

Incentive Zoning – The Big Lie

The proposed Whole Foods Plaza has generated overwhelming public opposition to the negative effects this oversized project will have – primarily on traffic, and encroachment into a residential district. The Town Board has ignored the community to date.

This Project is simply too large for the location. Many of the negative effects that *will* result if this project is built could be avoided if the development were simply scaled down and built within standard zoning limits. Instead, the Town Board continues to allow the developer to use “incentive zoning” to supersize its plaza, which bypasses the traditional zoning approval process that would otherwise require compliance with density, setback, and other zoning limits — restrictions that exist to protect the community.

“Incentive zoning” permits a town, in its sole discretion, to relax zoning restrictions in exchange for the developer providing the community with benefits, such as new parkland, community services, affordable housing, or even cash payments. But Mr. Daniele’s proposed “amenities” are laughable. The “amenities” offered are merely mitigation measures the developer hopes will help reduce the negative impacts of this oversized Project that everyone knows will occur; and in any event the Town Board already has the power to require these mitigation measures under traditional zoning. So while a third-party analysis shows the incentive zoning value to Mr. Daniele would be an extra \$16 million in revenues, the community will get nothing (or less than nothing) in return. This is not how incentive zoning is supposed to work.

It is not too late to stop this from happening. Town Supervisor William Moehle has stated that the Town is required by law to allow this to proceed by Incentive Zoning, essentially that his hands are tied, and that the Town Board is powerless to stop this development from proceeding through the incentive zoning process. ***That is simply false. Incentive zoning is entirely discretionary under the law.*** At any time, the Town Board could simply send Mr. Daniele’s proposal back through the normal zoning process — a procedure with built-in safeguards designed to protect the residents of Brighton.

Given the intense opposition to the proposal and the discretionary nature of incentive zoning, why has the Town Board allowed this project to go so far down this road? More importantly, why would the Developer continue to expend time and money to support a project with so many glaring flaws that, in any other context, Brighton would never allow to proceed – unless the developer already had a behind the scenes “green light” from the Town. It is disheartening (though hardly surprising) that a powerful and connected local politician would be on the receiving end of such a sweetheart deal at the expense of the community.

But it does not have to be this way. Traditional zoning laws are in place for a reason. The Town Board should listen to the community. A recent independent poll showed 78% of the Brighton community is opposed to this oversized project as proposed, and in particular is opposed to Bill Moehle giving this Developer a special deal under incentive zoning. The Town Board should refuse to allow the incentive zoning process to be abused in this manner to the detriment of the community that it was elected to serve. The Town Board should immediately send this project through the normal zoning review process to ensure that the community is protected.