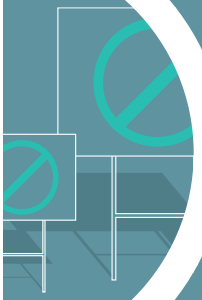
The Long Campaign

What it Takes to Build Apartments on **Long Island**

By Elizabeth Moore



LONG ISLAND **INDEX**

IN THE NATION'S FIRST SUBURB, living on top of its own drinking water, cultural resistance and regulatory barriers combine to make rental apartment approvals a long slog with an uncertain outcome.

After two decades of concerted effort here, a leading national developer concludes the process is "akin to running for office."

Foreword

Long Island's economy faces a major challenge, because the region does not offer the range of housing options that are attracting businesses and employees—especially young people—to nearby competing suburbs. The exodus of young people from Long Island is especially worrisome: according to the Long Island Index, Long Island's population between the ages of 18 and 34 dropped 16 percent from 1990 to 2014. On top of that, 72 percent of young Long Islanders say they are likely to leave the area by 2020.

The relative lack of affordable multifamily housing options, particularly in transit-oriented downtowns, is a significant part of the problem. Long Island has fewer rentals than our suburban neighbors (20% in Nassau County and 22% in Suffolk County vs. 37% in Northern New Jersey and 34% in New York's Westchester, Rockland, and Orange counties), and rents here are much higher ($1,709 for a one-bedroom, on average, in Nassau County and $1,470 in Suffolk County vs. $1,180 in Northern New Jersey and $1,376 in Westchester, Rockland, and Orange counties).

That begs the question: Why is it so much harder to build multifamily housing—whether rental, co-op, or condominium—on Long Island? To answer that question, the Long Island Index commissioned Elizabeth Moore, a former Newsday reporter, to explore the issue and report on it.

The case study that follows is the culmination of her reporting. It looks at the experience of one developer, AvalonBay Communities, Inc., an equity REIT (Real Estate Investment Trust) that has developed more than 250 residential communities across the United States—from California to Massachusetts, Washington to Texas. It has built 10 residential communities on Long Island in the past 25 years and developed others in New York City, Westchester and Rockland counties, Northern New Jersey, and Southern Connecticut.

The case study sheds valuable light on the problem on Long Island and, in the process, illuminates the path to a solution.

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BY LONG ISLAND STANDARDS, Rockville Centre is a development whirlwind these days, as AvalonBay Communities, Inc. begins construction on 165 new apartments, just two years after taking title to the property.

In that time, the luxury apartment developer navigated some nine public hearings before five different agencies and completed an inch-thick traffic study, an environmental assessment and a stormwater pollution prevention plan. After scaling back its proposal for 177 apartments and agreeing to build a crosswalk and provide its own sanitation, among other things, AvalonBay won zoning variances, site plan approval and the blessing of everybody from the state transportation department to the county rodent inspector. A building permit was issued in December.

"We're moving and shaking in Rockville Centre!" said a pleased Mayor Francis X. Murray. It had taken 10 years of lawsuits and agita to build the last big apartment development in the village, "AvalonBay Rockville Centre," but residents' fears were not realized, and the mayor was intent on making it easier this time.

But compare that two years with the tempo in White Plains, where AvalonBay won a zoning variance and building permit for a 14-story community within 16 months. In Arlington, Virginia, apartment builders have broken ground in as little as seven months. In Brooklyn, work started on the 41-story "Avalon Fort Greene," 10 months after AvalonBay bought the site in 2007, records show, while it took just four months to get a building permit for "Avalon Morningside Park," a 20-story building in upper Manhattan that opened in 2009.

"I don't know about Manhattan," Murray said. "I just know how it goes here."

There's wide agreement now that Long Island's economic future depends on rapidly growing the supply of rental housing at prices within reach of younger working families.

> On Long Island, AvalonBay's ... apartments rent for **10 percent more** than other suburban metro New York communities, "**because of lack of supply.**"
>
> —**MATTHEW WHALEN,** AVALONBAY SENIOR VICE PRESIDENT FOR DEVELOPMENT ON LONG ISLAND, *VIA EMAIL*

But a look at Avalon-Bay's two decades of experience on Long Island and elsewhere helps show why apartments are going up here at a fraction of the pace that the region needs and the market could support.

Regional priorities quickly collide with local imperatives here as single-family homeowners—Long Island's primary stakeholders—invoke home rule to protect the safety and tranquility of their communities, and remain skeptical that large numbers of new rental apartments could enrich and strengthen them. So every AvalonBay development had to begin with a rezoning application, a time-consuming procedure with an uncertain outcome. Long Island's agricultural and industrial past and its coastal ecology can make environmental reviews more complex when building sites are contaminated or in sensitive areas—or both. And the implacable limits imposed by the Island's unique geology make sewage disposal a special challenge.

Navigating all this requires time-consuming diplomacy with community groups, sometimes arbitrary demands by the many overlapping jurisdictions with a say in the process, and the ever-present threat of litigation.

A REIT, or real estate investment trust,

is a company that owns or finances income-producing real estate. Modeled after mutual funds, they allow investors at all income levels to invest in portfolios of large-scale properties through the purchase of stock. REITs typically pay out all of their taxable income in shareholder dividends.

Source: National Association of Real Estate Investment Trusts

Smithtown:
Seeking affordable rentals, reaping a "snowball"

When developer Vincent DiCanio bought a 10-acre concrete plant on the corner of Smithtown's Route 347 and Terry Road in 1985, all he had in mind was replacing the eyesore with 100 to 150 modestly priced garden apartments.

"Just good beginner housing, helping newlyweds and singles," DiCanio recalled. "I had civic support."

But while the neighbors were happy to see the concrete plant go, they had one concern: that the apartments might spill too much traffic onto busy Terry Road. The town's new planning director had a suggestion: Why not acquire the depleted sand mines behind the concrete plant, which would give DiCanio room to build a separate access road?

Almost before he knew it, DiCanio was the owner of 88 acres of blighted land—far more than he needed for apartments. But the real-estate market was strong, so with the town's encouragement, he agreed to create a six-phase development to be called the Galleria, with single-family homes, townhouses, apartments and retail businesses.

After more than four years of staff review, multiple public hearings and a 5,000-page environmental impact statement, the town granted conceptual approval of his plans in November 1989.

But the state Department of Transportation had concerns about the impacts to traffic on Route 347, DeCanio recalled.

And the county health department said he would need to establish a new sewer district and build a treatment plant to serve the 550 units of housing he planned to build.

Then the real-estate bubble burst. DiCanio's financing dried up, and he owed $50 million to his bank. He filed for Chapter 11 bankruptcy protection and enlisted help marketing the $125 million development around the world.

"I thought I was going to get money from the Japanese," he said. "Then they flew me to Canada. Nobody wanted to do $125 million; the economy wasn't right."

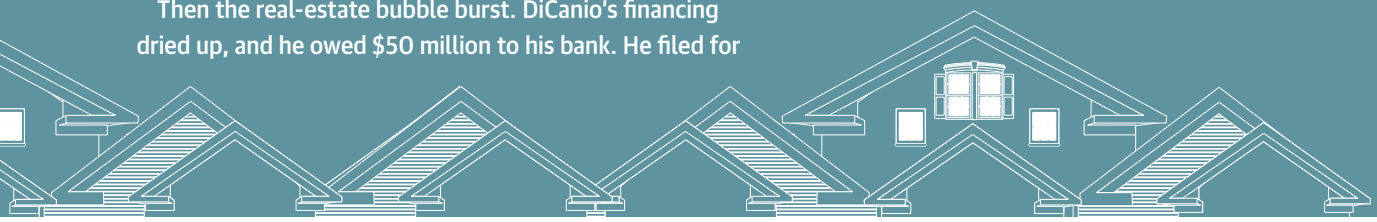
But the marketing campaign attracted apartment builder Trammell Crow Residential, which in 1991 announced it would form a joint venture with DiCanio. That partnership was taken over by Avalon Properties, a new real estate investment trust that formed in 1993 (it later merged with another REIT to form AvalonBay). Avalon bought out the apartment portion of DiCanio's community, building 312 luxury apartment homes that opened in 1995 under the name Avalon Commons. Its $32 million stake got the sewer plant built and gave DiCanio breathing room to keep on building, he said.

Thirty years later, DiCanio is planning one of the last buildings in the final phase of the Galleria. But while he is proud of his achievement, he is wistful about those "beginner" apartments he meant to build in 1985.

"It evolved and snowballed and grew to 90 acres of horrible land that was mined and stripped, and banks didn't want any part of it either, because they didn't know what was buried in it. We had to put in monitoring wells! It was a mammoth undertaking."

And no apartments have been built in Smithtown since "Avalon Commons" opened in 1995.

"The Galleria was striving to do it, I thought we came close, but it became more luxury oriented than affordable," DiCanio said. "There is a need on Long Island. Smithtown should have it. I think we have to do it."



"It is akin to running for office to get an apartment site approved," says Matthew Whalen, AvalonBay's senior vice president for development on Long Island, who has spent more than a decade campaigning for approvals here.

In truth, that difficult environment has been part of the business plan for AvalonBay, a $16-billion national real estate investment trust (REIT) which for most of its history has specialized in what it called "high barrier-to-entry markets" with a "difficult and lengthy" approval process. When home prices are high and a tough approval process keeps the supply of apartments low, landlords can charge top rents without fear of being undercut by competitors.

"We believe that, over the long-term, a limited new supply of apartment homes and lower housing affordability in these markets will result in higher growth in cash flows relative to other markets," AvalonBay told investors in its 2013 annual report.

On Long Island, AvalonBay's data show, apartments rent for 10 percent more than other suburban metro New York communities, "because of lack of supply," Whalen said in an email.

AvalonBay's Long Island roots can be traced to the 1993 formation of Avalon Properties, the result of a spin-off of a regional subsidiary of Houston-based developer Trammell Crow. Trammell Crow had signed its first deal here in 1991 to build "Avalon Commons," 312 apartments in Smithtown whose original local developer, Vincent DiCanio, had been driven to seek bankruptcy protection after four years navigating approvals.

Then, Trammell Crow announced it planned to build 2,000 apartments on Long Island by the mid-1990s. But more than 20 years would pass before AvalonBay could meet that mark. By 2003, the REIT had built 930, and told Newsday its goal was "to get to 5,000" on Long Island. It has so far built or bought a total of 3,184, with another 356 in construction.

Why has it taken this deep-pockets company so long? Public records on its developments show that while the buildings themselves go up quickly, AvalonBay has had to invest anywhere from two to eight years to get a go-ahead for them. The true timeline has been as much as 12 years or more, because about half of its sites were already in the approval pipeline for years before it bought them.

In Melville, for instance, Avalon filed a site plan application in November 1996 to develop the former DeLalio sod farm known as "Avalon Court," and two years later had a building permit. But it actually had taken eight years to get a shovel in that soil: The DeLalio family had spent four years getting their land rezoned for apartments, and almost two years more finding a buyer willing to meet a stringent affordable-housing quota imposed by the town.

In Coram, AvalonBay bought 42 acres of mostly vacant land in 2006 and in less than two years had a building permit for its "Avalon Charles Pond" development. But that purchase followed eight years of work by a prior developer, who had gone to court to overturn the town's zoning restrictions, done archeological studies, and verified that building apartments would not harm endangered tiger salamanders.

And in Rockville Centre, Avalon was able to break ground within 3 ½ years of buying the contaminated former Darby Drug site—but only because the land came with court-ordered approvals for 349 apartments after six years of controversy and litigation.

That's not counting all the AvalonBay efforts that have fizzled, in places like Yaphank, Plainview, Garden City, Oyster Bay, Port Jefferson and most recently the Long Beach Superblock.

For a builder weighing investment here, "it's not only how long it's going to take and how expensive it's going to be, it's that you can get to the finish line, and they'll say 'Sorry, we're turning it down,'" said engineer John Cameron, chairman of the Long Island Regional Planning Council. "It's the uncertainty of outcomes. It may not be economically viable at the end; it can take less than a year, and it can take forever."

Apartment development is complex anywhere, but it becomes truly arcane on Long Island, where

> Before this year neither county could even tell a questioner where apartment construction is allowed—zoning falls under the jurisdiction of **69 different governments** in Nassau County alone.

Brookhaven:
A lifetime in development?

Builder Charles Mancini used to call his company "Lifetime Development," but says he abandoned that name as "too prescient" after a couple of decades developing homes on Long Island, amid a draining effort to build apartments in Coram.

Actually, two generations of negotiations went into the multifamily development there known as Avalon Pines, because of fragmented ownership that has bedeviled land use in so much of eastern Long Island.

Back in the 1920s and 1930s, land speculators filed subdivision maps for large swaths of Suffolk County's interior, marketing lots as small as 25 by 100 square feet, served by roads that existed only on paper. The parcels were pretty much worthless without those roads, but in the 1990s, Mancini formed a partnership with a man who had inherited hundreds of adjoining lots, patiently accumulated by his father over the course of some 30 years. They began what Mancini says was another 10 years working to fill in the blanks, ultimately amassing a total of 397 parcels to propose "Village on the Fairways," a planned development of 450 apartments surrounding a golf course, clubhouse and restaurant.

"Village on the Fairways" was a complex enough proposal, requiring them to expand a sewage plant, dedicate 51 acres of the land as a town park, donate another 52 acres of sensitive land off site, and give an acre to the local fire department. But three years into the zoning review, after an environmental impact statement had been delivered to the town, their site was still pockmarked with 4.84 acres' worth of small "outparcels." In the end, the town of Brookhaven used its eminent domain powers to buy out those owners. By that time, AvalonBay was in talks with Mancini and his partner, who were losing their taste for the financial and technical challenges posed by this development. They sold AvalonBay the rezoned land for $10 million, concluding "discretion is the better part of valor," Mancini said.

In a rapidly changing marketplace, Long Island's long development timetables are deadly.

"You can go through a couple of business cycles, and by the time you're done, it might not be the right idea," Mancini said. "The delays could cost people their businesses in many instances.

"...Avalon is smart, they find folks who are in distress financially," said Mancini, whose company is now called The Park Ridge Organization. "But even with their expertise, it takes them a long time."

multiple layers of government exercise authority but information about the process and its rules is often difficult to uncover. Before this year neither county could even tell a questioner where apartment construction is allowed—zoning falls under the jurisdiction of 69 different governments in Nassau County alone. Each jurisdiction has its own ordinances, procedures and what longtime housing advocate James Morgo calls its own, all-important "approval culture."

What is known is that land zoned for apartments is vanishingly scarce on Long Island, the home of the nation's first single-family suburbs. That has forced AvalonBay to seek sites for its luxury housing wherever it could: A spinach farm, a depleted sand mine and contaminated oil-storage depots. A derelict former prep school, a tennis center, and vacant Navy housing. A tract of downtown blight razed for urban renewal; woodsy areas far from transit; and, in Coram, a pieced-together patchwork of tiny roadless parcels that a speculator had subdivided sometime early in the last century.

So just about every apartment development becomes a case for the zoning board. And that alone adds a minimum of one to two years to any development process, explains David Flynn, planning director in Smithtown, which, like Brookhaven Town, has no land zoned for apartments. That is because, by definition, a zoning application requires not just an agency review but a change in the law. That means the governing body has to approve it at an official meeting—and that, in turn requires a formal vote to advertise the proposed change in a legal notice published well in advance of the vote, followed by a duly scheduled public hearing to allow residents to voice objections or concerns.

An apartment proposal also may require a subdivision proceeding, a legal change which like a rezoning, has public notice and hearing requirements that can take a year or two, Flynn notes.

Officials usually seek to coordinate and streamline these legally mandated notification, hearing and public vote procedures. But for scheduling reasons alone, even a non-controversial rezoning with the enthusiastic support of local officials takes several months. After rezoning and any subdivision approval, the proposal still must clear site plan review, securing approval from the local planning agency for building setbacks, traffic and parking design, landscaping and exteriors, and assuring environmental concerns are addressed. Then the action shifts to the building department.

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>
> -**DAVID FLYNN,**
> SMITHTOWN PLANNING DIRECTOR

More often than not, the zoning stage is more complex and drawn out, Flynn notes. Concerns will be raised at the public hearing about the development's potential impact on taxes, property values, schools, traffic or area wildlife, and lawmakers will reserve decision until detailed studies have been completed. Coming from a car-dependent commuter culture fiercely protective of local control and the single-family residential lifestyle, citizen challenges can be exacting.

AvalonBay saw both best-and worse-case rezoning timetables in Huntington Station. It took almost two years for the town of Huntington to consider, and reject, AvalonBay's first zone-change application there, after town board support went soft in the face of intense neighborhood opposition and a viral Facebook campaign. The second time around, the developer worked closely with town officials to dramatically scale down and revise its plans, not re-applying until it was confident of success. That application was approved in just three months.

Ironically, a geologic feature that made Long Island so affordable for single-family homeowners in the development boom after World War II has proven to be a key stumbling block to affordable apartment development: its porous sandy soil. That soil provided such good drainage that new subdivisions could be quickly laid out with each house served by an inexpensive septic tank, notes Eugene Murphy, Islip's former planning commissioner. Builders in other regions who might find heavy clay soils and poor drainage, were forced to install costly sewer systems—but those

sewer systems, built with help from the federal government, now readily accommodate apartment development as populations grow. Today, new sewer construction is much more costly, even as evidence mounts on just how vulnerable Long Island's drinking water aquifers and coastal waters are to contamination. For apartment developers here, providing for sewerage is often a protracted process that can entail building a private sewer plant, and all too often simply makes projects unfeasible, especially in Suffolk County, two thirds of which is still unsewered.

Long Island's porous sandy soils and aquifers, its flood plains and estuaries, and its rapidly disappearing farms and open space simply make building apartments more problematic here, regardless of how much the economy might appear to benefit, explains Richard Amper, executive director of the Long Island Pine Barrens Society. Over the past quarter century, his environmental organization has filed dozens of lawsuits challenging developments that put drinking water at risk. That litigation led to state law that banned or restricted development

New York's State Environmental Quality Review Act (SEQR),

passed in 1975, requires agencies to weigh environmental impacts alongside social and economic factors when deciding to approve or undertake an action.

A SEQR process may be very short or very long, and it starts with a determination on whether the action is likely to have a significant impact on the environment. A single-family home proposed for a standard lot needs no further review. AvalonBay's 312 apartment homes at the Smithtown Galleria, a 550-home development built on a depleted sand mine and concrete plant, ultimately needed detailed evaluation of soils and groundwater, public hearings, and a lengthy environmental impact statement. Falling in between are smaller apartment developments, on less than 10 acres, whose likely impact is assessed with a process involving environmental assessment forms and agency reviews that, with luck, ends with a "determination of non-significance"—with or without conditions attached.

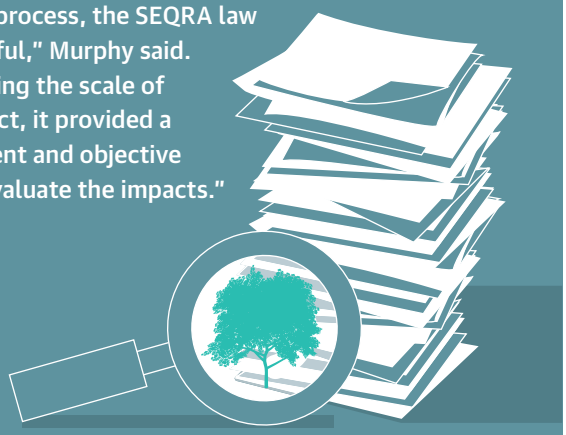
The SEQR process has statutory time limits for each stage of review. Of the apartment communities built by AvalonBay on Long Island, several had SEQR reviews completed within six months, records show, while those on some larger sites took more than a year.

Properly applied, planners say SEQR reviews are an efficient tool to size up proposals and focus attention where it's needed. But some veterans of the process say it is too often used as a pretext to impose arbitrary conditions on developers. The mandated time frames are routinely flouted, says Long Island Association President Kevin Law.

Exhibit A, says Law: The 450-acre Heartland development planned for the former Pilgrim State Hospital property, whose SEQR review by the town of Islip lasted 12 years.

But Islip's former planning commissioner, Eugene Murphy, said Heartland's SEQR review bogged down because, "despite repeated requests," the town wasn't provided with the information it needed to evaluate the impacts of the planned mini-city.

"In this process, the SEQRA law was helpful," Murphy said. "Considering the scale of the project, it provided a transparent and objective way to evaluate the impacts."



in 100,000 acres of the Pine Barrens in eastern Suffolk County.

"We're beyond the carrying capacity of the Island," Amper said. "I think the decision making should go more quickly, but these applications should be disapproved more often." The Pine Barrens Society is only one of many citizen groups which have gone to court to challenge what they considered ill-advised apartment approvals. These so-called Article 78 proceedings, asking a judge to overturn the actions of a state or local agency, are commonplace and can be time consuming. AvalonBay's rezoning in Huntington Station was hit with an Article 78 lawsuit in September 2011, for instance, claiming that it would cause crime, school overcrowding, traffic congestion, soil pollution, sewage overflows and other environmental impacts. A judge rejected the claims 14 months later, and only then did work resume on the site plans, a town spokesman said.

The Long Island Builders Institute says Article 78 cases take longer to resolve on Long Island than elsewhere in the state, and is lobbying to compel quicker court action. In the meantime, says LIBI executive director Mitch Pally, the mere threat of litigation builds in an automatic delay: as long as the right to file these suits expires 120 days after the approvals are granted, that's how long builders and banks wait before construction loans are issued to start work.

In urbanized areas, where land is already zoned for apartments, proceedings like these may be bypassed almost entirely if the developer is not seeking a variance.

Faced with the unhappy news that Home Depot had agreed to buy a former drug manufacturing plant in a downtown neighborhood, Rockville Centre's village board instituted a development moratorium and **rezoned the property** to allow apartments instead... But when a new developer ... filed plans for 349 luxury apartments allowed under its rezoning, that sparked an even **bigger uproar.**

In Washington, D.C., for instance, AvalonBay's AVA NoMa, a 13-story high-rise, is under construction now. Because its plans were consistent with the zoning code, building permits were issued within four to six months, said Jeff Wood, senior director of development.

Such speed is not automatic, of course. Across the Potomac River in Arlington, Virginia, it took 39 months to get the building permits for the four-story, 227-unit apartment house erected by another company and now called Avalon Arlington North. Arlington's planning practices are rated among the best in the nation, its residents are highly protective of their property values, and in this case, its meticulous building department rejected that builder's structural plans 12 times, its electrical plans 13 times and its plumbing plans 14 times. On the other hand, Arlington has zoned large swaths for apartments, which has allowed some builders to apply, build and start collecting rent within less than two years.

And with a focused and supportive government, even applications seeking zoning variances can move swiftly. The city of White Plains, for instance, had zoned a former AT&T parking lot for six-story apartments in a bid to renew its downtown. Instead, AvalonBay applied in December 2005 to build a 14-story building. That was a big enough expansion to trigger a SEQR process, but the city nevertheless coordinated agency reviews and hearings, and its common council okayed the variance conditionally within six months.

The Westchester County village of Mamaroneck would at first seem to have a lot in common with Long

Island. It took 12 years for a former Herb-Ox bouillon plant to be replaced by the apartment community called "Avalon Willow"—because like Smithtown's DiCanio, the original developer won a rezoning but lost his land when the market collapsed in 1991. AvalonBay bought it from the bank three years later, but twice revised its site plans as it bought up lots to expand its plans from the original 150 apartments to 227. Mamaroneck's scrutiny was detailed and exacting, because Avalon Willow is in the center of a pedestrian neighborhood as well as a coastal flood zone. Still, the process was more efficient than is common here. Mamaroneck rezoned the site in eight months; Avalon's first site plan was okayed with conditions after seven months; and its final site plan got a nod after four more months of review.

But if lack of zoning is the central element holding back the development of apartments on Long Island, rezoning may not be enough of itself. When residents object strenuously enough to a development, officials may bend regulations to the breaking point in response.

Faced in 2001 with the unhappy news that Home Depot had agreed to buy a former drug manufacturing plant in a downtown neighborhood, Rockville Centre's village board instituted a development moratorium and rezoned the property to allow apartments instead. Residents said they didn't want the truck and contractor traffic from the warehouse store roaring down local streets. But when a new developer, Chase Partners, filed plans for 349 luxury apartments allowed under its rezoning, that sparked an even bigger uproar.

Some residents say the controversy was triggered by rumors that the new apartments were likely to add just enough new children into the school system to force a redistricting among the local elementary schools. The tensions were high enough to lead Rockville Centre to convene nine public hearings over almost two years—even though the zoning was already approved, and village law didn't call for any public hearings on the site plan.

This stage of development review was supposed to be a time for the developer to take care of final details like building setbacks, parking design, landscaping and storm drains, and by law if the village didn't render a decision within 62 days the plans were deemed approved.

Instead, residents used the meetings to air fears about density, traffic, higher taxes and the specter of the village becoming "Queens East."

In what a judge later pronounced "oppressive scrutiny" of the site plans and a "bad faith" use of environmental reviews, the village left the public hearing period open, ignoring statutory time frames, which blocked the developer from completing its environmental impact statement.

Meantime, the village amended its code to retroactively increase parking requirements on the development. When Chase Partners, fed up with the delays, went to court to enforce the 62-day rule, the village dropped that rule from the code, but finally issued a conditional approval of the site plans—so long as the builder met 22 conditions. Those included reducing the development's size by one third, picking up its own garbage, paying "parkland" fees not required by law, and subjecting itself to new layers of regulation by the county health and public works departments. In its environmental review, the village imposed such bizarre conditions

> Born and raised in Valley Stream...he has watched lifelong friends **leave their hometown one by one**: One moved upstate for someplace more affordable. Two found better jobs in L.A.. And two others moved to Brooklyn, "to be more toward the center of things, night-life, activity... those things we could create here but haven't excelled at yet."
>
> -**DAVID SABATINO,**
> VALLEY STREAM COFFEE SHOP OWNER AND VOCAL ACTIVIST FOR DOWNTOWN REDEVELOPMENT

Huntington: Will "Crowdsourced Placemaking" replace NIMBYism?

The town of Huntington became a reluctant national symbol of suburban NIMBYism in 1989, when it fought an integrated affordable housing complex called "Housing Help" all the way to the U.S. Supreme Court, and lost.

So when a Melville sod farmer applied in 1990 to rezone his land for apartments, the town seized the opportunity to retool its approach to land use, giving him three times the density he had asked for, so long as 30 percent was reserved for affordable housing.

That land, located in an industrial/commercial zone in the flight path of Republic Airport, far from homes, promised little controversy, but the zoning and environmental review still took 4 years. It would take almost two more years to find someone willing to build apartments on those terms. But once AvalonBay came on board, things moved swiftly, and the developer had a building permit within a year for the 154 apartments known as "Avalon Court."

AvalonBay seized the opportunity this welcome presented. No sooner was it breaking ground on the sod farm than AvalonBay applied to rezone a spinach farm next door for 340 apartments that would become "Avalon Court II." And approvals flowed from the town like clockwork, allowing crews and equipment to cross the street to the second job as soon as they finished up with the first one in 1998.

Considering its experiences in Melville, AvalonBay may have expected a warmer welcome ten years later, when it proposed a "transit-oriented development" of 530 homes, 25 percent of them affordable, in Huntington Station. Instead, that application sparked a public controversy that has come to symbolize everything that is difficult about multifamily and rental housing on Long Island.

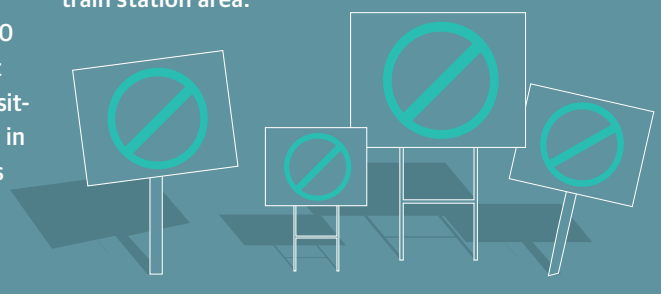
Wooing the community at what it says were some 100 meetings, and after securing verbal support from most of the town board for its proposal to create a new transit-oriented zoning district, AvalonBay filed an application in December 2008, only to have it voted down 21 months later amid bitter community protests.

As embarrassing as this high-profile defeat was for AvalonBay, by Long Island standards it would not prove much of a setback. A scaled-down proposal for 303 apartments (43 of them affordable) and 76 single-family homes was approved by the town in February 2013, despite continuing protests and a citizen lawsuit. New tenants were moving into "Avalon Huntington Station" the following January—less than four years after its first proposal was filed.

Compared to the 38 years it has taken to get a shovel in the ground for the Housing Help development (now smaller, and called "Matinecock Court"), this amounts to a lightning strike.

But some veterans of the development process say AvalonBay erred in overestimating how much density was tolerable in that neighborhood. Others contend that apartment developers must do a better job of listening to what Long Island residents want at the beginning of the process, rather than relying on charm offensives to win them over at the end.

Toward that end, wary town officials now hope higher-density development will win more support from residents with the approach being tried by Renaissance Downtowns, the master developer for the Huntington Station area which has been deploying a trademarked "crowdsourced placemaking" approach that seeks to engage local residents in collaborating on the designs. The test will come soon enough, as approval deadlines approach for a series of mixed use, apartment, hotel and retail developments now on the drawing board for the train station area.



as hospital-sized elevators and a noise study to assess the impacts of the apartments' air conditioners, even though the development was sited in an industrial area near the railroad tracks and next to a bus servicing depot. The village never made a secret of the fact that it was using these delays and requirements to pressure Chase Partners to agree to build fewer apartments than its zoning allowed.

"Good projects improve the community as well as fill a regional need," said Chris Jones, chief planner for Regional Plan Association, "but small village governments don't necessarily have the in-house capacity to really address all the issues. So it can be hard to do the necessary planning, negotiate with developers and overcome opponents who can marshal the complex process to their advantage."

A judge eventually ordered Rockville Centre to approve the 349 apartments without most of those conditions; the village challenged that ruling but lost the appeal almost five years after Chase Partner's plans were submitted. Chase won a $1.15 million settlement; AvalonBay then bought the land. It would take almost three more years to break ground, as AvalonBay submitted its own site plans, completed a complex brownfield cleanup of contamination from the former factory, and arranged for tax incentives.

But Murray says residents have been pleasantly surprised by the impact of "Avalon Rockville Centre."

"Monday-morning quarterback? It's beautiful! It works. There's no crime. It's beautiful....Very few people who rent there use our schools. The traffic problem is zero. They don't even need cars—they want to hang out close to the downtown, and they want bicycles, and they want parks and that's it....It's been a wonderful addition to the village."

> "There is a **great economic climate right now,** there's demand, interest rates are low, and the private sector and a lot of companies from outside our region are happy to come and be developers for these multifamily projects. Then they get wind of the approval process here, and **many of them give up.**"
>
> -**KEVIN LAW,**
> PRESIDENT OF THE LONG ISLAND ASSOCIATION

But that "wonderful addition" might never have come to pass if not for a court order. This is why Avalon's success on Long Island has hinged on delicate wooing of local residents, local officials and school boards.

Seeking a foothold in Garden City, AvalonBay was chosen by the Navy to redevelop 16.71 acres of property two miles down Stewart Avenue in Uniondale.

It would take seven more years to win subdivision, zoning, and site plan approval from the town and county. Among Avalon's concessions for the 160-apartment community it would call "Avalon Garden City": donating 23 acres of land to Nassau Community College and Nassau County; donating $1 million to the Uniondale School District; building eight specially adapted homes for wounded veterans; renovating and marketing 19 decaying center-hall Colonial houses on "General's Row" that once provided homes for senior officers; and promising to handle its own garbage removal but not seek a refund of town garbage taxes. And when, at a public hearing on the development, a local civic mentioned there was an old farm stand in the neighborhood that people wanted to see preserved, AvalonBay donated $100,000 to help renovate a 16-by-20-foot structure to be known as the "Uniondale Children's Farm Museum."

But AvalonBay's deep pockets and patience have only taken it so far in communities where residents remain adamantly opposed to rentals—the only kind of business it does. In Oyster Bay, residents placarded their neighborhoods and marched in the streets to prevent its apartments from going up on the site of a former car dealership in East Norwich; the town of Oyster Bay declined to entertain its application even

after AvalonBay dramatically reduced its scope. In the village of Garden City, AvalonBay's effort to redevelop the former St. Paul's preparatory academy was rejected after a village poll found residents didn't want it. And the town of Hempstead two years ago refused to lift deed restrictions to allow AvalonBay to build "Yacht View," 172 luxury apartments on the contaminated site of a former oil storage facility in Harbor Isle. Density wasn't the issue; the town had already approved 172 condominiums there, subject to a brownfield cleanup. But Harbor Isle residents said they didn't want renters in their neighborhood.

Emotions can run high—on both sides—when transformative changes are on the table. "The degree to which people can come out against these things can be vicious," said David Sabatino, a former planner and Valley Stream coffee shop owner who has become a vocal activist for downtown redevelopment.

Born and raised in Valley Stream, the 30-year-old businessman has been encouraged by the signs of new downtown life brought by recent apartment development. But he also has watched lifelong friends leave their hometown one by one: One moved upstate looking for someplace more affordable. Two found better jobs in Los Angeles. And two others moved to Brooklyn, "to be more toward the center of things, night-life, activity...the places and the environment and the atmosphere, those things we could create here but haven't excelled at yet," Sabatino said.

As it happens, those two friends migrated to the very Brooklyn neighborhood where "Avalon Fort Greene," that 41-story apartment tower, opened in 2009.

AvalonBay's swift progress in Brooklyn came about because of the type of thing Sabatino and others have been urging for Long Island: a comprehensive 2004 rezoning to create a transit-oriented "dynamic downtown" in that borough, which was the cornerstone of then-Mayor Michael Bloomberg's economic development strategy. Armed with Bloomberg's zoning, AvalonBay bought a defunct former Buick dealership on Gold Street in January 2007, filed its plans with the city building department that June, and was cleared to break ground by October.

Such pro-active zoning for transit-oriented downtown density has finally begun to gain traction in communities like Mineola, Patchogue, Huntington Station and the village of Hempstead.

But as a recent analysis for the Long Island Index has shown, the tempo of approvals for apartments is a fraction of what it needs to be to reverse Long Island's perilous loss of younger working adults. More towns and villages would need to be far more receptive to multifamily housing than they are now, said a frustrated Kevin Law, president of the Long Island Association.

"There is a great economic climate right now, there's demand, interest rates are low, and the private sector and a lot of companies from outside our region are happy to come and be developers for these multifamily projects," Law said.

"Then they get wind of the approval process here, and many of them give up."

So although policy makers and regional officials are increasingly speaking with one voice about the need for more affordable apartment development on Long Island, AvalonBay's investors seem likely to continue to benefit from a demand for apartments that is rising faster than supply—at least in suburbs like Long Island.

"Apartment demand in the Metro New York/New Jersey region is being driven by job growth across a diverse group of industries including healthcare, professional business services, technology, retail, hospitality and education," AvalonBay's most recent annual report says.

And while a surge of new apartment construction in New York City has started to temper the rents that can be charged for luxury apartments in the five boroughs, the report notes, "suburban markets surrounding the city are more insulated from this new competition."

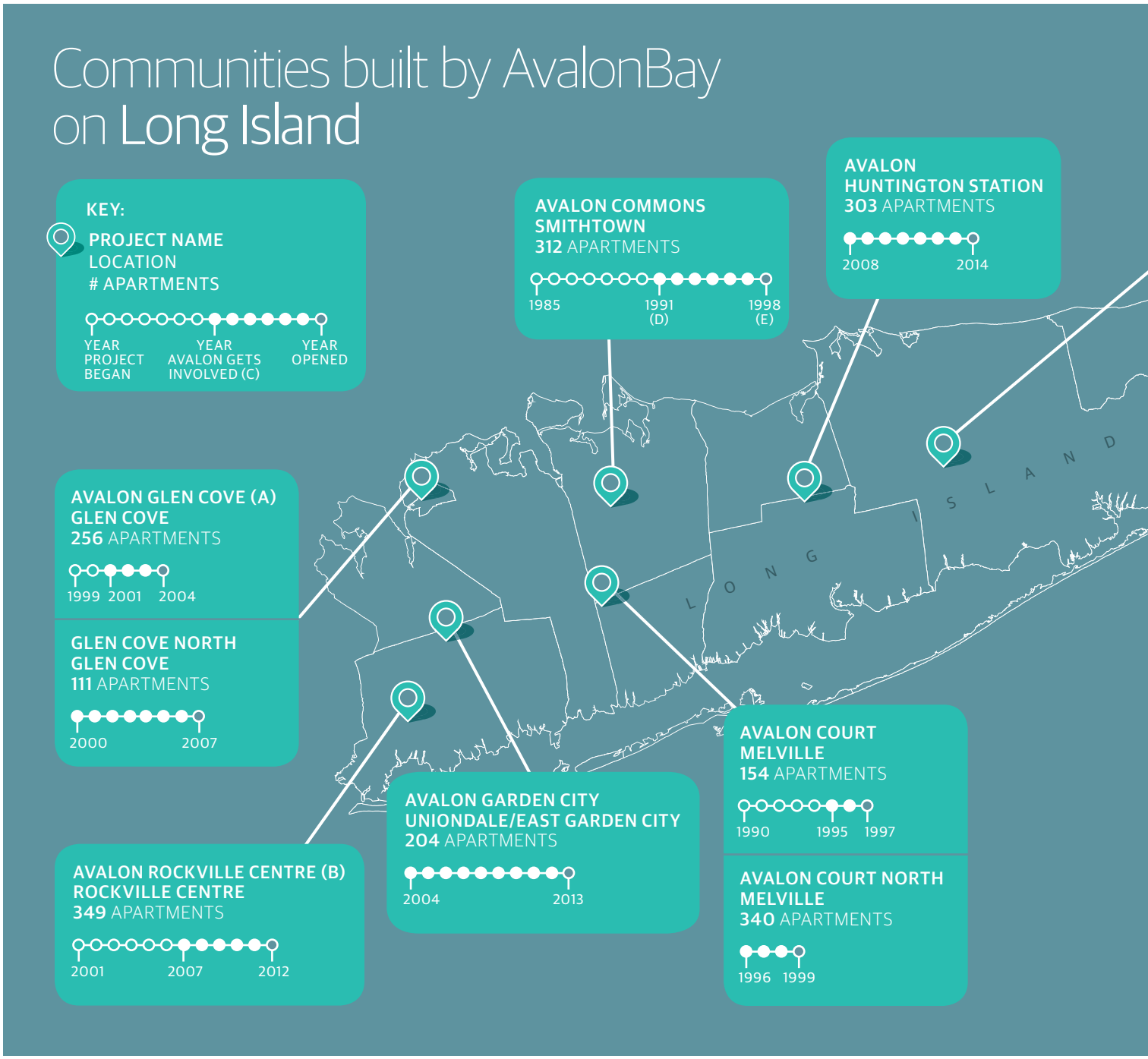
That reality is especially frustrating for Long Islanders like Valley Stream's David Sabatino, watching so many peers driven elsewhere by the cost of housing here.

"There comes a point where we're planning until this island dies, and there's nothing left to plan for," he says. "What is it going to take to satisfy our needs, to provide affordable housing for our residents, and to create places that people want to live in?

"People want to protect what they have and what they know, and there's nothing wrong with that. But if we don't learn to change and adapt, there isn't going to be much to save." ■

Elizabeth Moore is a former Newsday *reporter and currently a journalism lecturer at Stony Brook University.*

Communities built by AvalonBay on Long Island

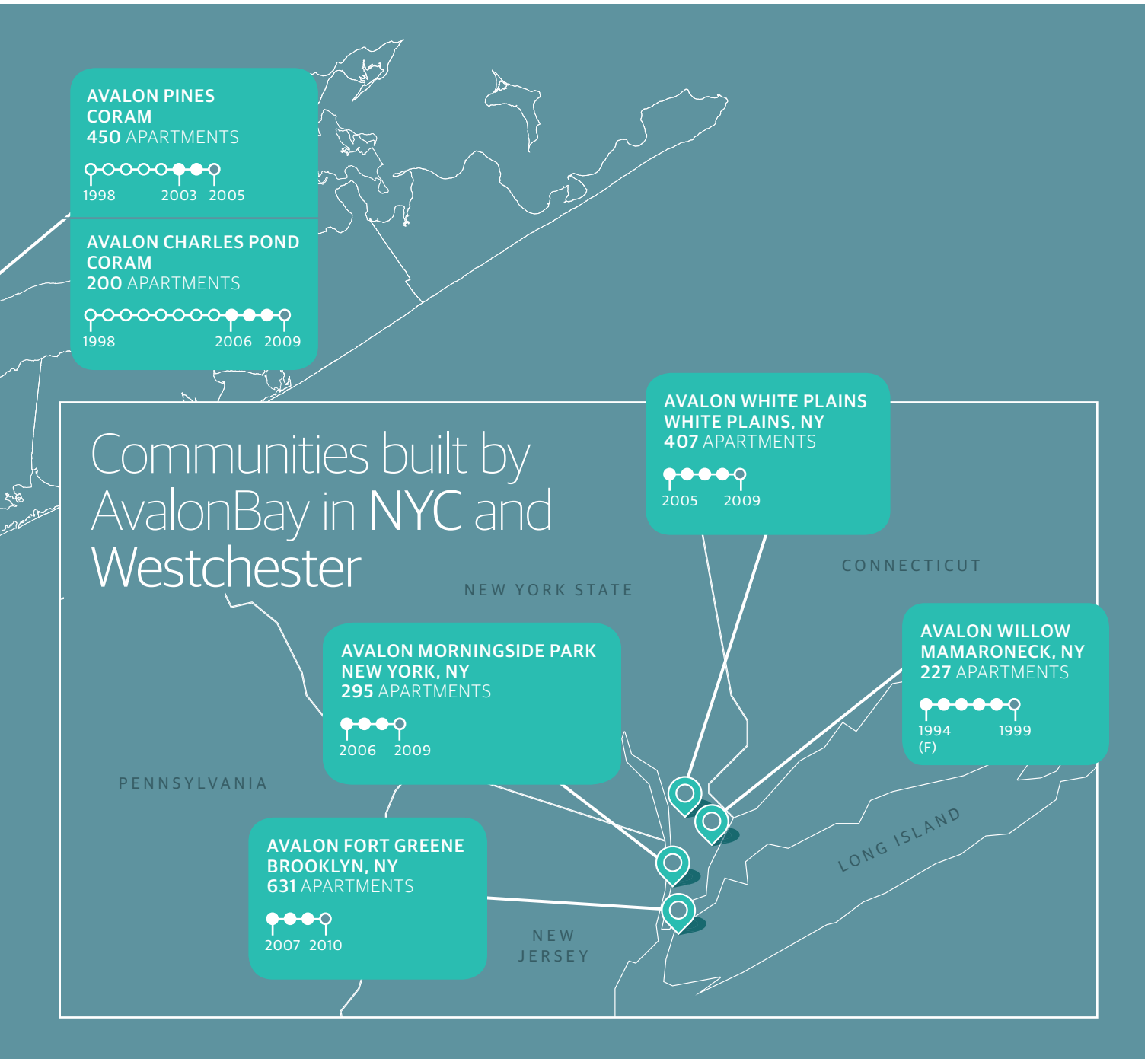


SOURCES

2014 annual report filed by AvalonBay Communities, Inc. with the Securities and Exchange Commission as well as planning, zoning, building, SEQRA filings; land deeds; court filings; newspapers; interviews

NOTE: AvalonBay purchased two existing apartment communities in Long Beach (1995) and Westbury (2013). Two other communities are under construction in Great Neck and Rockville Centre.

(a) Avalon Glen Cove and Glen Cove North were built on vacant land that had been part of the city's urban renewal program since 1976. The site of Avalon Glen Cove was purchased from the city by another developer in 1999, and then two years later transferred to the city Industrial Development Agency, from which AvalonBay is leasing it. Avalon Glen Cove North's site was purchased from the city's Community Development Agency.



(b) Avalon Rockville Centre was built on the site of the former Darby Drug factory that was first sold to Home Depot in 2000. The village blocked that redevelopment with a moratorium and rezoning; an apartment developer, Chase Partners, then agreed to purchase the site and filed plans in early 2003.

(c) AvalonBay timelines begin when its involvement becomes publicly known through announcements or legal filings.

(d) Avalon got involved in 1991 when they were part of Trammell Crow; in 1993 they became Avalon Properties Inc.

(e) AvalonBay annual report indicates Smithtown Commons apartments opened in 1997, but according to the town the certificates of occupancy for the apartments were issued December 29 1997, and the CO's for the garages, community center and sewage treatment plant were issued in early 1998.

(f) The zoning was already in place in Mamaroneck site. Avalon filed environmental assessment and site plans in September 1994 and had their proposal approved a year later. Then they revised their plans, after acquiring more land. From the filing of their final application to the issuance of a certificate of occupancy for the first building took 3 years. Note: AvalonBay annual report lists 2000 as year of opening.

Afterword

Elizabeth Moore's reporting provides valuable insights to help guide our thinking about how best to create the multifamily housing that Long Island needs. Her reporting demonstrates, first, that Long Islanders have the power to correct the problems that constrain development of multifamily housing and, second, that there are a number of components to an eventual solution.

A key component is the need for communities to consider designating many more locations, ideally downtown, for multifamily housing and to zone them as such "as of right." That will give developers confidence that they can purchase properties in those locations and build accordingly.

It's, of course, up to individual communities to decide what kind of housing they want and where, but if most refuse, the region will not be economically competitive. All of our towns, villages, and hamlets will then suffer, including those that resisted a broader set of housing options.

As the Long Island Index has highlighted previously, an extraordinary opportunity exists with downtown parking lots, as there are more than 4,000 acres of surface parking lots in and around Long Island's downtowns. Those lots could be playing a much more dynamic role in supporting local economies, while still providing parking, as the Index's ParkingPlus Design Challenge underscored.

In addition to "as of right" zoning, we need to consider ways to streamline the permitting process for housing that conforms with zoning regulations. That will only bring about more quickly the desired economic benefits.

Moving in these directions will require enlightened leadership, but it will also energize our economy, enhance job opportunities, and enable our children and grandchildren, once grown, to live nearby. It will also dispel false fears. As Mayor Murray said of "Avalon Rockville Centre," which required a court order to proceed, "Monday-morning quarterback? It's beautiful! It works... It's been a wonderful addition to the village."

We should not plan our communities out of fear. We should be thoughtful about what we want, but we also need to consider our regional interests, as those interests will determine local economic conditions. The two are not separate. The competition from neighboring suburbs is very real.

Elizabeth Moore has revealed how the process of building multifamily housing on Long Island compares with our competitors. It's time for us to consider what she's shown and to create a Long Island for the 21st century that maintains our renowned lifestyle and traditional values, one of which is to retain and sustain future generations.

-NANCY RAUCH DOUZINAS
PRESIDENT OF THE RAUCH FOUNDATION
PUBLISHER OF THE LONG ISLAND INDEX