each parking space shall comply with all requirements of §319D of this ordinance</td>
<td></td>
</tr>
</tbody>
</table>

**§ 431.1. Amendment of the Zoning Map**

In furtherance of the implementation of this article, and to specifically identify the particular areas within Baldwin placed into the overlay B-MX District and three subdistricts established herein, a particular zoning map dated February 22, 2019, prepared by VHB Engineering, Surveying, Landscape Architecture and Geology, P.C., and entitled "Baldwin – Mixed-Use Rezoning Map," has been filed in the office of the Town Clerk, and in all other places required by law or otherwise for the filing of zoning maps of the Town. This map is incorporated herein by reference. It identifies the areas in the overlay B-MX District and subdistricts, and upon the effective date of this Article, it shall apply in those areas to the extent provided in this article or otherwise at law.

**§ 431.12. Development bonus provisions.**

A. Intent. The Town Board, including but not limited to a recommendation by the Design Review Board, is empowered to provide for a system of zoning incentives, as described, but not limited to, below, as it deems necessary and appropriate for the benefit of the community, consistent with the purposes and conditions set forth in this Article.

B. Eligible Community Benefits or Amenities.

   (1) Provision, Renovation or Rehabilitation of a community benefit or amenity. Open space, parks, or other specific physical, social or cultural amenities, or cash or payment in lieu thereof, as authorized by the Town Board, which provide a benefit to the residents of the community.

   (2) Brownfield or Derelict Property Remediation and Restoration. Applicants may apply for a development bonus in exchange for providing Brownfield or derelict property remediation and restoration on lots proposed for development within the B-MX Overlay district, to prepare the property(ies) for either dedication for public use for redevelopment by a public or private owner. The Building Department shall provide a list of preferred properties for rehabilitation or restoration.

   (3) Contribution to Community Benefit Non-Site Related Infrastructure Improvements. Non-site related improvements are considered significant improvements that are not directly needed, required or related to the subject site development or mitigation of impacts therefrom, but will be able to be utilized by the proposed project's residents or will indirectly improve the project or its site. Infrastructure improvements may include, but are not limited to, significant provisions, renovations, creation, installation and/or rehabilitation of public solid waste and recycling receptacles, traffic calming measures, bicycle accommodations, public seating, wider than required sidewalks, specialty pavers or utility
covers as part of district “branding”, repaving of a street(s), intersection upgrades (including street lights and crosswalks), public plazas, bus shelters and/or LIRR Baldwin station area enhancements, storm or sanitary sewer improvements, or cash or payment in-lieu thereof. The Design Review Board and/or the Town Building Department may provide recommendations to the Town Board.

C. FAR Development Bonus. This provision allows for the awarding of zoning incentives in the form of floor area ratio (FAR) development bonuses of up to 0.5 in each of the B-MX subdistricts to those applicants who, in exchange, provide one or more of the following (but not limited to): to eligible community benefits or amenities outlined in §431.1B2B, parking for the public (not including that parking specifically required to support the proposed development), community amenities or development actions above and beyond those that are directly or indirectly necessitated by the project itself, or cash or payment in lieu of, provided that the Town Board finds that the amenity is proportional to such development bonus. Applicants would be required to prepare a Traffic Study in accordance with the Conditions and Criteria set forth in the Findings Statement adopted by the Town Board in order to seek FAR development incentives.

D. Adjustments to Parking Requirements. This provision allows for the awarding of zoning incentives in the form of adjustments to parking requirements. The Town Board is empowered to provide the following adjustments to the parking requirements within the B-MX District to those applicants who, in exchange, provide one or more of the following (but not limited to): to eligible community benefits or amenities outlined in §432B, parking for the public (not including that parking specifically required to support the proposed development), community amenities or development actions above and beyond those that are directly or indirectly necessitated by the project itself, or cash or payment in lieu of, provided that the Town Board finds that the amenity is proportional to such development bonus. Applicants seeking off-street parking requirement incentives would be required to prepare a Parking Study in accordance with the Conditions and Criteria set forth in the Findings Statement adopted by the Town Board.

<table>
<thead>
<tr>
<th>Use</th>
<th>B-MX-TOD</th>
<th>B-MX-MRG and B-MX-CT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail/Commercial</td>
<td>1 Space per 340 SF</td>
<td>1 Space per 340 SF</td>
</tr>
<tr>
<td>Multifamily Apartment: Studios</td>
<td>0.70 Spaces Per Unit</td>
<td>0.80 Spaces Per Unit</td>
</tr>
<tr>
<td>Multifamily Apartment: 1-bedroom units</td>
<td>0.70 Spaces Per Unit</td>
<td>0.80 Spaces Per Unit</td>
</tr>
<tr>
<td>Multifamily Apartment: 2-bedroom units</td>
<td>1.25 Spaces Per Unit</td>
<td>1.5 Spaces Per Unit</td>
</tr>
<tr>
<td>Multifamily Apartment: 3-bedroom units</td>
<td>1.75 Spaces Per Unit</td>
<td>2 Spaces Per Unit</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>0.5 Spaces Per Bed</td>
<td>0.5 Spaces Per Bed</td>
</tr>
<tr>
<td>Graduate Student Housing</td>
<td>0.70 Spaces Per Bed</td>
<td>0.70 Spaces Per Bed</td>
</tr>
<tr>
<td>All other permitted uses</td>
<td>Shall comply with the parking requirements outlined in §319D of the Town's zoning code.</td>
<td></td>
</tr>
</tbody>
</table>

E. Criteria for approval, methods required for determining the adequacy of community amenities. To evaluate the adequacy of the proposed benefits to be accepted in exchange for the requested incentives, the following information shall be provided by the applicant with its application for development incentive bonus approval:
(1) A description of the proposed amenities outlining the benefits that will accrue to the community;
(2) The economic value of the proposed amenities to the Town as compared with the economic value of the proposed incentives to the applicant;
(3) Demonstration that there are adequate sewer, water, energy, transportation and parking, fire-protection facilities serving or proximate to the proposed development to handle the additional demands the incentive and amenity may place on such facilities beyond the demand that would otherwise occur with as-of-right development; and
(4) An explanation as to the way in which the amenity will implement physical, social or cultural goals as set forth in this Article.

§ 43.23. Administration and Procedure.

The review and approval process for new development, redevelopment, and building expansions which result in a ten percent or greater increase in the building’s floor area in the B-MX District, shall be as follows:

A. A building permit application shall be submitted to the Buildings Department. In addition to all otherwise required documentation, an applicant shall also submit all materials necessary for review by the Design Review Board, including a consistency analysis with the SEQRA Conditions and Criteria set forth in the Findings Statement adopted by the Town Board. The Design Review Board will determine the level of State Environmental Quality Review Act (“SEQRA”) review required, if any, in accordance with 6 NYCRR §617.10(d). The Plans Examiner shall, upon the submission of a complete application, conduct a zoning compliance review and review for compliance with SEQRA.

B. The Design Review Board. Upon complete review of zoning and SEQRA compliance, the application shall be referred to the Design Review Board for purposes of applying the Baldwin Mixed Use Zoning Overly District (B-MX) Design Guidelines.

(1) The Design Review Board shall consist of three employees of the Department of Buildings with site plan review backgrounds, appointed by the Town Board. Approval by the Design Review Board shall be necessary prior to the issuance of a sign permit or a building permit for new development, redevelopment, and building expansions which result in a ten-percent or greater increase in the building’s floor area.

(2) Prior to the Public Hearing of the Design Review Board, a public notice, prepared by the Design Review Board, shall be published at least 10 days prior to the date fixed for such public hearing in a newspaper of general circulation in the Town of Hempstead and shall be noticed on the Town’s website at least 10 days prior to the public hearing. The notice shall state the general nature of the application, the applicant, and the location of the property. Said notice shall be mailed by the applicant no more than 28 days and no less than 21 days prior to the Design Review Board’s hearing by certified mail to all property owners within a 300 foot radius of the subject application’s property boundaries, and the applicant shall file an affidavit of mailing, with the certified mail receipts, with the Design Review Board prior to the public hearing.
(3) A sign noticing said public hearing shall be posted at said location at least 21 days prior to the date fixed for such public hearing. Said sign(s) shall be located in each front yard setback of the subject premises; shall be at least 24 square feet in area; shall provide the words “NOTICE OF PUBLIC HEARING” and the date, place and time of the public hearing, and the general nature of the application in black letters at least six inches high with a background color of the face of the sign either bright orange or bright yellow.

(4) In reviewing applications, the Design Review Board shall substantially follow the criteria of the Baldwin Mixed Use Zoning Overly District (B-MX) Design Guidelines and B-MX Overlay District Design Guidelines Checklist contained as an appendix to the Building Zone Ordinance. The ultimate approval of projects will be judged in accordance with these design guidelines.

(5) If the application is compliant with zoning and in accordance with 6 NYCRR §617.10(d)(1), as determined by the Design Review Board, no further SEQRA review is required. If the application is not compliant, based on 6 NYCRR §617.10(d) (2) – (4), additional SEQRA will be required.

(6) The Design Review Board shall have the powers granted by the Town Law and the power to approve, disapprove, or grant with conditions applications for Design Review Board approval for properties within the B-MX District. The Design Review Board shall render a written determination within 30 days of the completion of the public hearing, and may issue findings of fact.

(7) If the Design Review Board does not vote for changes to the plan, or votes for changes to the plan and the applicant consents to the changes, and the project is compliant with zoning and SEQRA, then the application can be circulated to State, County, and Town departments for approvals. Once all State, County, and Town approvals are obtained, the Building Department will issue a Building Permit. Site plan approval under § 305 will not be required. The project will not require a Town Board hearing.

(8) The Town Board, including but not limited to the Design Review Board’s recommendation, following a public hearing, may provide incentive bonuses in exchange for the applicant providing one or more community benefits or amenities or cash or payment in lieu thereof, as authorized by the Town Board and in accordance with § 431.1B2 of this Article.

(9) Anyone aggrieved by the decision of the Design Review Board may appeal same to the Board of Appeals, unless the underlying application must be reviewed or approved by the Town Board, in which case an appeal shall be within the jurisdiction of the Town Board.

C. If an application is not zoning compliant, or if additional SEQRA review is required under Section B(5), above, upon completion of review and decision by the Design Review Board, the application shall be referred to the Town Board for a public hearing to determine the
approval or disapproval of the application. In the event that the Town Board approves said application, it may attach certain conditions to said approval, which conditions shall become an integral part thereof. The Town Board may, by resolution, dispense in part with conformity with the provisions applicable to the B-MX District and may impose safeguards and conditions as it may deem appropriate, necessary or desirable to promote the spirit and objectives of this section, including but not limited to restrictive covenants pertaining to any area within the district that is the subject of an application, including the site plan submitted on behalf of the application, together with other agreements, if any, in recordable form and running with the land. If the Town Board approves an application, the application shall then be circulated to State, County, and Town departments for approvals. Once all State, County, and Town approvals are obtained, the Building Department will issue a Building Permit. Site plan approval under § 305 will not be required. The project will not require a second Town Board hearing.