

Sustainable Land Use – An Evolution in Brookhaven

By Robert R. Dooley

The downtown and village community has been a lost art in the land use arena in Suffolk County. Of course, there are a handful of villages or downtown areas in the county that many of us love to visit. But a handful of areas seem to be the exception and should be reason to question and reevaluate the historical land use model rather than praise it. It is the historical model that seems to have inundated our county with strip malls and vacant buildings.

The village or downtown area allows families to be in a close proximity to the necessities of everyday life. The other side of the village and downtown community, from a land use perspective, is to balance out the density of the downtown with accessible preserved contiguous open space. In totality, the goal is to strike a balance between development and preservation. Much of the current land use philosophy currently being implemented in the Town of Brookhaven is laying the foundation consistent with this intricate balance.

With this foundation, the Environmental, Corporate and Real Property Committees extended an invitation to Mr. Tullio Bertoli, Commissioner of the Town of Brookhaven's Planning, Environment & Land Management Department to discuss sustainable development and other current topics within the Town of Brookhaven. On May 17, 2011, a joint meeting took place where our membership and Mr. Bertoli had a conversation discussing policy, politics and the practicality of the modern land use landscape within the Town of Brookhaven and how Mr. Bertoli's background influenced the direction of his approach to strike the bal-



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ance between open space and development.

As a child, Mr. Bertoli's family lived in a small idyllic hill-town village in Italy. On the outskirts of the village was the farmland and forests which were, according to Mr. Bertoli, voluntarily preserved so the village could sustain itself. The balance between contiguous open space partnered with the village and downtown area was not something strictly academic but cultural as well. As a professional, Mr. Bertoli balances architecture and planning. Educated at the Yale School of Architecture and having been a Fulbright Scholar in Planning, once designing landscapes, structures and communities, now Mr. Bertoli finds himself constructing new provisions of Town Code.

The membership present at the meeting consisted of attorneys from both the public and private sector eager to participate in the dialogue. As many of us know, Brookhaven's Town Supervisor Mark Lesko has been active in creating a vision to redevelop abandoned properties, to preserve and acquire open space and preserving the Carmans River Watershed over the past two years. Many new code provisions have been adopted and many attorneys from both sectors were extremely curious about the approach that the Planning Commissioner was using to implement and move Supervisor Lesko's vision forward.

While many citizens of Suffolk County envision a suburban sprawl consisting of large properties spread apart from every-

(Continued on page 20)

thing and everyone as desirable, there is an entirely separate age demographic that views this sprawl as unappealing and impractical. With a consistent conversation piece of land use on Long Island being complaints of young people leaving because of the cost, the foundation of the common conversation is likely this: something needs to change in our approach to land use. The existing landscape prevalent in Suffolk County needs to undergo a transformation to give the other demographic – the young professionals – something to want to stay for. In other words, if you give them something worth staying for, they will find a way to stay. Through the redevelopment efforts set out by the Town of Brookhaven and participation of local civic associations, developers, and environmentalists, easily accessible open space is being preserved while at the same time providing the groundwork for development of downtown areas. The appeal of being able to walk to the grocery store, the deli, the dry cleaner and to the local pub is difficult to deny. The historical land use approach throughout many parts of Suffolk County inhibits this from taking place and will not succeed if the goal is to retain young professionals and their intellectual capital. To the contrary, I would argue that the historical approach has contributed to the departure of precisely this age demographic catalyzing more of the same old conversation pieces.

Historically, attorneys are integral in giving rise to the birth, death, or evolution of legislation. If we follow the logic, than it could easily be argued that our profession's participation in the local land use legislation bears some responsibility for the historical land use in Suffolk that now sorely needs to undergo a renovation. The efforts underway in the Town of Brookhaven present a new and fresh perspective to the municipal code conversation. In order to effectuate Mr. Lesko's vision, at the meeting Mr. Bertoli conveyed the close, colloquial and effective working relationship he has with Robert Quinlin of the Town's Law Department. Both individuals exhibit a willingness to partner and "tinker with the DNA" of the Town of Brookhaven's Town Code, which presents an opportunity to catalyze the evolution of development and land use in Brookhaven. As is customary in our democratic process and evolution under any circumstance, the implementation of change takes time. A transformation must begin somewhere and with sister municipi-

palities stepping up and recognizing that the days of strip malls and big box stores are approaching an end, the concepts being implemented by Brookhaven cresting towards conservation paralleling density is an exemplary representation of the direction land use should be headed. Preserve seventy to eighty percent of the open space through zoning or land acquisition and permit denser development in the remaining 20 to 30 percent. Undoubtedly, whatever the percentages are will draw criticisms and heated debate from many angles and interested parties but the philosophy used to strike the balance is difficult to objectively criticize.

The membership at the May 17, 2011 meeting discussed the town's historical approach, challenges, successes and where opportunities would occur to improve the largest township on Long Island may rest. Discussions on the potential for sewerage portions of the town, the availability of credits under a potential new TDR (transfer of development rights) program under the Carmans River Watershed Management Plan, and civic participation in development projects were discussed openly as Mr. Bertoli was an engaging guest of the Bar Association.

On behalf of the Environmental Law Committee, I would like to extend my gratitude to the chairs of the Corporate Law Committee and Real Property Committee for helping make the meeting a valuable experience for all. I would also like to thank Mr. Bertoli, for sacrificing an evening of his valuable time to have a conversation with the practitioners that make up a portion of our Suffolk County Bar. Future events of the Environmental Law Society will continue to touch on the policy and practical considerations for the variety of practice areas that fall under the umbrella of "Environmental Law." It is our goal to ensure that events are beneficial and interesting so the time that our membership invests with the committee will provide a return of perspective, knowledge, and effectiveness that can be used in your current practice.

Note: Robert R. Dooley is an associate with the Law Office of Frederick Eisenbud where his practice is concentrated in Environmental, Municipal and Commercial litigation.