

Local Law Filing

A: 01/13/2022

E: 01/21/2022

New York State Department of State

41 State Street, Albany, NY 12231

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Brookhaven

Local Law No. 1 of the year 2022

A local Law amending Chapter 85 entitled “Zoning” of the Town Code of the Town of Brookhaven including Section s85-607; 85-608; 85-609; 85-610; 85-611; 85-612; 85-613; 85-614 and 85-615 creating the Greater Bellport Overlay District.

Be enacted by the Town Board of the Town of Brookhaven as follows:

Section 1. Legislative Intent. It is the intent of this amendment to create a Greater Bellport Overlay District that will further implement and modernize the recommendations of the 2014 Greater Bellport Land Use Plan.

Section 2. Text Amendment. Chapter 85 entitled “Zoning”, Article XXIV, Section 85-607 entitled “Issuance of building permits and universal design permit to build; restrictive covenants” as follows:

Article XXIV Overlays Districts

§ 85-607 Greater Bellport Overlay District.

Article XXIV Overlays Districts

§ 85-607 Greater Bellport Overlay District.

§ 85-608 Legislative purposed and intent.

It is the intent of the Town Board to create a Greater Bellport Overlay District that will further implement the recommendations of the 2014 Greater Bellport Land Use Plan. The area lying within the District has long been recognized as an area in need of revitalization. Adoption and implementation of this overlay district would encourage and promote the coordinated orderly development of the parcels included within it. The Greater Bellport Overlay District is envisioned to guide redevelopment patterns that are civic-oriented, pedestrian-friendly, economically vibrant, environmentally sustainable, and that evoke a unique sense of place. It is also the intent of

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the Town Board to enact zoning which can be used as a positive redevelopment planning tool and that will foster the creation of a Bellport Esplanade and Greenway adjacent to the MTA/Long Island Railroad line. The Greater Bellport Overlay District will create several specific individual overlays that will implement the 2014 Greater Bellport Land Use Plan. § 85-608

- A. Bellport Esplanade and Greenway Overlay. The Greater Bellport Land Use Plan recommends the creation of a linear park or esplanade by the "public assemblage of the shallow and narrow lots created between Montauk Highway and the LIRR tracks". The plan advises that these lots are "problematic and have developed chaotically without benefit of landscaping and adequate parking facilities due to their small size" and that "preservation of the parcels or environmental restoration of these properties will both remove commercial blight and provide a recreational activity for the residents of Greater Bellport." The Plan recognized that this would be "a tremendous challenge to accomplish". The Bellport Esplanade and Greenway Overlay identifies the parcels within the esplanade and incentives the creation of the esplanade by providing opportunities within the Greater Bellport Opportunity Overlay and the Hagerman Hamlet Center Overlay to increase the residential base density by dedication of parcels within the esplanade.
- B. The Bellport Hamlet Center Overlay. This overlay will continue to allow uses within the underlying zoning district(s) as well as allowing a new High-Density Residential use in the areas identified and recommended by the Greater Bellport Land Use Plan for High-Density Residential. The overlay also provides an opportunity to increase the 7 units/acre overlay residential base density by providing extra sanitary capacity, 100% affordability, construction of a service or use identified as being substantially underserved within the community, use of high-quality, fire-resistant structural materials, green energy technologies and housing for those who have special needs, thereby achieving additional goals and recommendations of the Greater Bellport Land Use Plan.
- C. Greater Bellport Opportunity Overlay. This overlay area contains one of the last large blocks of vacant residentially zoned property within the Greater Bellport area. The Greater Bellport Land Use Plan indicates that "there is very little housing choice in the Greater Bellport area where 98% of the housing consists of single-family residences". The plan states that "there are entire blocks of undeveloped land in the study area, i.e. between Hoffman Avenue and Bourdois Avenue & by the Boys and Girls Club on Atlantic Avenue, whose development could help to reshape the community". The Greater Bellport Land Use plan also identifies "Mansion Flats" that are typically a larger dwelling made up of 2, 3 or 4 individual units and that "opportunities for large lot redevelopment with "mansion flats" exist on large blocks of residentially zoned property held by Suffolk County within the Study Area".

This overlay will allow uses within the underlying zoning district(s) as well as by Planning Board by special permit, multi-family housing thereby enabling the 2, 3 or 4 unit "Mansion Flats" and similar multi-family housing recommended by the Greater Bellport Land Use Plan. The overlay also provides an opportunity to increase the 2 units/acre overlay residential base density by providing 100% affordable or workforce housing, dedication parcels within the Bellport Esplanade and Greenway, use of high-quality, fire-resistant structural materials, green energy technologies and housing for those who have special needs, thereby achieving additional goals and recommendations of the Greater Bellport Land Use Plan.

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- D. Hagerman Hamlet Center Overlay. The Greater Bellport Land Use Plan designated the general area covered by the Hagerman Hamlet Center Overlay as a hamlet center and recommended J-6 Main Street Business District for the hamlet center area. For existing automotive uses within or adjacent to the hamlet center, J-5 Heavy Commercial was recommended as the J-5 permits automotive related uses.

However, since the Plan's adoption in 2014, the commercial market has continued to shrink for a variety of reasons but generally attributed to increasing amounts of internet sales. The advent of the COVID-19 pandemic has accelerated this trend. The existing J-6 Main Street Business District permits first floor commercial, 2nd floor office or residential use and 3rd floor residential use. While the overlay will continue to allow uses within the underlying zoning district(s) it will offer the opportunity by Town Board by special permit for multi-family housing that will permit residential use on the 1st, 2nd and 3rd floors subject to a requirement that a minimum of fifty percent of the first-floor frontage along Montauk Highway shall be devoted to commercial uses.

The Greater Bellport Land Use Plan also acknowledged that "the community is saturated with services dedicated to motor vehicles; over 30 parcels contain automotive repair shops, used car establishments or junkyards" and that the "myriad of automotive uses on Montauk Highway appear chaotic and unruly, spill their operations out onto the sidewalks or right of ways become eyesores and attractive nuisances". The Greater Bellport Land Use Plan indicates that these sites shall be encouraged to comply with design standards, to contain their operations with their property boundaries and provide adequate buffers to neighboring residential properties. However, since adoption of the Greater Bellport Land Use Plan in 2014, there has been little or no visual change or compliance with the design standards. Therefore, while the overlay will continue to allow uses within the underlying zoning district(s) it will also offer the opportunity by Town Board by special permit for high-density housing as encouragement to redevelop these sites.

The overlay also provides an opportunity to increase the 5 units/acre overlay residential base density by providing extra sanitary capacity, 100% affordable or workforce housing, dedication parcels within the Bellport Esplanade and Greenway, use of high-quality, fire-resistant structural materials, green energy technologies and housing for those who have special needs thereby achieving additional goals and recommendations of the Greater Bellport Land Use Plan.

§ 85-609 Designation of the Greater Bellport Overlay areas. The Greater Bellport Overlay District as shall consist of four (4) separate sub-districts.

- A. Bellport Hamlet Center Overlay designation.

Suffolk County Tax Map Parcels Numbers (or as may be consolidated, apportioned, or renumerated)

0200 97390 0100 021005	0200 97390 0100 018000	0200 97590 0200 031000
0200 97390 0100 021006	0200 97590 0200 041001	0200 97590 0200 036000

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0200 97590 0200 038001	0200 97390 0100 042000	0200 97390 0100 041000
0200 97390 0100 020000	0200 97590 0200 039001	0200 97590 0200 037001
0200 97590 0200 043000	0200 97590 0200 042000	0200 97590 0200 035000
0200 97590 0200 030000	0200 97390 0100 019002	0200 97390 0100 019001
0200 97390 0100 043000		

B. Greater Bellport Opportunity Overlay designation.

Suffolk County Tax Map Parcels Numbers (or as may be consolidated, apportioned, or renumbered)

0200 97380 0500 025000	0200 97380 0500 010000	0200 97380 0400 027000
0200 97380 0400 026000	0200 97380 0600 003000	0200 97380 0400 031000
0200 97380 0500 046000	0200 97380 0500 014001	0200 97380 0400 037000
0200 97380 0500 033000	0200 97380 0400 028000	0200 97380 0600 004000
0200 97380 0500 023000	0200 97380 0400 030000	0200 97380 0500 011000
0200 97380 0500 020000	0200 97380 0400 033000	0200 97380 0500 017000
0200 97380 0500 035000	0200 97380 0400 038000	0200 97380 0500 050000
0200 97380 0500 008000	0200 97380 0500 045000	0200 97380 0500 005000
0200 97380 0500 042000	0200 97380 0500 047000	0200 97380 0500 032000
0200 97380 0500 009000	0200 97380 0500 041000	0200 97380 0500 016000
0200 97380 0500 019000	0200 97380 0600 005000	0200 97380 0500 051000
0200 97380 0500 015000	0200 97380 0500 054000	0200 97380 0500 059000
0200 97380 0500 004000	0200 97380 0500 055000	0200 97380 0500 022000
0200 97380 0500 031000	0200 97380 0600 006000	0200 97380 0500 024000
0200 97380 0600 002000	0200 97380 0500 038000	0200 97380 0500 043000
0200 97380 0500 049000	0200 97380 0500 013000	0200 97380 0500 056000
0200 97380 0400 032000	0200 97380 0500 018000	0200 97380 0500 048002
0200 97380 0400 036000	0200 97380 0500 021000	0200 97380 0500 030000
0200 97380 0500 006000	0200 97380 0400 029000	0200 97380 0500 048001
0200 97380 0500 037000	0200 97380 0500 002000	0200 97380 0500 003000
0200 97380 0500 053000	0200 97380 0500 044000	0200 97380 0500 052000
0200 97380 0500 007000	0200 97380 0400 035000	0200 97380 0600 007000
0200 97380 0500 012000	0200 97380 0500 036000	0200 97380 0400 034000
0200 97380 0500 034000		

C. Hagerman Hamlet Center Overlay designation.

Suffolk County Tax Map Parcels Numbers (or as may be consolidated, apportioned, or renumbered)

0200 97580 0300 041001	0200 97580 0300 041002	0200 97580 0300 041003
0200 97580 0300 042000	0200 97580 0400 009000	0200 97580 0400 010000
0200 97580 0400 020000	0200 97580 0400 057000	0200 97580 0400 038000
0200 97580 0400 039000	0200 97580 0400 050000	0200 97580 0400 051002
0200 97580 0500 010000	0200 97580 0500 018001	0200 97580 0500 038000
0200 97580 0500 039000	0200 97580 0500 040000	0200 97580 0500 042000

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0200 97580 0500 041000	0200 97590 0100 013000	0200 97590 0100 014000
0200 97590 0100 010000	0200 97590 0100 015002	0200 97590 0100 017000
0200 97590 0100 015001	0200 97590 0100 020000	0200 97590 0100 021000
0200 97590 0100 018000	0200 97590 0100 035001	0200 97590 0100 035001
0200 97590 0100 022000	0200 97590 0200 021000	

D. Bellport Esplanade and Greenway Overlay designation.

Suffolk County Tax Map Parcels Numbers (or as may be consolidated, apportioned, or renumbered)

0200 97590 0100 068001	0200 97590 0200 032001	0200 97590 0100 061000
0200 97600 0100 002000	0200 97590 0100 019000	0200 97600 0100 001002
0200 97590 0200 033003	0200 97600 0100 001001	0200 97590 0200 040004
0200 97590 0100 062001	0200 97590 0100 049003	0200 97590 0200 025003
0200 97590 0200 005001	0200 97600 0100 003000	0200 97590 0200 040003
0200 97590 0200 025004	0200 97590 0200 034001	0200 97590 0200 004001
0200 97590 0200 033002	0200 97590 0100 034000	0200 97600 0100 004000
0200 97600 0100 087000		

§ 85-610 Design regulations.

A. Maximum permitted height:

- (1) The maximum permitted height shall be fifty (50) feet within the Bellport Hamlet Center and Hagerman Hamlet Center Overlays.
- (2) The maximum permitted height shall be two- and one-half stories and thirty-five (35) feet within the Greater Bellport Opportunity Overlay.
- (3) Mechanical/utility structures and enclosures are permitted above the allowed height but must be set back at least ten feet from the roof perimeter.

B. Residential unit size regulations.

- (1) No more than thirty percent (30%) of the residential units shall exceed 1,200 square feet.
- (2) Minimum thirty percent (30%) of the residential units shall be less than or equal to 800 square feet.
- (3) No residential unit shall be less than 400 square feet.

C. Civic space and recreational requirements. Civic space and recreational areas, including squares, private plazas, greens, and public parks, shall be intermixed throughout the development for social activity, recreation, and visual enjoyment.

- (1) A minimum of two square feet civic space per residential unit shall be provided.
- (2) Civic space may be provided both indoors and outdoors.
- (3) At least one civic space location shall be devoted to creation of a focal point that is dedicated to the advancement of the arts or advances the historic or cultural significance of the community.
- (4) Civic space requirements are in addition to the recreational requirements required herein. Outdoor recreation areas shall not count as civic space.

D. Minimum outdoor recreational area shall be equal to the number of units multiplied by 200 square feet.

- (1) Recreational requirements may be provided on-site, off-site or a payment made in lieu of. Payment made in lieu shall use the recreational fee as established by Town Board resolution and shall be credited to the Bellport Esplanade and Greenway park fund.

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- E. Pedestrian and Bicycle Access:
 - (1) Plans shall provide for continuity from sidewalks in public streets to main pedestrian entrances on the site.
 - (2) Provisions for secure interior bicycle storage space for the residential units shall be provided.
 - (3) Bike paths shall be provided along any main roadway that connects the development to a street or community or as may be directed by the Town Board or Planning Board.
- F. Affordable and workforce housing. Shall be provided in accordance with Chapter 85, Article XIII, Affordable and Workforce Housing.
- G. Residential units that are equal to or less than 450 square feet shall be calculated as 1/2 units for the purposes of complying with the base density and density increase criteria contained herein.
- H. Increases in density and intensity granted herein shall not require the redemption of Pine Barrens Credits.
- I. Maximum residential density.
 - (1) Bellport Hamlet Center overlay district limited to a maximum of 25 residential units per acre.
 - (2) Hagerman Hamlet Center overlay district limited to a maximum of 20 residential units per acre.
 - (3) Greater Bellport Opportunity overlay district limited to a maximum of 8 residential units per acre.

§ 85-611 Bellport Hamlet Center Overlay.

- A. Permitted uses.
 - (1) All principal and accessory uses permitted within the underlying zoning district(s) shall be permitted.
 - (2) Multi-family housing units.
- B. Base density. The maximum base density shall be 7 units per acre.
- C. Density increase criteria. The Planning Board may increase permitted base density by following.
 - (1) If the project site can utilize an existing public sewage treatment plant or construct a new sewage treatment plant with a minimum 30% extra capacity or can utilize an existing private sewage treatment plant and provide a minimum additional 30% extra capacity, an additional seven (7) units per acre of residential development may be permitted.
 - (2) If the project proposes a development wherein 100% of the units comply with the definition of affordable set forth in Chapter 85, Article XIII, an additional 4 units per acre of residential development may be permitted.
 - (3) If the project proposes a development that includes construction of a service or use identified as being substantially underserved within the community, then an additional 4 units per acre of residential development may be permitted.
 - (4) If the project uses high-quality, fire-resistant structural materials, including but not limited to steel, concrete and masonry, an additional one unit per acre of residential development may be permitted.
 - (5) If the project uses substantial amounts of green energy technologies, an additional one unit per acre of residential development may be permitted.
 - (6) An additional one unit per acre of residential development may be permitted if a minimum of 20% of the total housing units will be designed and constructed for those who have special needs. Minimum special needs design requirements are:
 - (a) Housing/units specifically designed to meet universal design guidelines or housing/units specifically designed for the visual, auditory, or other special need.
 - (b) The applicant/owner shall enter a partnership or contract with a special need advocacy housing group hearing to design and administer the housing units.

§ 85-612 Greater Bellport Opportunity Overlay.

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- A. Permitted uses. All principal and accessory uses permitted within the underlying zoning district(s) shall be permitted.
- B. Planning Board Special Permit. When authorized by the Planning Board by special permit, multi-family housing use shall be permitted subject to the criteria as set forth in this chapter, in addition to the density increase criteria contained herein:
 - (1) Base density. The maximum base density shall be 2 units per acre.
 - (2) Density increase criteria. Permitted base density may be increased by the following:
 - (a) If the project site can utilize an existing public sewage treatment plant or construct a new sewage treatment plant an additional four (4) units per acre of residential development may be permitted.
 - (b) An additional twenty (20) units of residential development may be permitted for every 0.25-acre of land dedicated within the Bellport Esplanade and Greenway district that contains existing substantial improvements. Parcels offered for dedication shall have all improvements and environmental contaminants remediated.
 - (c) An additional three (3) units of residential development may be permitted for every 0.25-acre of land dedicated within the Bellport Esplanade and Greenway district that does not contain existing substantial improvements.
 - (d) If the project uses high-quality, fire-resistant structural materials, including but not limited to steel, concrete and masonry, an additional one unit per acre of residential development may be permitted.
 - (e) If the project uses substantial amounts of green energy technologies, an additional one unit per acre of residential development may be permitted.
 - (f) If the project proposes a development wherein 100% of the units comply with the definition of affordable or workforce housing as set forth in Chapter 85, Article XIII, an additional 5 units per acre of residential development may be permitted.
 - (g) An additional one unit per acre of residential development may be permitted if a minimum of 20% of the total housing units will be designed and constructed for those who have special needs. Minimum special needs design requirements are:
 - 1. Housing/units specifically designed to meet universal and inclusive design guidelines or housing/units specifically designed for the visual, auditory, or other special need.
 - 2. The applicant/owner shall enter a partnership or contract with a special need advocacy housing group to design and administer the housing units.

§ 85-613 Hagerman Hamlet Center Overlay.

- A. Permitted uses. All principal and accessory uses permitted within the underlying zoning district(s) shall be permitted.
- B. Town Board Special Permits. When authorized by the Town Board by special permit, multi-family housing use shall be permitted subject to the criteria as set forth in this chapter, in addition to the density increase criteria contained herein:
- C. Base density. The maximum base density shall be 5 units per acre.
- D. Montauk Highway Frontage: A minimum of fifty percent of the first floor frontage along Montauk Highway shall be devoted to commercial uses.
- E. Density increase criteria. Permitted base density may be increased by the following:
 - (1) If the project site can utilize an existing public sewage treatment plant or construct a new sewage treatment plant with a minimum 30% extra capacity or can utilize an existing private sewage treatment

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plant and provide a minimum additional 30% extra capacity, an additional ten (10) units per acre of residential development may be permitted.

- (2) An additional twenty (20) units of residential development may be permitted for every 0.25-acre of Bellport Greenway Multi-use Path that contains existing substantial improvements.
- (3) An additional three (3) units of residential development may be permitted for every 0.25-acre of Bellport Esplanade and Greenway that is vacant.
- (4) If the project uses high-quality, fire-resistant structural materials, including but not limited to steel, concrete and masonry, an additional one unit per acre of residential development may be permitted.
- (5) If the project uses substantial amounts of green energy technologies, an additional one unit per acre of residential development may be permitted.
- (6) If the project proposes a development wherein 100% of the units comply with the definition of affordable set or workforce housing as forth in Chapter 85, Article XIII, an additional 5 units per acre of residential development may be permitted.
- (7) An additional one unit per acre of residential development may be permitted if a minimum of 20% of the total housing units will be designed and constructed for those who have special needs. Minimum special needs design requirements are:
 - (a) Housing/units specifically designed to meet universal design guidelines or housing/units specifically designed for the visual, auditory, or other special need.
 - (b) The applicant/owner shall enter a partnership or contract with a special need advocacy housing group hearing to design and administer the housing units.

§ 85-614 General severability; interpretation.

- A. Nothing herein shall be construed to require the Town Board or the Planning Board to grant maximum or any increase in density.
- B. If any clause, sentence, paragraph, section or item of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair nor invalidate the remainder hereof, but such adjudication shall be confined in its operation to the clause, sentence, paragraph, section or item directly involved in the controversy in which such judgment shall have been rendered.
- C. This article shall not be construed to supersede any federal, or state, or county laws or regulations, nor shall this article be interpreted in a manner as to bring it into conflict with federal, or state, or county laws.
- D. All development/redevelopment within this district shall be subject to the requirements, procedures and guidelines specified herein, in addition to those standards of this chapter. When there is a conflict, the standards of § 85-607 through 85-614 will apply.

§ 85-615 through § 85-618 (reserved)

Article XXV (reserved)

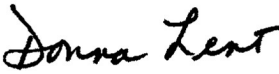
Section 3. Authority. Authority. The Town Board is vested with the authority to make these amendments by local law pursuant to Municipal Home Rule Law §10 and in conformance

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with Municipal Home Rule Law §20 and Town Law §264 and §265.

Section 4. **Effective date.** This local law shall become effective immediately upon filing with the Secretary of State of the State of New York.

Dated: January 13, 2022
Farmingville, New York


Donna Lent, Town Clerk
Town of Brookhaven

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