

August 4, 2024
 647 Union Road
 New Hempstead, NY 10977

Village of New Hempstead Planning Board
 108 Old Schoolhouse Road
 New City, New York 10956

Re: Union Road Townhomes - Active Adult Residential Community
 Site Plan and Special Permit Application - Tax Lot 50.05-1-11.2
 618 Union Road, New Hempstead, New York

Dear Members of the Planning Board,

The current zoning of this "618 Application" 9.2885 acre property is 1R-40 and the applicant is requesting approval for over ten times that allowed density relying on two Forbearance Agreements executed between the Village of New Hempstead and the original owner in 2007 & 2009 respectively. Upon examination of those Forbearance Agreements, this application must fail and be denied for multiple reasons.

1. The Forbearance Agreements do not have a transferability provision meaning that they apply only to the original owner (New York Golf Enterprises).
2. The Forbearance Agreements were signed by the Village of New Hempstead with the fundamental requirement that development rights on approximately 130 acres were to conveyed & relinquished to the Village in perpetuity for use as "Open Space" in exchange for allowing six units per acre on this "618 Application" 9.2885 acre property. Without that conveyance, these two Forbearance Agreements are by definition null and void.
 - a. Simple calculation: 165 original acres less +/-25 'exception parcel' less this 9.2885 acre parcel = 130.71 acres.
3. The Forbearance Agreements also have great relevance to another Application - 103 Brickchurch Rd.- 50.5-1-11.1 – for the very same land covered by the Forbearance Agreements. That "103 Application" is for 150 acres. The Planning Board cannot consider this "618 Application" in a vacuum.
 - a. The terms of the Forbearance Agreements dictate that the "103 Application" may only be for the "25 acre exception parcel" that would not have been conveyed to the Village as Open Space in perpetuity.
 - b. The terms of the Forbearance Agreements dictate that an application for the "25 acre exception parcel" is barred for 5 years from when the "618 Application" (9.2885 acre parcel) is approved. Therefore, this "103 Application" is time-barred and must be denied.
 - c. The "103 Application" must be denied as well for the simple reason that 125 of the 150 acres are simply not available for development if the Forbearance Agreements are valid. Both Applications cannot exist.
4. Bottom Line: the proposed density of six units per acre on this "618 Application" must be denied unless a conveyance of 130 +/- acres to the Village is included for public use in perpetuity and so the existing 1R-40 zoning rules apply to this parcel.

Cordially,

Levi Marmulsteyn