

# Long Island BusinessNEWS

JULY 28-AUGUST 3, 2017 | VOL. 64 | NO. 30 | \$2.00 | LIBN.COM



**CHANGING TIMES:** Experts in real estate discuss development with Long Island Business News Managing Editor Joe Dowd.

# ARRESTED DEVELOPMENT?

After years of defeating development, could LI be the 'Land of No' no longer?

By **CLAUDE SOLNIK**

Long Island has long been a tapestry of small towns from Manhasset to Montauk, with local regulations that seem designed to help keep each town's local feel.

But for developers, this patchwork of municipalities with local regulations and zoning can create a labyrinthine process, making Long Island one of the more difficult regions to develop.

Long Island's development future was the topic of a recent Long Island Business News Thought-Leadership Roundtable. During the two-hour-long session local experts discussed a wide range of issues and opportunities confronting regional projects. The roundtable was moderated by LIBN Editor Joe Dowd.

The consensus in the conversation was that construction is difficult everywhere, but Long Island has developed a reputation as a kind of "Land of No" where projects can take decades – or simply die on paper. It's a fragmented process where the "nays" often have it, dominating meetings and defeating projects, the experts said.

That, though, may be changing as big projects move forward after long delays. The Heartland Town Square project is moving ahead in Brentwood, Country Pointe at Plainview is being built and a \$1.9 billion third track on the Long Island Rail Road's Main Line is slated to begin construction.

Even Gov. Andrew Cuomo recently proclaimed that Long Island was heading into development mode: "Many said we couldn't do it. They were talking about it for 70 years. We tried. This is Long Island," Cuomo said last week of the recently approved LIRR third track. "Long Island is the home of NIMBY. It's

never going to happen. It's impossible."

Cuomo described the third track as an example of a project that would finally move forward on Long Island, despite opposition.

Long Island itself may be taking a little bit of the "NY" out of NIMBY. But the region remains a complex place for developers, due to many factors still in place.

## Thinking local

While many on Long Island like the status quo, others say change is essential to any region. Long Island's myriad towns and villages' planning departments, building departments and boards of zoning, however, make the area a gauntlet for projects.

"There are a lot of developers. They don't make their business in one town. They go from town to town. Every one's different. Everyone's a different personality," said Nicholas Strachovsky, executive vice president at KOW building consultants, in Smithtown. "There's no efficiency on Long Island. There's no communication between municipalities."

At LIBN's roundtable, Strachovsky said county-wide or more consistent rules across municipalities could make things easier and more transparent, letting firms say, "This is how I can plan my business."

"Our land use process needs significant improvement across Long Island," said Anthony Guardino, a partner at Farrell Fritz, based in Uniondale. "That's frustrating a lot of developers and we're losing a lot of opportunities."

Guardino said developers from outside the region often are daunted by an expensive, uncertain process full of layers of approval.



**HEARTLAND TOWN SQUARE:** After 15 years, the Town of Islip is moving this new development forward.

"Some people will build other places," Guardino added. "People who come from other parts of the country put their toe in and say, 'I'm out of here.'"

He said even though the same state laws apply, communities apply them differently, leading to different rules of the game in every community.

RXR, Strachovsky said, has cash on hand after selling some properties, but can't find enough projects to redeploy all of it.

"There's a lot of development funds sitting on the sidelines," Strachovsky said. "They can't get going fast enough."

## Doing the "as of right" thing

While the words "as of right" often make developers expect a cakewalk, that can be misleading on Long Island. If an area is zoned for a use as of right, projects still must pass muster at a wide range of boards and commissions.

"In some places, as of right is as of right," Guardino said. "If the use is permitted, go straight to permitting."

In Brookhaven, for instance,

Guardino said, projects that appear as of right often require a long approval process.

"Commercial development almost never is as of right," he said, noting residential in Brookhaven can be far easier. "Commercial typically requires site plans across the board."

Making more projects truly "as of right" could speed them, but also would mean municipalities cede some control.

"The only way to change some of this is to change the zoning so you have more as of right," Strachovsky said. "A lot of people get involved in this and they end up failing."

To succeed in developing, Strachovsky said "you've got to put the right team together" to understand and navigate rules.

Without that, firms can spend many thousands of dollars planning a project, before a town shoots it down.

Strachovsky said he'd like to see "some continuity across municipalities" in terms of density, height, "how much you can build in a certain area" and how as of right is treated.





**NEW DEVELOPMENTS:** Nicholas Strachovsky and Anthony Guardino discuss land use on Long Island with LIBN's Joe Dowd.

### The right place

If location is key in real estate, that's also true in construction. Guardino said developers "have to pick the right community," since "political will" is the most important ingredient to development. Communities such as Patchogue, Farmingdale and Mineola have developed a reputation as being more friendly to development.

"You can go here, touch and feel it," Guardino said of development. "All the things people thought might happen haven't happened. It makes a big difference." He added that "everybody wants to be" Mayor Paul Pontieri in Patchogue. "Everybody sees what he has done," Guardino said. "His downtown 20 years ago was a disaster. Today, it's terrific. We get stuff done in Farmingdale. In other areas, there's pushback."

Elissa Kyle, sustainability director for Northport-based Vision Long Island, said Pontieri frequently says, "We'll figure it out," an approach designed to move things forward rather than defeat development.

Mineola also is getting a reputation as supporting some development rather than automatically blocking projects. "Mineola is allowing density around the train station," Guardino said.

"In the right village, it can go more smoothly," Kyle said. "The village board will sit down and work with you. We're willing to give here, change this and get a little more upfront."

Strachovsky said other communities could adopt a similar approach. "Maybe it will open up more opportunity," he said. "Long Island is a gold mine with more opportunity."

The Village Square Project, with nearly 150 additional apartment units, is moving ahead in Glen Cove, where Garvies Point, another project, also is moving ahead.

"We have a mayor who's on board, a city council supportive of the development," Guardino said.

### The right size

Strachovsky sees development as essential to any region, keeping it up to pace and providing options and opportunities. "Young people don't want to come back here, because they're not finding affordable housing with stores right around them," Strachovsky said.

But if projects can end up mired in process, Kyle said part of the problem may be the right scale. Developers often want to think big, hoping to bring in big profits, while mid-sized projects can be easier to win approvals.

"There's a whole host of potential items in between that are forgotten about," Kyle said. "The underlying zoning is usually very low density. It's pushing a big thing up a big hill."

She thinks developers might do better with smaller projects, easier to build and easier to approve with less impact, if less income.

"Maybe if we could allow lots of little projects to happen," Kyle said. "There might be less opposition for six units in someplace than 60 units. It provides opportunities for different developers. It could be the small guy who lives down the street."



Photo by Bob Giglione

**NEW VILLAGE AT PATCHOGUE:** This mixed use development has helped revive downtown Patchogue.

### The right rent

Rentals are getting financing, providing a growing development option for Long Island. But there is a double edged sword there.

"Rentals apparently are what can be financed today. Lenders are interested in rentals," Guardino added. "The supply is so low, the demand is so high. It's very easy to finance rentals."

Younger people often look for rentals, viewing a house not as an asset, but a liability. So there is a wave of interest in these projects.

AvalonBay in Huntington Station is mostly rental, Garvies Point in Glen Cove will be half rental and The Jefferson in Farmingdale is all rental.

But rental projects often meet rigorous resistance: Blue Island Development and Harbor Isle in Island Park in the Town of Hempstead wanted to develop condominiums with Avalon Bay. The project was blocked when it sought to do rentals, Guardino said. "The town board said no and denied our application," he continued.

The courts ruled that zoning, which focuses on land use, can't distinguish between condominiums and rentals.

"Right now the developer is gearing up again to consider going forward with the rental units," Guardino said.

Although rentals often run into opposition, Guardino said firms that own properties typically do a good job overseeing them.

"A company like Avalon goes in. They keep the properties," Guardino said. "The properties will be maintained better than if they were individually owned."

Development may be on the horizon for some specific regions. Hicksville could provide opportunity for developers, as the downtown is looked at through a new lens.

"They understand development by the train station makes sense," Kyle said. "We're looking at ways to get development there and allow the code to facilitate the right development."

Strachovsky, however, said a project can take six to eight years "from conception to completion," which itself can cause other problems.

"By the time you're done with it," Strachovsky said, "the area may change."

## BUILDERS WORKING FOR APPROVALS BY ADDING AMENITIES

After developers propose projects, they increasingly are agreeing to help improve the community beyond their construction in return for the right to build bigger.

Municipalities often ask developers to provide community benefits, such as soccer fields, band shells, baseball fields and simply cash the community can use in return for the right to build taller or denser projects than otherwise allowed.

"It could be any community benefit or cash," said Anthony Guardino, a partner at Farrell Fritz, based in Uniondale. "The benefit could be parks, affordable housing, any type of infrastructure improvement."

Guardino said these can include "streetscape" improvements for downtowns or even sewers in return for density or height regulation exemptions, such as increased floor area ratio.

"They're paying for the incremental difference in the zoning," Guardino said. "They're buying some additional density. It could be money. A lot of times it's a great community benefit."

Some see amenities as negotiating tools, while excessive demands can amount to a kind of blackmail, forcing developers to pay in order to play.

Arriving at a community benefit that pleases the community – and the developer – can complicate the negotiation, taking time.

"They provide the developer with additional development potential. Density is usually a big one," Guardino said of deals that can allow 30 instead of 20 units per acre in return for a community benefit the municipality would otherwise fund.

"It's a long process. There's a negotiation, a give and take," Guardino said. "Developers know that the way to get support is to buy support. The way they buy support is by giving back to the community, doing something they probably don't have to do by law."

Instead of building new Little League fields, an Islip developer invested in improving an existing one, which pleased the league itself.

"The Little League would prefer to lose a field and have them invest a lot of money to make the ones they have better," Guardino said. "That's how they negotiate."

In addition to funding and loans, municipalities today fund infrastructure through incentive zoning, he added.

In Mineola, for instance, a developer agreed to rebuild a bandshell in a park as part of a project, while in Brookhaven, amenities often go along with multi-family housing.

"Not only did it give us an opportunity to upgrade our tired infrastructure. It's also giving us an opportunity," Guardino said of one project. "We're not just replacing the infrastructure with what's there. We're upgrading the infrastructure. All kinds of benefits flow from it."

– CLAUDE SOLNIK