

Chapter 303

Calverton Industrial Moratorium

§ 303-1 Legislative Intent.

On November 3, 2003, by Resolution #1175, the Riverhead Town Board (hereinafter “Town Board”), issued a Findings Statement pursuant to 6 NYCRR Part 617.11 and adopted the Town of Riverhead Comprehensive Plan pursuant to 272-a of the Town Law. The adopted 2003 Comprehensive plan envisioned a “Dynamic office/industrial center in and around Enterprise Park at Calverton (Town of Riverhead Comprehensive Plan, 2-1).” The Hamlet of Calverton (Zip Code 11931) contains a substantial amount of the industrial-zoned lands in the Town of Riverhead, including those lands that are zoned Industrial A, Industrial B and Industrial C.

At present, the Hamlet of Calverton is characterized as containing a mixture of farmland, open space, single family homes, as well as small to moderate scale commercial development. As a result of the adoption of the 2003 Comprehensive Plan and its appurtenant code amendments, Planning Staff estimates that pursuant to existing zoning and dimensional regulations, approximately 12 million square feet of industrial space could be developed within the Hamlet of Calverton within the Industrial A, Industrial B and Industrial C Zoning Use Districts, excluding lands which are already developed with or are slated for commercial solar energy production facilities, lands such as Robert Cushman Murphy County Park, Canoe Lake, and land from which development rights have been purchased. Additionally, much of the aforementioned industrially zoned lands within the Hamlet of Calverton are not located in either the Town of Riverhead Water District nor are they located within the Riverhead Sewer District. Furthermore, these lands are largely located within Groundwater Management Zone III, which is categorized as a deep-charge zone, with an allowable sanitary density of 300 gallons per day per acre, which allows approximately 7,500 sq. ft. of floor area per acre. In contrast, the current zoning regime allows up to 40% lot coverage, which translates to an allowable as of right build out of 17,424 sq. ft. per acre. Finally, much of the Hamlet of Calverton is identified as being situated within an Environmental Justice Area, pursuant to the criteria established by the New York State Department of Environmental Conservation, as outlined in Commissioner Policy No. 29, issued by the New York State Department of Environmental Conversation on March 19, 2003.

The current unprecedented industrial growth within the Hamlet of Calverton, including the following applications with associated improvements in square feet: HK Ventures which includes approximately 412,000 sq. ft., Riverhead Logistics Center which proposes approximately 641,000 sq. ft., the Calverton Industrial Subdivision (aka OSTEAD) which is an industrial subdivision of an 130,000 sq. ft parcel, Uhaul of Calverton which includes 152,000 sq. ft., JPD Calverton which include an additional 74,650 sq. ft. and Calverton PODS which includes an additional 45,000 sq. ft. coupled with the above referenced factors have the potential to create significant impacts to air-quality, traffic congestion, water supply infrastructure, and other potentially significant environmental impacts as well as the potential to cause large scale loss of some of the last remaining forested areas within the hamlet; loss, isolation or fragmentation of remaining open

spaces; and loss or isolation of prime agricultural soils. Furthermore, the present level of industrial growth has the potential to disproportionately affect the low income and minority population residing in proximity to these developments within the Hamlet of Calverton, an identified Environmental Justice area.

The Town Board acknowledges that it is currently in the process of updating the Comprehensive Plan and has retained *BJF Planning* to conduct this update. In furtherance of this point the Town Board recognizes that proper planning requires a carefully thought-out review process and analysis that balances the need for job creation and economic growth while preserving the rural character and natural environment which defines the Town as whole as well as the Hamlet of Calverton. The Town Board finds time is needed to study through its various departments and such other experts or resources the Town may deem appropriate, including but not limited to *BJF Planning* industrial development with the Hamlet of Calverton.

Thus, a moratorium is necessary and in the public interest to preserve the status quo while the Town, through its various departments and experts, including but not limited to *BJF Planning*, assesses, evaluates and determines appropriate measures or regulations to minimize or mitigate any potential negative impacts, as well as evaluate consistency with the existing and update to the Town's Comprehensive Plan as it relates to development applications located within the Industrial A, Industrial B, and Industrial C Zoning Use Districts within the Hamlet of Calverton (Zip Code 11931).

The moratorium will afford the Town the opportunity to study the currently unprecedented industrial development within the Hamlet of Calverton, and allow for Town decision makers to engage in a comprehensive analysis as well as review, draft and adopt amendments for any new, resultant laws that may arise during the planning process. This moratorium shall be enacted for a period of XXXX from the effective date herein so that the processing, reviewing, and/or the taking of any action on any development applications, including but not limited to Site Plan Applications & Special Permit Applications, located within the Industrial A, Industrial B, and Industrial C Zoning Use Districts within the Hamlet of Calverton (Zip Code 11931) shall be suspended during this time period.

§ 303-2 Moratorium

Neither the Town Board, Planning Board, Zoning Board nor any Town Department shall process, review, and/or take any action on any development applications, including but not limited to Site Plan Applications, Special Permit Applications, Subdivision Applications, as well as Applications for Use and Area Variances located within the Industrial A, Industrial B, and Industrial C Zoning Use Districts within the Hamlet of Calverton (Zip Code 11931) during the moratorium period *except as follows: fill in other permitted Uses and/or special permit uses unrelated to industrial development?. Additionally, no applications shall be accepted pursuant to Chapter 301, Article XXVII, establishing receiving sites for Pine Barrens Credits and other identified development credits during the period of the moratorium established herein.*

§ 303-3 Moratorium Period

This Chapter Shall Apply for a period of XXXX from the effective date hereof. This Chapter shall expire after said XXXX period unless and until this time period is extended by the Town Board after adoption of a subsequent local law.

§ 303-4 Applications Excluded or Exempt.

The following are excluded from this Article:

XXXXXX

§ 303-5 Statutory authority; supersession of Town and State laws.

This chapter is adopted pursuant to Municipal Home Rule Law and the State Environmental Quality Review Act and its implementing regulations. It expressly supersedes any provisions of the Town Code of the Town of Riverhead, and §§ 267, 267-a, 267-b, 267-c, 274-a and 274-b of the Town Law of the State of New York. Furthermore, this chapter shall supersede the New York State Environmental Conservation Law §§ 3-0301(1)(b), 3-0301(2)(m), 8-0107 and 8-0113 and 6 NYCRR Part 617 also known as the "State Environmental Quality Review Act" (SEQRA) as it pertains to applications that are neither excluded nor exempt from this chapter. In particular, this chapter shall supersede and suspend those provisions of the Town Code and New York State Law which require the Town Board and the Planning Board to accept, process and approve commercial solar energy system applications within certain statutory time periods. In addition, this chapter shall supersede and suspend those provisions of the Town Code of the Town of Riverhead as well as the Town Law of the State of New York which require the Town Board and the Planning Board to accept, process and approve site plan and special permit applications. Furthermore, this chapter shall supersede and suspend those provisions of the Town Code and the New York State Town Law which grant the Zoning Board of Appeals authority to hear appeals from applicable zoning provisions and specifically the time frames for decision making and holding hearings for decision making.

Pursuant to 6 NYCRR §617.5(c)(30), a local law to implement a moratorium is a Type II action under the New York State Environmental Quality Review Act ("SEQRA"), which has been determined not to have a significant impact on the environment or is otherwise precluded from environmental review under Environmental Conservation Law Article 8 and thus, not subject to any further review.

§ 303-6 Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect 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.

§ 303- 7 Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State pursuant to Municipal Home Rule Law.

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