



### Proposed Planning Recommendations for the Commercial District.

Maintaining the stability and the diversity of the retail stores currently present along Main Street appears to be one of the key components of protecting the values of the commercial shopping district in the Village of Sag Harbor. While change is inevitable, the Village has an opportunity (and a responsibility to the community) to ensure that the changes which occur will not disrupt the integrity of the commercial district.

Three particular changes could have dramatic effects:

1. A conversion of the existing retail spaces to non-retail uses, changing the composition and desirability of the district.
2. A reduction in diversity by allowing larger stores to dominate the marketplace where smaller stores currently exist and provide interest for visitors of the commercial district.
3. Allowing uses within particular geographic areas that are inappropriate,

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and place inappropriate stresses on Village services (parking and sewage treatment) and may cause public safety problems.

The following are a series of independent recommendations designed to provide a measure of control to the change that is occurring in the Village. They are not meant to stifle change, but simply to guide it, and provide reasonable restrictions so that the essence of the Village commercial district as it now exists and flourishes can remain. These recommendations represent specific adjustments to the Zoning Ordinance and other development regulations, and are meant to foster and support the vibrant local retail trade that occurs within the Village of Sag Harbor.

**Recommendation No. 1. Redefine the Permitted (P) and Special Exception (SE) Uses within the Village Business District (VB) to focus on supporting the retail and shopping trade, by restricting the further expansion of non-retail uses within the “core of the commercial shopping district along Main Street. Such a change would eliminate new offices, professional offices, real estate offices, financial services and banks from within the VB District. Where these uses are currently present, they would become pre-existing and non-conforming.**

Critical to maintaining a vibrant commercial district that services both the local and tourist population is the protection of retail trade in the Village Business District.

The existing list of permitted, prohibited and special exception uses contained in Chapter 55, Zoning, was analyzed to determine whether the mix of uses appropriately contains those which would not detract from the vibrancy of the commerce taking place within the Village. Several uses appear to be increasing in local downtown retail districts - professional offices, real estate offices, financial institutions (including banks). The foot traffic is likely considered desirable from a visibility point of view, however the real estate trade - clearly an important industry on the East End - doesn't require pedestrian traffic - it is considered more a destination-oriented use.

Sections 55-8.2 and 55-8.3 of the Zoning Code contain a relatively cursory listing of permitted and special exception uses for the Village Business District, as follows:

Existing Permitted Uses:

<b>Residential Uses.</b>	Dwelling lawfully existing prior to the adoption of this chapter.
<b>Residential Community Facilities.</b>	Church or similar place of worship or religious instruction, parish house, rectory, seminary or convent.
	Municipal park, playground or recreation area.
	Public library or museum.
	Fire station, municipal office or any governmental building of similar character.
<b>General Community Facilities.</b>	Auditorium or meeting hall.
	Bus passenger shelter.
<b>Business Uses.</b>	Bank.
	Office: business, professional or utility service.
	Personal service shop: barbershop beauty parlor, dry cleaning or laundry service employing not more than 5 persons, professional studio, travel agency or similar personal service shops.
	Repair shops for small household, business or personal appliances.
	Restaurant.
	Retail Shop or Store, except as otherwise provided on Article VIII.

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Existing Special Exception Uses.

<b>General Community Facilities.</b>	Philanthropic, fraternal, social or educational institutional office or meeting room, nonprofit.
<b>Business Uses.</b>	Shop for custom work and for making crafted articles to be sold at retail on the premises.
	Telephone exchange.
	Tavern or bar.
<b>Residential Uses.</b>	Apartment building.

Existing Special Permit Uses.

<b>Business Uses.</b>	Fast-food eating establishment.
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Recognizing the trend that is appearing in other local commercial core districts, if the objective is to maintain the retail/commerce trade that has sustained the Village, then it is recommended that certain specific uses be eliminated from the Village Business (VB) District. In general, these uses include business and professional offices, banks and financial institutions and real estate offices.

[It should be noted that the existing offices, banks, financial institutions and real estate offices would become pre-existing non-conforming within the proposed Village Business District. They would have the right to remain, and under certain circumstances, expand as a pre-existing non-conforming use.]

In addition, the general category of “retail shop or store” should be reconsidered and broken down into components that would permit better control of the types of retail that occurs within the core district, and their needs for service and contribution to the overall commercial health of the district. For example, a stationary store, art gallery or a clothing shop might contribute more positively to the commerce of walking district than a shop that sells jet skis (for instance).

A draft table of uses has been prepared for consideration, and is included in the appendices of this document.



**Recommendation No. 2. Refine the boundaries of the Village Business District (VB) to follow what is considered the “core” of the commercial downtown shopping district.**

The current Village Business (VB) District extends much beyond the boundaries of the core commercial area. It encompasses approximately 23.68 acres, and contains a total of 240 uses. Of those uses, 160 of the existing commercial uses are contained on the first floor.

A portion of the existing Village Business District doesn't front onto the street systems that one would typically associate with the “core commercial area” of the Village - that commercial walking district that includes Main Street, Madison Street, portions of Spring Street, Bay Street and Long Island Avenue.

In order to focus the retail activities to that area which one associates with the “core” commercial center, it is recommended that 23.68 acre Village Business (VB) District be reduced in size, to approximately 17.52 acres and encompass those areas and uses which comprise walking retail commercial trade area. A map illustrating the proposed Village Business District boundary has been included in this report.

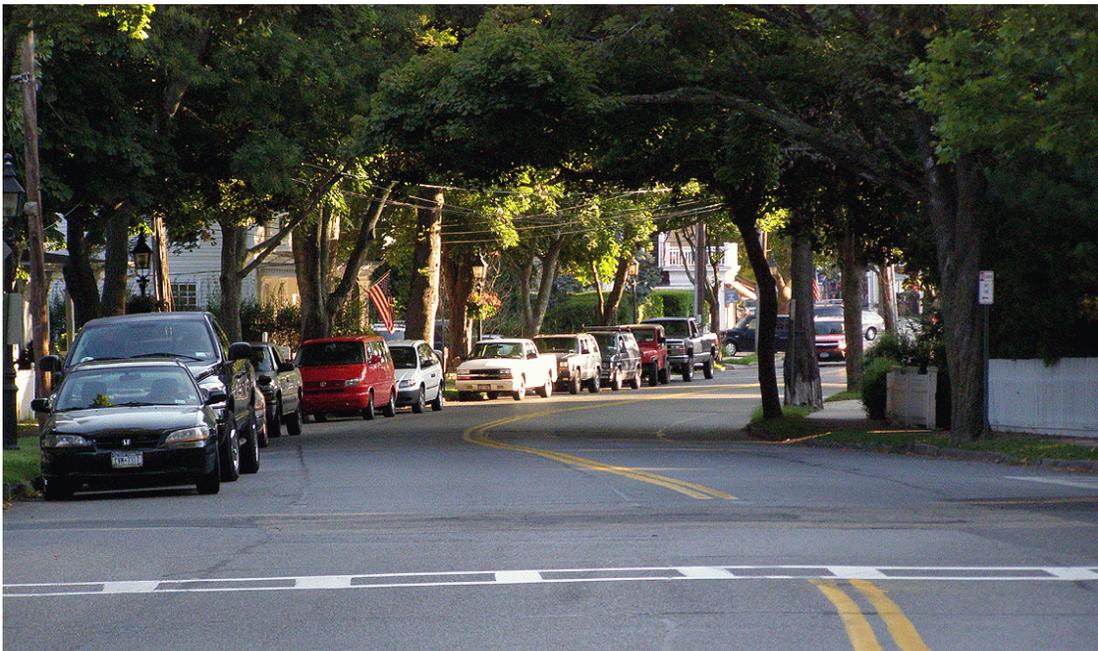
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**Recommendation No 3.** Create a new zoning district - the Office District (OD) - which provides opportunities for development and use for professional offices, financial institutions and the like.

In an attempt to manage the potential for change, the redefinition of permitted and special exception uses requires finding an appropriate “home” for those uses which are not appropriate for the commercial district, but are clearly necessary elements of the overall business community - - such as real estate offices, banks, financial institutions, professional offices and the like. To not provide a home for these uses would leave a hole in maintaining a balanced local community where goods and services can be secured. Therefore, it is recommended that the Village create an Office District (OD) immediately adjacent to the Village Business District to provide room for these services and uses.

The proposed changes, as illustrated on the Proposed Zoning Map, would create approximately 7.04 acres of Office District zoned land. These small distinct districts are generally located around the periphery of the core commercial Village Business District.

The principal benefit of such a district is the location of particular uses near the commercial district, but not within the commercial district so as to displace, or consume that which is vital to this area - a vibrant retail trade.



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It should be recognized that the existing non-retail commercial uses within the proposed Village Business District will become pre-existing non-conforming uses, and will be allowed to remain such, and have the ability to expand pursuant to the provisions of the provisions contained in Article XII of the Zoning Code. The creation of an Office District, and the shifting of new non-retail commercial uses will help maintain the current diversity found within the core commercial area of the Village.

**Recommendation No. 4. Develop list of Permitted (P) and Special Exception (SE) Uses within the proposed Office District (OD) to encourage the utilization of this outlying business district.**

With the redefinition of the Village Business District boundary and the creation of an Office District (OD), a listing of permitted and special exception uses must be established. A proposed Table of Uses has prepared, to identify those uses which would be classified as Permitted, Prohibited, and Special Exception uses with the OD District.

Consistent with the concept of protecting the uses within a particular district from unwanted change, it is recommended that the Office District be reserved primarily for those uses which have been shifted out of the core commercial area - professional offices, banks, personal services, real estate offices and the like. These types of uses should be established as permitted uses.

In order to ensure economic viability of these areas, it is recommended that a limited number of commercial uses be permitted as Special Exception within the Office District, where they would not detract from the intent of supporting and maintaining the core commercial area.

**Recommendation No. 5. Develop a series of design standards for development within the Office District to allow development to occur in an appropriate size and scale with due consideration to the neighborhood.**

Much of the existing Village Business District boundary lies immediately adjacent

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to residentially-zoned property. The reconfiguration of the proposed Village Business District and the creation of an Office District allows for the creation of a “transitional” zone for uses that will occur in the OD district. It is recommended that a series of design standards be developed that will encourage appropriate development, but protect the adjacent residential development patterns adjoining the office district.

Projects within the Office District need to take into account:

- ❖ That they be of a size and scale that reflect these areas as “transitional uses” between the retail districts and the adjacent residential areas. Lot coverage and total lot coverage requirements should be established that reflect these areas as being transitional areas.
- ❖ That they are compatible with and respect the adjacent land uses, especially those residentially-developed properties, by providing appropriate landscaping, setbacks and buffers;



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- ✧ That they provide adequate parking for the use that is anticipated for the site;
  - ✧ That they incorporate proper site design elements for the use that is proposed, including wastewater treatment and site drainage control sufficient for the proposed use of the property.

Accordingly, it is recommended that a series of appropriate development standards for development in the Office District be developed.

A model for consideration by the Village of Sag Harbor would be the restrictions established by the Town of Southampton in the Hamlet Office (HO) District, a relatively new zoning district that was parsed out of the Village Business District along with the Hamlet Commercial (HC) requirements. These restrictions establish maximum building sizes, and include incentive provisions to assist with the creation of apartments ovetop of office-type of uses. While these provisions would need to be adjusted for the specifics of the parcels within Sag Harbor, they represent a good starting point.

As many of the existing parcels are developed with homes, the conversion of existing structures also needs to be assessed, to ensure that the process allows for sufficient flexibility so when appropriate, important existing structures can be maintained and not be replaced with buildings that do not reflect the objectives of this area being a transition.

**Recommendation No. 6. Create general and specific standards that are appropriate for those uses which are deemed to be Special Exception (SE) uses.**

The proposed Table of Uses identifies a number of uses which are recommended to be allowable as special exception uses vs. permitted uses. For those which are to be designated as special exception, the general standards identified in Section 55-13.3 will apply.

At the present time, only nine (9) uses have specific standards for Special Exception, as outlined in Section 55-13.4 of the Zoning Code, as follows:

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- ✧ Boatyard.
  - ✧ Buss passenger shelter.
  - ✧ Commercial fishing facility.
  - ✧ Church or similar place of worship or religious instruction.
  - ✧ Filling Station.
  - ✧ Nursing Home, health related facility of proprietary adult home.
  - ✧ Philanthropic, fraternal, social or educational institution or meeting room, nonprofit.
  - ✧ Tavern or bar.
  - ✧ Apartment building in the VB District.

The Draft Table of Uses identifies those specific uses which are recommended for each of the proposed zoning districts, as well as their classification (permitted, permitted by special exception, or prohibited). A draft listing of uses which are recommended to be considered as Special Exception uses is as follows:

- ✧ Apartment.
- ✧ Cemetery.
- ✧ Church or similar place of religious instruction, parish house, rectory, seminary or convent.
- ✧ Museum.
- ✧ philanthropic, fraternal, social, educational, institutional office or meeting room, nonprofit.
- ✧ Bed and Breakfast.
- ✧ Yacht Club.
- ✧ Religious Institutions.
- ✧ Boat dealer.
- ✧ Convenience Stores, 24 Hours.
- ✧ Grocery Store, greater than 3,000 sq. ft.
- ✧ Hardware Store, greater than 3,000 sq. ft.
- ✧ Home Furnishings/Decor, greater than 3,000 sq. ft.
- ✧ Fitness Center/Gym.
- ✧ Live Theater.
- ✧ Fast Food Establishment.
- ✧ Yacht Sales and Charters (no display).
- ✧ Dry cleaning establishment.
- ✧ Funeral home.
- ✧ Medical Office.
- ✧ Daycare facility.

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- ❖ Boatyard, including sales, rentals, storage and repairs.
  - ❖ Commercial fishing charter.
  - ❖ Marina.
  - ❖ Communication Tower/Antenna.
  - ❖ Communication Tower Exchange, as accessory to a communication tower/antenna.

In an effort to provide flexibility to property owners within the proposed office district, while office uses are encouraged to be developed in within the OD District, it is recommended that a number of retail alternative uses may be permitted subject to Special Exception. The following is a draft/preliminary listing of those retail uses that are recommended to be included as Special Exception Uses within the proposed Office District:

- ❖ Retail-Bicycles.
- ❖ Retail-Clothing.
- ❖ Retail-Computers & Electronics.
- ❖ Retail-Flowers.
- ❖ Retail-Garden Supply Store.
- ❖ Retail-Grocery Store, less than 3,000 sq. ft..
- ❖ Retail-Hardware Store, less than 3,000 sq. ft..
- ❖ Retail-Home Furnishings/Decor, less than 3,000 sq. ft..
- ❖ Retail-Liquor Store.
- ❖ Retail-Specialty Food: Seafood, Meat, etc.
- ❖ Retail-Sporting Goods.
- ❖ Retail-Video Tape and Disc Rental.
- ❖ Bar/Tavern.
- ❖ Fast Food Establishment.
- ❖ Ice Cream Parlor

Once a final listing of proposed special exception uses is developed, they should be assessed against the General Standards which are presently contained in Section 55-13.3 of the Zoning Ordinance. Each of these uses should be evaluated to determine which simply can be accommodated using the General Standards outlined in Section 55-13.3, or whether they require special attention with the development of specific guidelines for consideration of a special exception approval.

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**Recommendation No. 7. Create a new and more detailed Table of Uses for all of the zoning districts within the Inc. Village of Sag Harbor, and tie those uses to a standardized classification to allow for a more uniform understanding of a definition of uses.**

A new Table of Uses has been prepared to reflect what is recommended for the Village Business (VB) District. This table of uses now tabulates all of the permitted, special exception and prohibited uses in all of the proposed zoning districts for the Village. This table also breaks down general categories of “retail” and “office” into specific, particular uses, and also assigns values to each use as found in the 2007 United States Edition of the North American Industry Classification System (NAICS), published by the Executive Office of the President, Office of Management and Budget. This industry classification allows for a more uniform understanding of what is classified as a “use”. It replaces the previous Standard Industrial Classification (SIC) Code that is predominant in many zoning ordinances.

**Recommendation No. 8. Shift the review of Special Exception applications from the Zoning Board of Appeals to the Planning Board.**

At the present time, Section 55-13.1 of the Zoning Code delegates the authority for the review of Special Exception applications to the Sag Harbor Zoning Board of Appeals. It is recommended that the process be modified to transfer the authority of this review process to the Planning Board.

In every instance, the development of a special exception use requires the submission of a Site Plan application. At the present time, an application for a special exception use requires filings before two separate agencies - the Zoning Board of Appeals and the Planning Board. As the Planning Board typically has responsibility of reviewing the site specific requirements (for example, the adequacy of the site to support the project, the sufficiency of the proposed parking, the method and design of the sanitary waste disposal, proposed drainage improvements, the curb cut design, etc.) it seems appropriate to allow the review of these specific standards to occur during the simultaneous review of the Site Plan application.

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It is recommended that the procedure remain similar - the requirement that a public hearing be held for any Special Exception application, and the notification of neighboring property owners, so that the public has the opportunity to be heard on the matter. By putting the matter before a single agency, it would:

1. Allow for better resolution of issues, as site planning and special exception considerations would be considered simultaneously, allowing a project plan to be modified after consultation with one agency vs. two.
2. Allow for a more timely review of applications
3. Allow for more informal dialogue with an applicant to resolve issues that may surround a special exception criteria.
4. Allow for a combined hearing process, eliminating the need for the public to attend multiple agency meetings/hearings, and allow for a single agency (the Planning Board) to respond to queries regarding the project in the process where most of the information is collected.



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**Recommendation No. 9.** To encourage and support the local “small-town feel” of the commercial shopping district and maintain a diversity of shopping opportunities, it is recommended that the Village establish a maximum gross floor area (GFA) for any individual use of commercial space.

Part of the appeal of the Sag Harbor commercial district is the historical character/feel of the area, the walkability, and small size/scale of the commercial uses within the district. Its proximity to the waterfront (Long Wharf ) and its history as a seaport, add to the desirability of this area as a commercial destination. However, it is believed that in large measure, the size of the commercial spaces, as is expressed in the large diversity of uses found within the Village, is engine for the Sag Harbor commercial district.

When examining the 309,673 square feet of first floor commercial space, it breaks down into 160 individual uses, or an average of approximately 1,935 square feet per use. In contract, the KIMCO Shopping Plaza, which does not evoke the same type of shopping experience as Sag Harbor, has 288,000 square feet of space, contained within 39 stores, or 7,384 square feet per use - a vast difference to what



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occurs in the Village.

There is a significant range in the size of uses, from 280 sq. ft. (Australian Femininity) to 14,960 sq. ft. (Sag Harbor Gym). A few of the uses found within the core district require more space than others due to the nature of their use - for example the Emporium Hardware (at 8,224 sq. ft.), or Schiavoni's Food Market (at 7,530 sq. ft.). However, in general the size and diversity of the uses is what maintains the vibrancy of Sag Harbor's commercial district. Accordingly, it is recommended that the Village establish limitations on the maximum size limits for general category of uses.

Maintaining a maximum size of a use or space will protect the Village's diversity. In assessing a restriction on size, a calculation of what exists has been undertaken:

- ▶ The 160 existing uses on the first floor in the existing Village Business District occupy 309,673 sq. ft. of gross floor area. The range in unit sizes is from 280 sq. ft. to 14,960 sq. ft.. This averages to 1,935 sq. ft. per use, with a median value of 1,394 sq. ft.
- ▶ In assessing only retail uses, the existing 65 first floor retail spaces that occupy the 131,499 gross sq. ft. in the existing district average 2,023 sq. ft. in size per use. The median value (50% larger, and 50% smaller) is 1,439 sq. ft.
- ▶ In assessing other commercial uses (which includes uses such as art galleries, food services, fitness centers/gyms, live and motion picture theaters, and hotels), the existing 50 first floor retail spaces occupy 112,353 sq. ft. of space, averaging 2,247 sq. ft. The median value of 1,439 sq. ft., with a dramatic range - - from 291 sq. ft. to 14,960 sq. ft.

It is recommended that the Village establish in general, a maximum size for any space or use within the proposed Village Business District to be no larger than 2,000 sq. ft. In addition, it is recommended that special provisions be designed so as to permit, where the circumstances are deemed appropriate, the expansion of these commercial spaces to a maximum of 3,000 sq. ft. (a fifty percent expansion).

Establishing such a limitation would help protect the existing character of the Village by maintaining the availability for the significant diversity that exists, yet allow existing establishments to have some room to grow, but in a controlled way that does not diminish the diversity of the commercial district. Approval for such

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an expansion would take place through the Site Plan process. Any use that seeks to be larger than 3,000 sq. ft. would require a variance from the Zoning Board of Appeals.

It is recommended that a site plan process should be simplified for a change-of-use when such a change simply causes one existing use to be replaced with a different use that has the same dimensional components (e.g. floor area, parking, sanitary waste loading, architectural elements, etc.).

In establishing a maximum size restriction, it is recommended that attention be given to several important uses that require larger gross floor area simply based upon the types of goods sold - particularly the hardware store, grocery/food market and home furnishings. It is recommended that the size limits for these particular uses (that are essential to a commercial district that serve the local community) be increased to a larger permitted square footage. It is also recommended that these uses have larger maximum GFA requirement per business, and also have the ability to expand to greater than 3,000 sq. ft. by a Special Exception approval.

There is some risk in establishing size limits greater than what occurs in the Village at present - however it is believed to be appropriate to provide a balance in terms of one of the principal objectives - maintaining a larger number of smaller stores - with the needs of the business owners/operators. If the past history of the



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utilization of commercial space within the Village is a reflection on the future usage of the individual spaces within the Village, the establishment of a maximum size should not cause overwhelming concerns.

**Recommendation No. 10. In order to further encourage small shops to exist and to maintain the diversity in the stores within the Village, it is recommended that the Village establish a maximum street or store frontage requirement for each use within the core commercial district.**

The Village of Sag Harbor has a well-defined commercial district, that is completely developed in terms of buildings along the street frontage. The 129 commercial shops that occupy the first floor of Main Street (within the proposed Village Business District) are confined to a finite area. While redevelopment may occur on a handful of parcels, there are no vacant privately-owned lots that can accommodate significant development or construction in the Village Business District.

Maintaining diversity (the type and number) of shopping opportunities will foster the foot traffic that is necessary for a vibrant commercial district. To as great an extent possible, it is appropriate to maximize the number of shopping opportunities . . . thereby encouraging the diversity of shopping opportunities. Limiting street frontage for commercial spaces would prevent the merger of buildings and spaces to create larger retail spaces that would otherwise reduce diversity in the Village.

A field inventory of the frontages of commercial space along Main Street and Madison Street was undertaken in the Village of Sag Harbor. It was found that of the 74 storefronts measured, the range in frontages was from a minimum of 7.83 feet (Marty's Barber Shop), to a maximum of 56.33 feet (Suffolk County National Bank). The average frontage was 22.23 feet, and the median value was 18.83 feet.

A number of stores have larger frontages - the six largest include:

- ▶ Fishers Furniture: 59.83 feet
- ▶ Suffolk County National Bank: 56.33 feet
- ▶ Schiavoni's Market: 56.25 feet
- ▶ Sag Harbor Variety Store: 50.00 feet
- ▶ Apple Bank: 47.17 feet

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- ▶ American Hotel: 45.50 feet

In contrast, a number of stores are able to operate with minimal frontage:

- ▶ Marty's Barber Shop: 7.83 feet
- ▶ Island Surf: 9.92 feet
- ▶ Yeisley Jewelers: 10.00 feet
- ▶ Satori: 10.83 feet
- ▶ Black Cat Books: 11.17 feet

It is recommended that the Village consider adopting a maximum frontage requirement per use, so as to simultaneously allow for the expansion of existing uses/storefronts, but control to a degree the potential for a significant reduction in number of shops or stores within the Village Business District. Based upon the field research undertaken, it is recommended that a maximum frontage requirement be established in the neighborhood of 50 feet.

**Recommendation No. 11. Develop regulations which encourage the development of a certain number of accessory apartments within the Village. These apartments should be as part of residential structures as well as within the second floor (and above) of commercial buildings within the Village Business District (VB). Encourage accessory apartments to be affordable.**

It is evident that housing at "affordable" levels within the community is often difficult to find. The second floor and third floor space within the Village Business District represents a significant opportunity to establish residential apartments/opportunities.

At present, 36 apartments are found on the second floor of buildings within the Village Business District, and 15 are found on the third floor. These 51 apartments comprise approximately 67,716 gross square feet. On average, they occupy approximately 1,328 sq. ft. per apartment. It is important to protect these apartment/residential opportunities from conversion to non-residential uses - to keep a "mixed use" community within the Village - the varied commercial spaces with residential uses overtop.

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In addition, due to the housing issues facing the community it is recommended that the Village seek to establish an accessory apartment regulation that encourages the establishment of a limited number of accessory apartments, and create incentives to encourage property owners to pursue such an accessory use, and standards under which they could be developed, occupied and maintained as affordable to prospective tenants.

**Recommendation No. 12.** Develop a provision which will permit the development of offices on second floor of a structure where such office is accessory to a first floor commercial use, and establish a maximum gross floor area (GFA) for such an accessory office.

It is expected that in some limited instances, owners or tenants of a first floor store or shop within the Village Business District will require office space to operate their retail/commercial operations. It would be a burden to business owners not to have the ability to maintain office uses in immediate proximity to their commercial uses, and force their business operations to shift to buildings off-site within the proposed Office District.

While second floor (and above) space is recommended to be limited to prevent its use for offices and/or retail space, it is recommended that in the instance where a second floor office use is an accessory use to the first floor retail/commercial use, such second floor office would be a considered a permitted use.



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**Recommendation No. 13. Examine developing provisions which permit on a limited basis the establishment of seasonal outdoor seating for restaurant uses located within the Village Business District (VB).**

The night-life within the Village during the summer months has benefitted from the limited opportunities for visitors to enjoy outdoor dining opportunities. In fact, other communities - Southampton Village, for example - have attempted to emulate the positive experiences Sag Harbor has had with the outdoor dining, through adoption of legislation. In June of 2005, the Village Board of Trustees held a public hearing to amend Section 95-8 of the Village Code regarding the use of the Village sidewalk to permit outdoor sidewalk dining (including service of alcoholic beverages at a sidewalk dining area, in accordance with regulations to be established by the Board of Trustees. The Board of Trustees adopted the amendment, permitting the Village Clerk to grant a license to an existing licensed restaurant to be able to use the sidewalk for outdoor dining. The following is a synopsis of the requirements adopted by the Village of Southampton for outdoor dining:

- A. The business lawfully serve food for consumption on the business premises at indoor dining seats.
- B. The business must be located in the building which is adjacent to or in close proximity to a Village sidewalk.
- C. The sidewalk dining area shall be located in front of the building occupied by the licenced business, and not extend more than 6 feet from the front of the building. The dining area shall not extend beyond the width of the building.
- D. The dining area shall be located so as to assure adequate space on the Village sidewalk for pedestrians utilizing the Village sidewalk. An unobstructed sidewalk width of at least 6 feet shall be maintained for pedestrian use of the Village sidewalk.
- E. The sidewalk dining area shall be open to the sky (except that it may be covered with a retractable awning).

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- F. The sidewalk dining area shall not be enclosed. No fencing, railing or similar barriers shall be utilized to delineate the sidewalk dining area. The sidewalk dining area may be delineated by utilizing velvet ropes. No objects shall be placed on the sidewalk dining area other than movable tables and chairs.
  - G. The sidewalk dining area shall contain movable tables and chairs.
  - H. The number of outdoor dining seats shall not exceed 20% of the number of indoor dining seats lawfully provided by the licenced business. When outdoor dining seats are provided, the number of indoor dining seats shall be correspondingly be reduced.
  - I. The permitted hours of operation of a sidewalk dining area shall be from 7:00 a.m. to midnight (12:00 a.m.) Tables and chairs must be removed from the sidewalk by midnight and may not be placed on the sidewalk prior to 7:00 a.m. Tables and chairs must be removed from the sidewalk during inclement weather.
  - J. The licenced business shall be responsible for trash removal and shall maintain the dining area and surrounding 5 feet in a clean and litter free manner.
  - K. All exits and egress from the business premises shall be maintained and not obstructed.
  - L. The licenced business shall indemnify the Village against any claims, damage or loss related to the use, operation and maintenance of the sidewalk dining area, and shall maintain a comprehensive public liability policy in a form satisfactory to the Village.
  - M. The Village reserves the right to suspend the licence if the rules are violated.

The Village Trustees should evaluate these standards and consider developing similar provisions, adjusting same as necessary to reflect the sidewalk conditions found in Sag Harbor, which would permit the creation of seasonal sidewalk dining areas.

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**Recommendation No. 14. Consider amending the Zoning Code to provide substantive changes to the regulations related to apartment buildings, motels and multiple family dwellings, to bring the proposed density and size limits into a standard consistent with prevailing current norms.**

In recent years, the Village of Sag Harbor has experienced several applications for the conversion of non-residential uses to apartment buildings. The redevelopment of the Bulova Watchcase Factory property on Division Street, the elimination of Rocco's Nightclub on Long Island Avenue and its replacement with a residential apartment building, and the proposed re-development of the property located adjacent to the NYS Route 114 bridge leading to North Haven have all increased public awareness and concern about larger-scale development pressures and the need to appropriately manage new development. Density allowances ostensibly permitted under the current provisions of Chapter 55 are so high and so unrealistic that development plans are scaled back by developers on their own motion to numbers sometimes not even 50 percent of yields allowed on paper. In short, the allowable density should be realistic and should be within a framework consistent with the expectations of owners, neighbors, regulatory agencies and the community. No person reasonably appears to be urging a different outcome, except if motivated solely by self interest, a form of motivation alien to any form of proper planning.

At the present time, the Zoning Code permits residential uses in the non-residential zones as follows<sup>1</sup>:

- ▶ In the Multi-Family (MF) District, multiple dwellings and clustered one family attached dwelling development in MF District - based upon a density of one unit per 7,250 sq. ft.
- ▶ In the Resort Motel (RM) District, resort motels are permitted at a maximum density of 35 units per acre. Note that these units may not be dwelling units.
- ▶ In the Village Business (VB) District, apartment buildings are allowed as a special exception use with a maximum density of 34.8 units per acre.

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<sup>1</sup>Not including any pre-existing non-conforming single family residences.

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Applications to the Village have sought to use ownership distinctions to fit within use categories in an effort to achieve higher densities. Residential units have been characterized as “individually-owned apartment units”, vs. multiple dwellings or clustered one family attached dwellings, so as to become an allowed (by special exception) use in the Village Business District. In doing so, densities have been increased above what may have been contemplated with the current restrictions were considered for multiple dwellings - - 7,250 sq. ft. of lot are per dwelling unit, or six units per acre.

To determine whether Sag Harbor’s densities are consistent with other communities on the East End who also face the same difficulties of development pressures and the protection of community character, other nearby zoning codes were examined. The following is a summary of five nearby municipalities, and the densities that they permit for similar uses:

- ▶ Southampton Village permits densities as high as six units per 40,000 sq. ft. of lot area as part of a Multi-Family Planned Residential Development District (MFPRD), a specially established district only after petition to the Village Board of Trustees.
- ▶ Southampton Town allows one unit per 11,000 sq. ft in the Multi-Family (MF-44) District, one unit per 5,500 sq. ft. in the Senior Citizens (SC-44) District, and one unit per 11,000 sq. ft. in the Multi-Family Planned Residential Development District (MFPRD).
- ▶ East Hampton Village does not permit attached residential development projects, hotels nor motels.
- ▶ East Hampton Town allows densities as high as 12 units per acre for Transient Hotel Units (one per 3,630 sq. ft.) and 6 units per acre for resort motel or multiple dwelling type uses (one unit per 7,260 sq. ft.)
- ▶ Village of Westhampton Beach allows a density of six units per acre in all districts except the Business 1 District, in which a density of eight units per acre is permitted. These density figures have been changed from a prior standard that allowed as many as 12 efficiency apartments in the Hotel District, 10 one bedroom units in the Multi-Family and Hotel Districts, and eight two bedroom units in the Multi-Family and Hotel Districts.

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Stated differently, even the highest prior guidelines or standards used by other municipalities with similar land use features as the Village of Sag Harbor are at numbers equaling approximately 25 percent of the allowable paper yield or density under the current provisions of Chapter 55. Further, the density calculations for the Village of Sag Harbor for multi-family or apartment uses are without a doubt out of date and in need of revision for a considerable period of time.

The substantially higher densities permitted in Village of Sag Harbor impact the flexibility of creative and appropriate site designs, cause higher land usage (increase in parking, for example), and have the potential for creating buildings that are perceived to be out of scale with the surrounding development, and with the Village's desire to protect the historic small-scale character of the community.

While it is clear that the Sag Harbor community as a whole is different than the other five communities examined, it is believed that the development pressures experienced elsewhere have found Sag Harbor as a place of opportunity. Thus, to prevent the limited properties which have development potential from being overdeveloped, it is recommended that the Village consider the following.

The Village should consider modifications to the zoning code that would:

- ▶ Significantly reduce the allowable/permitted densities for motels and apartments, to be more in keeping with the other east end communities.
- ▶ Establish minimum and maximum floor area requirements, to prevent units from either being too larger to too small, creating structures that are out of character with the community.
- ▶ Distinguish between density allowed for transient motel units without cooking accommodations and apartments which have full living accommodations, say allow a density for this type of motel unit on a per acre basis of approximately 100 percent greater yield than an apartment with full living accommodations, in the process enabling a favorable and beneficial continued development of tourism within the commercial area of the Village.
- ▶ Redefine the dimensional regulations and provisions that govern these types of developments - for example, parking (as discussed in

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(Recommendation No. 15) setbacks, lot coverage, landscape requirements, all which affect how a development project compatibly fits onto a project site, and into the context of the surrounding area.

**Recommendation No. 15. Evaluate and adjust the Village parking requirements as appropriate to reflect appropriate parking to meet the needs of particular uses. In addition, it is recommended that the Parking Trust Fund provisions of the Zoning Code be evaluated to determine whether they are appropriate.**

At the present time, a schedule for off-street parking is contained in Section 55-11.6C of the Village Zoning Ordinance. It identifies parking for residential as well as non-residential uses. While the schedule identifies twenty-four different uses for which specific requirements are established, for the commercial district there are really only a few that are applicable: parking for retail stores and for offices.

Retail stores and offices have parking space requirements that are equivalent to each other - one parking space per two hundred square feet of gross floor area. This parking requirement appears to be generally consistent with the literature available which examines parking demand.

In their report entitled Parking Generation (3<sup>rd</sup> Edition) the Institute of Transportation Engineers (a nationally-recognized organization which supplies trip generation and parking information) identifies particular land uses, and assesses parking demands, to allow for them to develop guidelines for parking requirements. Among many others, they've evaluated shopping centers, retail stores (such as apparel, furniture and hardware), and office buildings. There appears to be great variability in parking demand, based upon the size and type of the use.

In a manner of speaking, shopping centers could be considered like a downtown area as they reflect a diversity of stores that attract shoppers. Peak parking demands for shopping centers is estimated at 4.45 spaces per 1,000 sq. ft. (based upon an assessment of 47 individual sites throughout the United States, having an average size of 593,000 sq. ft.). This equates to 1 space for every 224 sq. ft. - similar to the current Village Code requirements of 1 space per 200 sq. ft..

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The American Planning Association Planners Advisory Service Report No. 510/511 entitled Parking Standards (November 2002) provides additional data regarding parking standards in different communities throughout the United States. For example, parking for clothing retail stores ranges from one space per 200 sq. ft. to one space per 350 sq. ft.. Parking requirements for an art gallery ranges from one space per 250 sq. ft. to one space per 500 sq. ft. For general retail uses, the range extends from 1 space per 175 sq. ft. To one space per 300 sq. ft.

While one might make an argument for relaxing the parking simply based upon data from studies, from a practical perspective, the need for parking is evident. However, given the extent of the built environment of the Village, the increase the square footage standard for commercial uses would likely not cause any measurable increase in the inventory of available parking.

The concept of shared-use parking is evident in Sag Harbor. It is expected that a fair amount of the individuals visiting Sag Harbor are not destination-driven (to a particular store), but use the parking to visit and shop at more than one location.

In very rough terms, with an estimated 310,766 sq. ft. contained only the first floor of the existing Village Business District, to meet the demand for parking would require 1,387 spaces (based upon the demand of 1 space per 224 sq. ft. of gross floor area, not including anything above the first floor). A 2007 inventory of the parking in the Village found approximately 1,328 spaces, of which 841 spaces are on private property and 487 spaces are publicly supplied. In total, this represents about 1 space per 234 sq. ft. - slightly over what the parking demand studies predict, and what the Code requires. If you subtract out the publicly-supplied parking, the parking provided in the village represents about 1 space per 370 sq. ft. (Again, these figures do not include anything above the first floor.) As is obvious to the casual observer during a warm summer evening, the Village has a lack of available parking.

While the parking requirements are generally appropriate, the Village clearly lacks parking. The availability of parking within the Village of Sag Harbor is essential to the vitality of the commercial district. Over the years, the Village has periodically examined the opportunities for the expansion of parking, and found that with the current land use patterns, the options to easily expand the number of parking spaces within the Village core area is limited, at best. The Village must be rigorous in the review of applications where construction requires additional parking, and make significant efforts to expand the parking base in the commercial

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district.

One such opportunity for that is pending is the potential to conclude an agreement with Keyspan, to establish public parking on their property located north of Long Island Avenue, and east of Bridge Street, once the environmental cleanup is concluded on the property.

Applications for “apartments” have been of particular concern regarding their parking demands and the Code requirements, often causing conflict between an applicant and the Village.

Section 55-11.6C lists the schedule of off-street parking space requirements for residential and non-residential uses. The residential parking requirements are as follows:

- ✧ One and two family dwelling: 2 per dwelling unit plus 1 per bedroom over 3.
- ✧ Multiple dwelling: 2 per dwelling unit plus ½ additional space for each bedroom in excess of 1 per dwelling.
- ✧ Congregate dwelling or multiple dwelling for senior citizens: 1 ½ per household or dwelling unit.
- ✧ Residential membership club or fraternity: 1 per residence unit plus 1 per each 2 employees on premises at one time.
- ✧ Accessory apartments in the VB Village Business District: 1 per dwelling unit, plus 1 per bedroom over 3.
- ✧ Accessory apartment: 1 per accessory apartment plus 1 per bedroom over 3.
- ✧ Apartment building in the VB Village Business District: 1 per dwelling unit.

There is a clear disparity in the parking requirements as identified above. It is recommended that the Village consider the following for parking requirements for the residential uses in the Village:

- ✧ One and two family dwellings: 2 spaces per dwelling, plus 1 space for each additional bedroom in excess of 3 bedrooms.
- ✧ Multiple dwellings and apartments: 1.5 spaces per efficiency unit; 1.75 spaces per 1 bedroom unit; 2 spaces per 2 bedroom unit; 2.5 spaces per

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units with 3 bedrooms or more.

- ❖ Accessory Apartments: 1 per accessory apartment and 1 space per bedroom in excess of 2 bedrooms.

At the present time, the Village has collected approximately \$213,000 in fees associated with variance applications for which applicants have been required to pay funds into the Village Parking Trust Fund in exchange for receipt of a variance. The Village has used this fund in prior years for improvements to property received or already owned to increase parking (paving, lighting, etc.), however it does not appear that the Fund has been used for land acquisition to increase parking. At the present time, the fee established by the Board of Trustees is \$7,300.00 per space.

In order to ensure that the demand for parking does not overwhelm the Village anymore than it already does, it is recommended that the Village undertake three specific actions:



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- ✧ Increase the standards for the issuance of a parking variance, to minimize the extent to which parking variances are granted (thus not putting additional stress on the existing parking conditions of the Village).
  - ✧ Review the Parking Trust Fund fees and adjust them as deemed appropriate, to allow the fee to be commensurate with the cost of land and development of parking if such an endeavor were to be undertaken.
  - ✧ Revise the parking standards for residential uses - particularly apartments, to be consistent with the type of demands these uses bring.

**Recommendation No. 16. Create a process which appropriately deals with the issues related to an “Change-of-Use” for properties within the Village as a whole, and more particularly within the Village Business District (VB).**

At the present time, the Village Code requires that a change of use submit an application to the Planning Board for review and approval. However, the uses within the current Code are poorly defined, thereby allowing some changes to occur without benefit of any review and approval.

It is important to ensure commerce continues, and when the change is innocuous, the change of use be given a speedy review and approval. When the change-of-use involves something more substantial, where parking calculations, building changes, or use categories change (from a permitted to a special exception use), the application should be reviewed more thoroughly by the Village.

Different uses have different impacts or issues associated with them. While it is not expected nor recommended that changes within the same use categories would require such an approval (say, for example, a clothing store to a different clothing store), it is recommended that changes to different categories would be required to go through the process.

For example, restaurants and food service have different sanitary flow and parking requirements than dry goods retail. Convenience stores may have different parking demands and hours of operation than typical retail spaces or restaurant spaces.

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It is recommended that an expedited review process be developed whereby a change of use for an interior space which does not change any of the elemental requirements (square footage, parking, sanitary, building facade, etc.) could receive an expedited review. All other change of use applications would be processed through a typical Site Plan application process to ensure compliance with the Village regulations.

**Recommendation No. 17. Modify the Site Plan Review process to make the pre-application review process one of the required steps (so it is no longer optional).**

In general, the objective of a proper site plan review process is to ensure that development proposals meet a municipality's development policies and their regulations. The review process also allows for the regulatory agency to examine the proposal against what are the community's commonly-accepted design practices. With a properly implemented site plan review process, the local community will have an opportunity to review the proposal, and offer comments regarding the development proposal above and beyond the strict interpretation of the regulations - - often helping to assess how a project will fit within the community.

The site plan review process for the Village of Sag Harbor is currently outlined in Article XVI of the Zoning Code. Other than for one and two family dwellings, any construction project that requires a building permit is required to go through the site plan review. The process is administered by the Sag Harbor Planning Board.

Public involvement is critical to ensure that Board is aware of concerns of the community toward a particular development proposal. While all proceedings of the Planning Board are public, work sessions do not include entertaining public comment. The Planning Board has the sole discretion to determine whether a public hearing is necessary on any matter, and if it is determined to do so, one is required to be scheduled within 62 days of the date the application is determined to be complete.

It is recommended that to aid in the early identification of issues and/or comments regarding a development proposal, applicants be required to submit a pre-