



**Southampton Town Board**

116 Hampton Road  
Southampton, NY 11968

**ADOPTED**

**TOWN BOARD RESOLUTION 2009-1118**

Meeting: 11/10/09 01:00 PM

Department: Planning

Category: Local Laws

Prepared By: Janice D'Angelo

Initiator: Jefferson Murphree

Sponsors: Councilwoman Anna Throne-Holst

DOC ID: 10476

**Notice of Adoption to Amend Local Law 33 of  
2007(Enactment of 330-248Q) to Allow for Retention and  
Augmentation of Natural Vegetation in Lieu of a Constructed  
Berm Along Montauk Highway in Connection with the RTW  
Residential Planned Development District (RTWRPDD) for a  
50 Unit Age-Restricted (55 Yrs. +) Housing Development in  
Hampton Bays**

WHEREAS, by Resolution 2007-912, the Southampton Town Board adopted Local Law No. 33 of 2007 to rezone approximately 8.24 acres of land on the north side of Montauk Highway, 150 feet east of Allomara Road in Hampton Bays (SCTM #900-253-1-22 & 23) from Highway Business (HB) to a Residential Planned Development District (RPDD) to allow the construction of a 50-unit age-restricted (55 yrs. and over) housing development, to include a clubhouse/recreation building and an outdoor swimming pool, with 30% of the units set aside as Community Benefit Units for those who qualify under Chapter 216 of the Southampton Town Code; and

WHEREAS, by Resolution 2008-320, the Town Board ratified the adoption of Local Law No. 33 of 2007; and

WHEREAS, the Legislative Findings of said local law indicated that: "the proposed development will retain natural vegetation at the road frontage" but also noted that it would "include a significant and heavily vegetated berm"; and

WHEREAS, said local law references and contains as conditions of approval, the construction of a 6 foot high berm and installation of landscaping as per a re-vegetation plan, as well as a the placement of a Conservation Easement, non-disturbance covenant over a 65 foot wide buffer area along the road frontage; and

WHEREAS, since the adoption of the local law, the Planning Board has reviewed and approved a site plan depicting the required berm and re-vegetation; and

WHEREAS, after the site plan was approved, several members of the general public suggested the retention and augmentation of the natural vegetation within the proposed 65 foot wide buffer area along the road frontage to maintain the community character; and

WHEREAS, the Environmental Division and the Planning Division have studied and examined the necessity for the proposed berm based on the local law requirements and finds that retaining and augmenting the existing native vegetation will meet the spirit and intent of the legislation to buffer the proposed development and provide a continuous vegetative screen along the Montauk Highway corridor more so than removing the existing mature vegetation and building the 6 foot high berm; and

WHEREAS, the applicant is seeking to finalize and obtain the signature of the Planning Board for the approved site plans, but is willing to delay such finalization to consider the

modification of the local law and elimination of the required berm; and

WHEREAS, a public hearing was held and closed on this matter on the evening of October 27, 2009 where public support was indicated for the proposed changes; and

WHEREAS, the amendment of the local law to modify the dimensional and landscape requirement and removal of the berm condition is considered to be a Type II action pursuant to SEQRA, with no additional environmental review required.

RESOLVED, that Local Law No. 45 of 2009 is hereby adopted as follows:

#### LOCAL LAW NO. 45 OF 2009

A LOCAL LAW amending Chapter 330, Article XXVI (Planned Development District), §330-248Q entitled RTW Residential Planned Development District (RTWRPDD) of the Code of the Town of Southampton by specifically amending §330-248Q(1)(d), Purpose and objectives; §330-248Q (4)(i)[1], Buffer yards; §330-248Q(7)(a), specific development standards, §330-248Q(7)(d)[10](h), Landscaping, and §330-248Q(8)(h), Conditions, all as related to the retention of natural vegetation in lieu of construction of a planted berm within the 65 foot wide buffer along the Montauk Highway on property comprising approximately 8.24 acres, located on the northerly side of Montauk Highway (C.R. 80), approximately 140 feet east of Allomara Road, south side of LIRR, Hampton Bays, Town of Southampton, and identified by SCTM #s 900-253-1-22 & 23.

BE IT ENACTED by the Town Board of the Town of Southampton as follows:

#### SECTION 1. Legislative Findings

On June 26, 2007, the Southampton Town Board adopted Local Law No. 33 of 2007 to rezone the property of RTW Associates, LLC consisting of approximately 8.24 acres of land from Highway Business (HB) to a Residential Planned Development District (RPDD) to allow the construction of a 50-unit age-restricted (55 yrs. and over) housing development, to include a clubhouse/recreation building and an outdoor swimming pool, with 30% of the units set aside as Community Benefit Units for those who qualify under Chapter 216 of the Southampton Town Code. By Resolution 2008-320, the Town Board later ratified the adoption of Local Law No. 33 of 2007.

The Legislative Findings of said local law indicated that: "the proposed development will retain natural vegetation at the road frontage" but also noted that it would "include a significant and heavily vegetated berm." Thereafter, the local law referenced and contained as conditions of approval, the construction of a 6-foot high berm and installation of landscaping as per a re-vegetation plan, as well as a the placement of a Conservation Easement, non-disturbance covenant over a 65 foot wide buffer area along the road frontage. After the adoption of the local law, the Planning Board reviewed and approved a site plan depicting the required berm and re-vegetation, but several members of the general public continue to suggest the retention and augmentation of the natural vegetation in lieu of the construction of the berm to maintain the community character. The Environmental Division and the Planning Division studied and examined the necessity for the proposed berm based and found that retaining and augmenting the existing native vegetation will satisfactorily buffer the proposed development and provide a continuous vegetative screen along the Montauk Highway corridor more so than removing the existing mature vegetation

and building the 6 foot high berm. Despite having an approved site plan depicting the berm, the applicant is willing to delay the finalization of the site plan to consider the modification of the berm and landscaping requirements.

Therefore, it is the intent of this local law to amend the pertinent portions of Chapter 330, Article XXVI (Planned Development District), §330-248Q entitled RTW Residential Planned Development District (RTWRPDD) of the Code of the Town of Southampton to require the retention of natural vegetation in lieu of construction of a planted berm within the 65 foot wide buffer along the Montauk Highway. Specifically, this local law will amend §330-248Q(1)(d), Purpose and objectives; §330-248Q (4)(i)[1], Buffer yards; §330-248Q(7)(a), specific development standards, §330-248Q(7)(d)[10](h), Landscaping, and §330-248Q(8)(h), Conditions. These, amendments, will permit the Planning Board to approve an amendment to the approved site plan eliminating the proposed berm and landscaping and replace it with a plan that retains and augments the existing natural vegetation.

SECTION 2. Section 330-248Q(1)(d) is amended by deleting strikethrough words and adding underlined words as follows:

Q. RTW Residential Planned Development District ("RTWRPDD").

(1) Purpose and objectives.

(d) Based on the foregoing, the RTWRPDD provides public benefits through (a) the provision of 15 Community Benefit Units, among the 50 total units to be developed, with the first offering of all units including market rate units exclusively to residents of Hampton Bays and East Quogue for a six month period; (b) the construction of sidewalks and, where appropriate, pedestrian trails internally throughout the community; (c) the construction of internal streets that are lined with deciduous trees and provide parallel parking to reflect Traditional Neighborhood Design (TND) standards (d) the construction of new sidewalks along the entire frontage of Montauk Highway to connect to the existing sidewalks to the east to include the installation of street trees to screen the pedestrian from the Highway (where permissible by Suffolk County Dept. of Public Works) (e) upgrading (repair) of the existing sidewalks to the east that this development will connect to in order to provide a continuous walkway to the nearby shopping center (f) ~~providing a substantial berm with significant and mature~~ retain and augment the existing vegetation along the entire frontage to provide year-round visual screening and continuity along this stretch of corridor as well as substantial interior and perimeter plantings; (g) construction of a cedar-clad bus shelter along Montauk Highway in front of the site to facilitate use of public transportation; (h) contribution of park fee representing \$1,000 per market rate unit (total of \$35,000) to the Town to facilitate additional recreational amenities for the community of Hampton Bays; (i) contribution of a traffic pre-emption (total of \$15,000) to facilitate ambulance and fire service response to the subject property; (j) installation of fire sprinklers within all residential buildings to enhance life-safety [noting that the cost of said installation is offset by reducing the number of Pine Barren Credits or TDR's required from four (4) down to two (2)]; (k) transfer of two (2) Development Rights or Pine Barrens Credits within the Hampton Bays School District or cash-in-lieu thereof in order to achieve the goals of PDD legislation by offsetting increases in density and providing open space.

SECTION 3. Section 330-248Q(4)(i)[1] is amended by deleting strikethrough words and adding underlined words as follows:

(4) Dimensional regulations.

(i) Buffer yards:

[1] A buffer yard with a minimum width of 65 feet shall be established ~~and heavily landscaped~~ along the entire property line fronting Montauk Highway with the exception of the required site and emergency access locations and bus shelter. ~~The first 10 feet of said buffer (measured from the edge of the Montauk Highway right of way) shall maintain the existing grade, and a heavily landscaped berm 6 ft. in height shall be established in accordance with §330-110 for the remaining 55 feet (to include irrigation). The natural vegetation within this buffer shall be retained and augmented as determined by the Planning Board.~~ Landscaping shall be staggered, and of sufficient height to fully diffuse and screen the mass and scale of the development from street view year-round. The term "sufficient height" shall mean deciduous trees no less than 3½ inch caliper diameter and a variety of evergreen trees a minimum of 6 feet in height.

SECTION 4. Section 330-248Q(7)(a) is amended by deleting strikethrough words and adding underlined words as follows:

(7) Specific development standards.

(a) A revised site plan must be submitted to the Town of Southampton Planning Board for review, refinement and approval pursuant to §330-243B and §330-181 through §330-184.1 of the Town Code of the Town of Southampton. Except for the elimination of the berm and the retention and augmentation of the existing vegetation within the 65 foot wide buffer along Montauk Highway, ~~the~~ proposed development shall be consistent with the conceptual plan entitled 'Arborview at Tiana' prepared by A. Sutton dated 3/21/05 and last revised 4/7/06, subject to revisions that conform to dimensional requirements and other performance standards outlined herein.

SECTION 5. Section 330-248Q(7)(d)[10][a] is amended by deleting strikethrough words and adding underlined words as follows:

(7) Specific development standards.

(d) Site Plan Elements.

[10] Landscaping. The applicant shall be required to prepare and submit a comprehensive landscape plan for review and approval by the Planning Board, including but not limited to the following:

[a] ~~Landscaping for the front berm of the~~ to augment the natural vegetation to be retained within the buffer along

Montauk Highway and appropriate low-lying vegetation for the central village green/open space areas.

SECTION 6. Section 330-248Q(8)(h) is amended by deleting strikethrough words and adding underlined words as follows:

(8) Conditions.

~~(h) Upon construction of the berm and installation of landscaping as per the approved re-vegetation plan, Prior to the commencement of site work, the applicant shall place a Conservation Easement, non-disturbance covenant over the existing 65 foot wide buffer area along Montauk Highway in a form satisfactory to the Town Attorney to be filed in the Office of the Suffolk County Clerk, prior to the issuance of the first Certificate of Occupancy, The Planning Board shall ensure that the berm is constructed and landscaped prior to building construction, and may approve a phased site plan in order to achieve this objective.~~

SECTION 7. Authority. The Town Board is authorized to amend its zoning map and make local laws for Planned Development Districts pursuant to Article 16 of the State of New York Town Law.

SECTION 8. Effective Date. This local law shall take effect upon the filing of this Local Law with the Secretary of State pursuant to the Municipal Home Rule Law.

SECTION 9. Severability. If any section or subsection, paragraph, clause, phrase of this law shall be judged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not effect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to publish the following Notice of Adoption:

#### **NOTICE OF ADOPTION**

PLEASE TAKE NOTICE that, after a public hearing was held by the Town Board of the Town of Southampton on October 27, 2009, the Town Board, at their meeting of November 10, 2009, adopted LOCAL LAW NO. 45 OF 2009 as follows: "A LOCAL LAW amending Chapter 330, Article XXVI (Planned Development District), §330-248Q entitled RTW Residential Planned Development District (RTWRPDD) of the Code of the Town of Southampton by specifically amending §330-248Q(1)(d), Purpose and objectives; §330-248Q (4)(i)[1], Buffer yards; §330-248Q(7)(a), specific development standards, §330-248Q(7)(d)[10](h), Landscaping, and §330-248Q(8)(h), Conditions, all as related to the retention of natural vegetation in lieu of construction of a planted berm within the 65 foot wide buffer along the Montauk Highway on property comprising approximately 8.24 acres, located on the northerly side of Montauk Highway (C.R. 80), approximately 140 feet east of Allomara Road, south side of LIRR, Hampton Bays, Town of Southampton, and identified by SCTM #s 900-253-1-22 & 23."

Copies of the local law, sponsored by Anna Throne-Holst are on file in the Town Clerk's Office, Monday through Friday, from 8:30 a.m. to 4:00 p.m

BY ORDER OF THE TOWN BOARD  
TOWN OF SOUTHAMPTON, NEW YORK  
SUNDY A. SCHERMEYER, TOWN CLERK

**Financial Impact**

none

<b>RESULT:</b>	<b>ADOPTED AS AMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Anna Throne-Holst, Councilwoman
<b>SECONDER:</b>	Linda Kabot, Supervisor
<b>AYES:</b>	Linda Kabot, Anna Throne-Holst, Nancy Graboski
<b>ABSENT:</b>	Chris Nuzzi, Sally Pope