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REVISED
2/10/09

*Mailed to
L. Holmes
2/10/09*

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SUFFOLK COUNTY PLANNING COMMISSION

100 Veterans Memorial Highway
Hauppauge, New York 11788

December 3, 2008
12:00 p.m.

MEMBERS PRESENT:

- DAVID CALONE, Chairman
- THOMAS A. ISLES, Suffolk Director of Planning
- THOMAS McADAM
- CONSTANTINE KONTOKOSTA
- ADRIENNE ESPOSITO, Secretary
- JOHN CARACCILO
- LINDA HOLMES
- ROBERT BRAUN, ESQ.
- BARBARA B. ROBERTS
- CHARLA BOLTON
- DONALD J. FIORE
- JOSHUA HORTON
- VINCENT TALDONE
- DANIEL GULIZIO, Deputy Director of Planning
- LINDA SPAHR, ESQ., Assistant County Attorney

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1 THE CHAIRMAN: The December meeting of the
 2 Suffolk County Planning Commission is in session. I
 3 note that a quorum is present, and I ask Secretary

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4 Esposito to lead us in the pledge.

5 (Recitation of the Pledge of Allegiance.)

6 MS. HOLMES: Can we note that the Washington
7 minister who proposed "under God" just died yesterday.

8 THE CHAIRMAN: Also want to just -- Tom just
9 mentioned that Bobby Martin, who is former Chair of the
10 this commission, passed away, I guess this past month.
11 So I just want to recognize that, wish him and his
12 family well.

13 We have the first item on our agenda is the
14 adoption of the minutes from September 3rd and October
15 1st. There is an issue with the October 1st minutes
16 that we're going to try to resolve, so we will put those
17 off until next time.

18 MS. HOLMES: I might note that we gave the
19 corrections for the October minutes to the court
20 reporter last month. I just wanted to note that I did
21 review and gave corrections to the October minutes to
22 the court reporter last month, so any further changes
23 you want to make would need to be directly communicated
24 to them, because they already have a list of corrections

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1 for those -- for that month.

2 THE CHAIRMAN: It's very possible that that
3 is what got sent around, or was sent to me. That was
4 the already edited version, but there were very few
5 corrections in it. There were very minor points that
6 were left open. I think the September 3rd minutes --

7 MS. HOLMES: (Interposing) I have reviewed.

8 THE CHAIRMAN: Do you have any comments on
Page 2

9 those?

10 MS. HOLMES: I do have changes, which I have
11 just given to the court reporter. Using the new form
12 that we have with the hard copy, it's very easy. I
13 noticed it was very easy for the reporter to make the
14 changes because the page and line number are delineated
15 and the change is -- the space is there to make the
16 change on the form.

17 So I would recommend -- there were changes;
18 most of them were quite minor. Spelling changes. But
19 there are a couple of words, couple of lines where I
20 have indicated that they would need to check the tape,
21 because the word was so far off that I couldn't discern
22 what the spoken word actually was. But there were only
23 a couple of places and the rest of them are minor, and I
24 think self-explanatory. I don't know if you want me to

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1 go through what they are, but I'll ask your guidance on
2 that.

3 THE CHAIRMAN: I was going to say I have a
4 handful of things as well which are minor, including
5 people's names who are misspelled and those kinds of
6 things. Maybe we can submit those, and I will represent
7 that they are minor.

8 MS. HOLMES: They are. I feel comfortable
9 that we could adopt the minutes as they are going to be
10 amended because I think they're mostly quite minor and
11 easily corrected.

12 THE CHAIRMAN: All right.

13 MS. HOLMES: I don't know if you want to do

14 it that way.

15 THE CHAIRMAN: I'm comfortable with that.
16 Any objections from staff doing it that way? I want to
17 make the representation to the other commission members
18 that it's just misspellings or a misheard word, slightly
19 off word. Those are the only things that I had.

20 MS. HOLMES: I think one of the examples of a
21 person's name at one time in the September minutes, Josh
22 Horton is referred to as John Thorton. So, I did one of
23 the --

24 THE CHAIRMAN: (Interposing) His cover has

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1 been blown.

2 MS. HOLMES: That is one of the changes.

3 THE CHAIRMAN: Vince Taldone's name is also
4 wrong in a place or two. When that kind of thing
5 happens, I think we can adopt the minutes as amended.
6 Any other comments on the September minutes? If not,
7 entertain a motion to adopt the minutes with the
8 diminimus change that Linda and I will put in writing.
9 Don moves and Charla seconds. All in favor? (Show of
10 hands) Opposed?

11 MS. HOLMES: Even though you're not
12 considering the November minutes today, that I spent --
13 you are going to have to cut down the marathon sessions
14 or find yourself another editor. Two hundred seventeen
15 pages, but the good news is with Theresa having
16 volunteered to come back and do our minutes, there were
17 only sixteen corrections in two hundred seventeen pages
18 of actual text. I think that is a great improvement.

19 So we can look forward to that.

20 I have already given the November corrections
21 I had to the reporter. If you want to wait to adopt
22 them until everyone else has reviewed them, that is fine
23 and I'll take the month off.

24 THE CHAIRMAN: After two hundred seventeen

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1 pages, it's a well deserved month off. It's like
2 reading a good novel.

3 MS. ESPOSITO: Just like that.

4 THE CHAIRMAN: I think, without objection,
5 the November minutes actually aren't on the agenda. I
6 want to table the October minutes because there is
7 actually an issue about what we voted on. In the
8 minutes it's a little unclear, so we need to figure that
9 out.

10 without objection, I'd like to move on to the
11 next item on the agenda, which is the public portion.
12 Do we have any cards from the public? Any comments?

13 MR. KLEIN: No members of the public that
14 wish to speak, but we have our scheduled guest.

15 THE CHAIRMAN: Why don't we let Judy speak,
16 since she is here waiting for us, before I do the
17 chairman's report. I want to introduce Judy Pannullo,
18 Executive Director of the Suffolk Community Council.
19 She is going to be speaking on one of their projects,
20 which is Accessible Long Island. Welcome, Judy.

21 MS. PANNULLO: Good morning. Thank you for
22 allowing me the opportunity to meet with you today. I
23 only knew a few of you; hi to those I know. I just

24 wanted to have the opportunity, and I appreciate that.

7

1 David and I met one time in the summer to talk about
2 Accessible Long Island, which is only a year old project
3 of the Suffolk Community Council. The council has been
4 around for seventy-five years and we serve as an
5 umbrella agency of Health and Human Services.

6 If you think what a Chamber of Commerce does
7 for businesses, that is what we do for social services.
8 Over a seventy-five year history, we have often served
9 the role of filling gaps in services. Women came to us
10 with disabilities and said they didn't feel they were
11 part of the disability movement, so we formed the
12 Network of Women with Disabilities. While we were
13 working on that project, we realized there is something
14 called universal design, which allows complete access to
15 building or home or any structure, whether you have a
16 disability or not.

17 So we formed Accessible Long Island a year
18 ago. By doing something unusual for a social service
19 agency, we brought together builders, planners,
20 architects, realtors, to try to begin the conversation
21 of how to make Long Island more accessible. So we put
22 together this slide show, and I just want to walk you
23 through that.

24 we looked at the changing demographics or Long

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1 Island. Almost one million people fall into the

2 category of seniors and baby boomers, and people are
3 living much longer now and most likely want to age in
4 their own home. If we look at our own houses, most of
5 our own houses are built that don't allow us entrance,
6 should we become disabled permanently or temporarily.
7 These numbers here, are quite startling. They do
8 also -- we have almost fifteen percent of the
9 population on Long Island self-identified as having a
10 disability. And of course, returning veterans will and
11 are adding to these numbers.

12 Of course, we all know what is needed for
13 changes when there is changes in demographics, there are
14 changes that are needed to the infrastructure, and all
15 the general stuff is health, education, transportation,
16 housing and so on, and the number of people with
17 disabilities is increasing. So we need to have more
18 available homes right now because businesses are really
19 sort of covered, supposedly, by the A.D.A., so we're
20 looking at housing. So the need for accessibility, the
21 ability for someone to get into their home or for
22 someone to be able to visit a home is what we're talking
23 about. That is a word that many of you may or may not
24 have heard is visitability. It doesn't really roll off

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1 the tongue very easily.

2 what does it mean when I say "aging in place?"
3 It's to allow - to be able to age in your home. When
4 I looked at my home when we started this project, I said
5 I really couldn't age in my own home because I have
6 steps, the doorways are too narrow and the bathroom

7 isn't wide enough if I needed a wheelchair, but if
8 people were allowed to age in place, we would save a lot
9 of money in Medicaid. People won't be sent to nursing
10 homes when they became ill. So the state costs would be
11 reduced. Of course family costs for traveling would
12 definitely be reduced.

13 I want to share with you, if you allow me some
14 myths. It's sometimes easier to get a hold of a concept
15 if you think of a myth. What universal design is the
16 ability to enter a home, whether you have a disability
17 or not. Yet there are some myths that people think many
18 years ago they put in curb cuts in the sidewalks, and
19 originally it was for people in wheelchairs. However,
20 much more people with strollers, baby carriages, skate
21 boards, bicycles use them than people in wheelchairs.
22 That is a perfect example of universal design; it allows
23 anybody. The same thing for electric doors. Sometimes
24 it's just easier to use than pulling a door open. That

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1 is another example of the myths is doors and curb cuts
2 are just for disabled people when in reality, other
3 people use them.

4 There is another myth that ramps are expensive
5 to add to your home, they're ugly and there's no need
6 for them. They're not as expensive as people might
7 think, they can be designed -- I will show you pictures
8 later -- they're much more attractive and they're easily
9 accessed, whatever the person's disability may be.
10 Another myth is the people's homes are designed to be
11 accessible are ugly. That is not the case either. I

12 will show you pictures shortly.

13 It really doesn't go with universal design,
14 but I'd like to throw this in any way. Sometimes people
15 think oh, I'm going to run in for a second, I can park
16 in a handicapped space and leave the motor running, when
17 sometimes a person with a disability or wheelchair or
18 van, they have to drive around several times while they
19 see cars parked in the handicapped space.

20 Another one of my little things, every time
21 when I go to a supermarket I shopping carts piled up in
22 the handicapped space, which boggles the mind. Another
23 myth is people with disabilities always have special
24 needs. They only have special needs when the

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1 environment hasn't been designed to accommodate the
2 needs of everyone.

3 So, how to improve home accessibility. We
4 want to ensure that the design of the home can
5 accommodate all people of all levels. To do this we
6 have to incorporate the principles of universal design.
7 The general principals are, equitable use and flexible,
8 simple and intuitive, detectable, tolerance for air, low
9 physical effort and practically invisible so that it
10 doesn't look ugly. We will get to those.

11 what we have been doing, the Accessible Long
12 Island project has been -- I have met with every single
13 town supervisor in Nassau and Suffolk County to talk to
14 them about -- what I want to do is get my foot in the
15 door, so I talked to them about expediting the process
16 for a ramp should you become disabled, permanent or

17 temporarily. Sometimes if you need to add a ramp to
18 your home, you have to go to the town zoning board of
19 appeals and that could take six or seven months. We're
20 saying, could you expedite that. If you have to carry a
21 person in and out and God forbid there is a fire or
22 something.

23 Every town except one has done that or made
24 adjustments. While I was there and had their ear, I

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1 began to talk about universal design. So, the key
2 universal design features are one no step for entry;
3 that could be the front, side door, back or garage.
4 Just so there is easy access. Internal accessibility,
5 which is thirty-six inch wide doorways, which are pretty
6 standard, and hallways need to be thirty-six inches
7 wide. The bathroom on the floor with a sixty inch
8 turning radius and bedroom on the first floor that can
9 be converted later on.

10 This is a no step entrance. You can see it's
11 really not very ugly. The walkway should be thirty-six
12 inches wide, the pitch or angle should not be more than
13 one point one twelve. Again, the door should be
14 thirty-six inch wide and lever type handle is easier
15 than turning, if you have arthritis or something. I
16 know when I had my twins and one kid on each hip, I
17 could use my elbows to open the door, so that is another
18 example of universal design.

19 The internal access, the thirty-six inch
20 doorways, thresholds not more than a half inch height on
21 the floor with beveled edges, and lever type handles and

22 a really good idea is to add an extra power outlet near
23 your stairs should you need a chair lift later on.
24 Accessible bathroom on the first floor with sixty inch

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1 turning radius. Backing in the walls so you can put
2 grab bars later on. It's kind of like that old
3 commercial pay me now or pay me later, either change
4 your oil or get a whole new engine later. If you put
5 the backing in when you build it, it's cheaper than if
6 you have to do it later. Single level faucets are also
7 helpful. A room on the floor that can be converted to a
8 bedroom later on. It makes it accessible and also makes
9 it visitable.

10 We will talk about the changes in the building
11 code. We have been meeting with all the towns. Right
12 now, the Town of Riverhead, Southampton and Huntington
13 have passed incentive based universal design
14 legislation. The Town of Islip is very close to doing
15 that. The other towns are kind of dragging their heels,
16 but they're pretty much open to it. We have to
17 communicate the advantages of universal design. The
18 incentive base of the legislation in some cases three
19 hundred dollars off the building permit. In Huntington,
20 you go to the top of the pile if you're building with
21 universal design principals, which is very attractive to
22 builders.

23 That is pretty much it. I wanted to talk to
24 you about the Accessible Long Island project, because,

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1 as I said, we are living longer. And I know there is a
2 big push for green building, for sustainable buildings;
3 I was in that movement many years, as many of you know.
4 It's well and good to have sustainable and smart growth,
5 but if you can't get in them, you can't help everybody.
6 I'll be glad to take questions. I have sort of like a
7 one page cheat sheet for the design features. Also some
8 brochures which lists the name of the advisory
9 committee. Are there any questions?

10 THE CHAIRMAN: First of all, thank you for
11 being here. Thank you for the work on this. It's great
12 to see the towns are moving in the right direction on
13 this. Obviously, this commission could play a role, if
14 it wishes to, in terms of putting out model codes and
15 educating towns and villages that aren't making progress
16 on this. We appreciate the background on that.

17 Anybody have any comments or questions?

18 Linda.

19 MS. HOLMES: Thank you. I'm glad I can take
20 one of these back to Shelter Island. Do you remember
21 when you might have met with the town supervisor?

22 MS. PANNULLO: That was a long trip for me.
23 That was last January. You had a brand new supervisor.
24 I know I have to nudge him a little bit because he was

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1 brand spanking new. He did say, in terms of seniors,
2 that your numbers are high, more than two thirds of the
3 permanent population.

4 MS. HOLMES: what he wasn't aware of, because
5 he wasn't supervisor then, around three years ago we had

6 just this issue with a friend of mine who had
7 Parkinson's and was wheelchair bound. We have a senior
8 citizens affairs council that want to do build a ramp
9 for him. He happens to have a home near a pond. And
10 had already designed the ramp, that it would go
11 alongside the house and not out into the yard. Even so,
12 the building inspector started to give us a very hard
13 time and luckily, our highway superintendent lives
14 across the street and was able to verify that the pond
15 was far enough away from the ramp that we could do it.

16 The senior council spent a long time designing
17 a very nice wooden ramp. But since then, they have gone
18 to the aluminum ramps, which we now see all over Shelter
19 Island, but I'm particularly interested in pushing for
20 our Building Department to be aware of these standards,
21 because that is where the builders go for their
22 permits. You know, we need to have a little education
23 there. But everything you mention, we have been dealing
24 with on Shelter Island, particularly people wanting to

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1 age in place.

2 It just makes me happy that I'm in a Colonial
3 home where they were smart enough to design everything
4 on the first floor and the kids climbed ladders up to
5 the second floor and slept by the chimney. So I feel
6 very fortunate. You have been very helpful. Thank you.

7 MS. PANNULLO: The additional costs when
8 you're, first start to build, have been estimated
9 between seven hundred and a thousand dollars more. But
10 if you do it later, it's much more expensive.

11 THE CHAIRMAN: And the cost of moving when
12 you age out of a place is tremendous.

13 MS. PANNULLO: Thank you, Ms. Holmes. I want
14 to get back in touch with Shelter Island; it's
15 important. Especially since he has almost a year under
16 his belt.

17 MS. HOLMES: Especially since we have been
18 designated as a naturally occurring retirement
19 community, so we would be eligible for -- if the state
20 has any money, for some grant money to help people to
21 modify their homes.

22 THE CHAIRMAN: Tom?

23 MR. MCADAM: I'm in the Town of Southold. I
24 was wondering, would you know what they're up to on

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1 this.

2 MS. PANNULLO: The towns, some towns are
3 dragging their heels. I met with them and they say
4 great, great, great. We call back and six or seven
5 months go by, and once a month I make a phone call and
6 you get the phone tag, so I don't know where they're
7 at. The Town of Islip, they say well, they consider a
8 ramp similar to a deck. If it's not higher than
9 seventeen or eighteen inches, you don't even need a
10 permit, but it wasn't on the books. We wanted to make
11 sure everything is on the books. Southold was open to
12 that and they put something on the books right away. In
13 terms of the universal design legislation, I haven't
14 gotten a response. If there is any role that you can
15 play --

16 MR. MCADAM: (Interposing) Yes, we have two
17 members from Southold, Greenport. We're fairly well
18 represented. I have one other question. We get many
19 applications for fifty-five and over communities. Do
20 you -- I really don't know the answer to this myself,
21 that is why I'm asking you, do you know if that is
22 already built in? Are architects required to put in
23 universal accessibility?

24 MS. PANNULLO: They're not. I had an

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1 interesting conversation with someone who built
2 fifty-five and over and they were not accessible at
3 all. Even the ground ones are not accessible. I said,
4 "why are you doing that." He said, "well, we don't
5 expect them to live that long in that place. Fifty-five
6 and older is no longer a senior, but they're calling it
7 senior housing." I said, "How long do you expect them
8 to live there." He said, "No more than ten years." I
9 said, "Then where do they go." He said, "They probably
10 die or go to a nursing home."

11 The mentality is different. The town has to
12 pass the legislation and most important we have to
13 inform people that the legislation is there and the
14 opportunity to save money and to have an expedited
15 process is available. You would think, of all places,
16 fifty-five and older, but it's not the case yet. You
17 may or may not know that the Suffolk County Legislature
18 has pending legislation, it's called visitability
19 legislation. It's similar to universal design things;
20 for any future building of affordable homes, they have

21 to all be built with universal design legislation.
22 There are some issues going around with that, but that
23 has been introduced by Legislator Stern.

24 MR. FIORE: I was wondering if you have

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1 contacted Long Island Housing Partnership on this also.

2 MS. PANNULLO: Yes, in two ways. We actually
3 used to share space with them. Number two, we have a
4 representative on our advisory committee.

5 MR. KONTOKOSTA: Just to clarify a little bit
6 on that, there are laws that require certain
7 multi-family structures are handicapped accessible. In
8 buildings of four or more units, in many cases, by Fair
9 Housing Laws, they have to meet the accessibility
10 guidelines.

11 MS. ROBERTS: If we do represent all the
12 towns, if you could highlight the ones that have been
13 helpful and really all the towns that you could use some
14 help with in Suffolk.

15 MS. PANNULLO: Babylon, is my town where I
16 live, is kind of dragging their heels. Southampton is
17 on board, Huntington, and Riverhead. And Islip is weeks
18 away from it. Brookhaven is closer than Southold, let's
19 say, or Shelter Island. So what's left?

20 MR. BRAUN: Smithtown.

21 MS. PANNULLO: Who can help me in
22 Smithtown?

23 MS. ESPOSITO: Who can help anybody in
24 Smithtown?

1 THE CHAIRMAN: One of the things about this
2 group is we do represent all the towns, and we have the
3 ability, under the law, to make recommendations to the
4 towns and villages, whether it's a model code or simply
5 more generally. We can put conditions on the projects
6 that come through us for virtually anything related to
7 planning. Those are kind of our hooks we have to try
8 and move the ball on this or any other issue.

9 MS. PANNULLO: That would be very helpful,
10 definitely. I'm sorry, Ms. Roberts, you were saying?
11 What town are you in?

12 MS. ROBERTS: I'm Southampton. I love
13 causing trouble.

14 MS. PANNULLO: Really, that would be great.
15 Smithtown, Babylon, Brookhaven, I think, Islip and
16 Brookhaven are close. It's just like any governmental
17 things. We have to get Legal. Islip, said wait a,
18 minute, you have towns that passed legislation, let's
19 just steal theirs. Which is logical; why recreate the
20 wheel.

21 THE CHAIRMAN: It's a broader issue. I met
22 with a bunch of town supervisors. They're busy with
23 what is going on in their town. The good ideas like
24 this, if you hand them something and say this makes

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1 sense and it's been tested here or there and they say,
2 okay, that makes sense. But they don't necessarily have
3 the time. That is the role this body is supposed to

4 play and say hey, this is being done in Southampton or
5 wherever, take a look at it, it's an important issue,
6 you should at least consider it.

7 MS. PANNULLO: I appreciate it.

8 MS. ROBERTS: East Hampton?

9 MS. PANNULLO: I know we met with them. I'm
10 sort of drawing a blank.

11 MS. ROBERTS: We don't have a representative
12 on the board, but I can help.

13 MS. PANNULLO: It's not a top priority for
14 them. They do have other things. In Brookhaven there
15 was this election going on.

16 MS. ESPOSITO: Now there is no leader.

17 MS. PANNULLO: I wanted to throw this out.
18 In Islip, they were talking about the relationship with
19 veterans. That topic was much easier for people to
20 swallow. Look at the veterans who need it. There was a
21 councilman that works with veterans. That is another
22 thing to consider. We have two wars going on. It's
23 important to just think about that, too.

24 THE CHAIRMAN: It's a great point. Thank you

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1 for your time and leadership. It's great.

2 MR. TALDONE: I would just like to thank
3 Suffolk Community Council for all its efforts. That was
4 instrumental, advisory. I've been going around in
5 circles for years. I don't know how it happened, but
6 somehow Judy pulled it together. We had one meeting
7 with the town attorney, building department, town
8 council and committee and put it altogether in record

9 speed. It's done. They have never experienced that
10 before. Thank you very much.

11 MS. PANNULLO: I'm working without a magic
12 wand, too.

13 MR. TALDONE: Thank you very much.

14 THE CHAIRMAN: Let's move on briefly to the
15 Chair Report. Four goals. Our first goal is filling
16 our vacancies. There is an East Hampton nominee whose
17 paperwork is in process. I understand it will be before
18 the legislature any day, hopefully, before the holidays.
19 We will hopefully have one from East Hampton join us in
20 the next month or two.

21 The next one is Brookhaven. The county
22 executive has asked us for suggestions. They did some
23 brainstorming in the Dennison Building, but are open to
24 our suggestions. The good news is we filled all our

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1 skill sets with all our appointments this year. There
2 is no specific skill set represented. I noted to them
3 we are not the most diverse group here. I think that is
4 something that should be taken into account. I'm sure
5 there are a lot of good folks in Brookhaven. If any of
6 you all know someone in Brookhaven that you think would
7 be good, please let me and Tom know quickly, because I
8 think they want to move on that quickly. I think we
9 would all love to have a full commission as soon as
10 possible.

11 The second goal is the guidelines. After a
12 lot of significant effort on the part of this commission
13 over the last two years, we will vote on those

14 guidelines today. The first update of the guidelines in
15 ten years, and it's certainly the most comprehensive
16 revision of the guidelines since at least 1988. We are
17 proud of it. This was started three years ago under
18 John's leadership when he was the Chair. It's really
19 been a collaborative effort. Virtually everyone around
20 this table has given their input into the process. I
21 appreciate that. I really do want to single out Dan for
22 his work on it. Andy and Tom also played an important
23 role. Dan has been the person who had the pen it's not
24 an easy job, but it's a critical job, and I want to

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1 thank Dan for his effort for putting this together. I
2 want to thank Constantine and Sarah for their leadership
3 in the last year. My only regret is that we didn't get
4 this done before baby Henry came.

5 MS. HOLMES: There is a baby that arrived.
6 You didn't tell us.

7 THE CHAIRMAN: Baby Henry has beaten us to
8 the punch, but we miss Sarah and wish her well.
9 Barbara, Linda and Charla, I want to commend them for
10 all their work in the last year, The highlights of the
11 guidelines are that we reorganized them and streamlined.
12 There is a new section of principals that apply to
13 general issues, like comprehensive plans and corridor
14 studies, and we have increased an emphasis on regional
15 priorities which we identify as affordable housing,
16 energy efficiency and public safety. In order to come
17 up with standards on those things, we work with experts
18 and stakeholders and people beyond this table. In the

19 end we brought together LIPA, builder, community, Neil
20 Lewis, Neighborhood Network, representative of the
21 Architects Association, affordable housing. We worked
22 with the Levy administration and also the Long Island
23 Partnership and the Public Safety Department the
24 District Attorney and the police commissioner.

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1 Let me just say that the law requires the
2 commission to identify and promote county-wide planning
3 priorities and apply those to the projects that come
4 before us, and the guidelines are also to ensure that
5 our decisions were consistent, so it's important that we
6 updated them again. Thank you to all that have been
7 involved.

8 The guidelines are the first step in promoting
9 county-wide planning priorities. But they're only a
10 first step. The law also calls on the commission to
11 come up with a comprehensive plan, and creating codes
12 and make recommendations for local municipalities. The
13 law calls us to report annually on the county's progress
14 in meeting those priorities. We have to meet more
15 closely with the towns and villages and consider working
16 on that in the year ahead.

17 Third goal for this year was to optimize
18 commission and staff time. We need to develop a
19 strategy for getting the intermunicipal agreements out
20 and signed. Also the nominating committee, which is
21 also the rules committee, is also going to look for
22 tweaking the regional significance commission, to make
23 sure the right projects are covered on the East End, and

24 the fourth goal is letting the public know what we're

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1 doing. I met with Congressman Bishop in the last
2 month. He has a particular interest in farmland
3 preservation. It's an issue we could become more
4 involved with if we wanted to. He expressed an interest
5 in working with him on that if we want to make that a
6 focus.

7 Bob Kesler of Newsday expressed an interest in
8 what we're doing and he's interested in doing something
9 on our new guidelines in the near future. A last
10 thought on this topic is just I think if folks have a
11 few minutes after this meeting, anyone who is not on the
12 public relations working group who wants to be involved
13 in how we get the word out on the guidelines should
14 stick around after the meeting.

15 That is my update to all of you and now up to
16 Tom.

17 MR. ISLES: Thank you, Mr. Chairman. A
18 couple of items. The Sunrise Highway Corridor Study
19 that I circulated at the last meeting is no longer under
20 embargo; it's now a public document. It's now on the
21 website. It is a draft document. Once again, we
22 encourage public review and comment back on the report.
23 To that end we have also begun a public outreach
24 process. I've had three civic meetings in the past two

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1 weeks and will continue to do that over the next couple
2 of months. We also are intending to meet with the

3 officials in Brookhaven and Islip to further review and
4 refinement of the plan.

5 Secondly, I'm happy to report that we will be
6 having a new staff member in the Planning Department.
7 We lost three people this year, senior staff. We have
8 been able to do some recovery of that. I introduced
9 Susan Filipovich, who came on board in the summer as an
10 environmental planner. We have another planner starting
11 in December who will take over as a research
12 technician. We appreciate the support of the executive
13 and legislature in these positions.

14 As mentioned by the Chair, farmland is an
15 important topic. Couple of things to bring you up to
16 date on that. We administer the county's agricultural
17 districts program; I think I mentioned this previously.
18 Once a year in January, farm property owners can
19 petition to get into an agricultural district, so that
20 window opens on January 1st, closes on January
21 31st. If anyone is interested, to get word out to the
22 farm community. We have this posted on our website.

23 The advantage is that typically you have to
24 wait eight years or up to eight years to get into an ag

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1 district. You can now get into it annually. It
2 provides advantages to property owners. The State of
3 New York has provided funding for the update of
4 agricultural and farmland protection plans. We are in
5 the process of preparing an application for that
6 funding. It is a significant project that we would like
7 to undertake in 2009.

8 Consistent with the appointment of the
9 commission and Chair, in terms of priorities of the
10 commission, there is an Agricultural and Farmland
11 Protection Board, another entity that has to adopt the
12 plan, as well as the county legislature. I think it
13 would be good to have the planning commission involved
14 as well. We will be putting together a proposal for a
15 grant and will have that ready in probably January 2009.

16 We also have been working on amendments to the
17 county's Farmland Development Rights Law. Linda Spahr
18 has been instrumental person on that effort, has been
19 extremely helpful on it. We will be recommending
20 certain changes that have gone through an exhaustive
21 review process. Essentially what it is, the county
22 program was created thirty years ago, or more than
23 thirty years ago at this point. There have been some
24 minor amendments along the way, for instance, farm

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1 stands, but there has not been a comprehensive review.
2 There is nothing in there about enforcement.

3 If the county is interested in prosecuting
4 someone utilizing property on which the county has first
5 development rights, for instance, is removing top soil,
6 or sand mining, this would help enforce the county's
7 interests in the property. There are many other things
8 that will bring the code up to date and bringing it
9 forward in terms of best management practices in terms
10 of use of pesticides and fertilizers, opening up the
11 door for those kinds of considerations in the future.
12 we will keep you posted as we go forward on that as

13 well.

14 THE CHAIRMAN: Next up we have a discussion,
15 at least an update on some legislation that is pending
16 with the county legislature that has an impact on us.

17 MR. ISLES: The resolution is contained in
18 the package, Introductory Resolution 2026 of 2008. This
19 has been sponsored by Legislator Schneiderman, who is
20 the Legislator from the 2nd Legislative District. The
21 resolution would direct the County Planning Commission
22 to do several things: Number one, the first resolve
23 clause, establish a procedure, protocol that would
24 provide applicants for cases that appear before the

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1 commission with at least ten days' prior notice that the
2 matter will be on the commission agenda.

3 The second further specifies that that notice
4 has to be in writing, has to include the date, time and
5 location of the meeting. Thirdly, would also require
6 that the agenda be posted on the county website at least
7 seven days prior to the meeting.

8 We have no quarrel with the intent of -- the
9 overall intent of resolution. However, we do have some
10 issues on a practical level, beginning with the first
11 resolve clause dealing with the notice to applicants at
12 least ten days prior to the meeting. There are a couple
13 of issues with that. Number one, as you know, the
14 commission has forty-five days from the receipt of a
15 complete application to report back to the
16 municipality. As we were looking at this, we
17 potentially run into some time issues if we have a

18 thirty day interval between meetings. On top of that,
19 we give notice of the meetings a week before the
20 meeting. That is another seven days. This requires ten
21 days' notice in advance of that for the applicant. Then
22 allowing maybe five days to review the preparation of
23 the agenda, preparation of the mailing to the applicant
24 and so forth. In that scenario we are potentially

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1 looking at fifty-two days lead time to comply with
2 this. Here again, we have forty-five days allowed.

3 There are certain circumstances in the timing
4 where it may be impractical or possibly impossible for
5 us to comply with the requirement. Not with a design to
6 do it, but from a practical standpoint it may not work
7 based on the commissioner's mandate of forty-five days.

8 The second point is the purpose of the county
9 review, to consider intermunicipal and county-wide
10 issues, if we begin notifying applicants, it almost
11 takes on a local hearing type color to it. It then begs
12 the question, we believe, if the applicant is being
13 notified, are there others that should be notified, such
14 as those living next door or other stakeholders. Is
15 that only unfair to others who may have an interest.

16 Here again, we understand the intent. We
17 don't quarrel with that. Another point associated with
18 those two first resolve clauses in terms of notifying
19 the applicant is that general municipal and county law
20 structure the County Planning Commission review as a
21 review that works with the municipalities. We are not
22 face-to-face with the applicants. The law structures

23 that municipalities are to work with the County Planning
24 commission, here again, to encourage cooperation,

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1 communication, planning and so forth.

2 And so, here again, it's not a substitute for
3 the local municipality, but to really complement and
4 coordinate with them, coordinate issues between two
5 towns, for example. We have concerns it's putting the
6 commission in the position of bypassing the municipality
7 and going directly to the applicant, where customarily
8 that has been the function of the municipality, not of
9 the County Planning Commission.

10 As far as the third resolve clause, we are
11 doing that based on your direction to us. We're pleased
12 to do that. The only qualification is that the agenda
13 we post a week before the meeting is a tentative agenda.
14 That one we supported in spirit as well as letter of the
15 law, and certainly it has been a practice of this
16 commission, historically, as it is. I certainly would
17 welcome your comments on this. This did come up on the
18 last agenda. The Environment Planning and Agriculture
19 Committee, which was held a week and a half ago, I
20 recommended that it be tabled so that it could be
21 presented here, so it would give you the opportunity, as
22 a commission, to comment back if you had any interest in
23 doing that. It is coming up again on Monday's
24 Environment Committee meeting on December 8th, I think

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1 it is. Either I can report back that the commission
2 would like to have it tabled or the committee could take
3 it under advisement.

4 If the bill does survive before the end of the
5 year, since this is a non-appointment year for
6 legislators, it could continue onto January. It could
7 be dealt with there. Whether the commission wishes to
8 make any comments afterwards by e-mail, that would
9 certainly be appreciated.

10 MR. BRAUN: I have a question about the
11 timing. Where is the ten day notice to the applicant in
12 addition to the seven day notice of the meeting? Why
13 can't there be one at the same time? That would bring
14 you down to forty-two days. If three days before the
15 seven you notify the applicant and three days later the
16 seven days' notice runs, that would save that.

17 MR. ISLES: There are all sorts of possible
18 numbers. We often don't get the agenda finalized
19 because the cutoff in the agenda is about two weeks
20 before the meeting, so we then meet and go over the
21 final opinion as to staff to see if they're complete.
22 What we're locked in with if they're complete, then they
23 have to be on the meeting that is coming up. If we
24 don't act on it, we're timed out on the forty-five days.

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1 Andy Freleng is the one that has to do the principal
2 juggling on this. We have a very compressed time. We
3 have the deadline, which is the cutoff that applications
4 are received by, then have to be considered at the next
5 commission meeting or they're timed out.

6 It's a mad scramble to get the agenda prepared
7 and get the staff reports. Andy and his units are doing
8 a heck of a lot in a few days to meet that as we start
9 to identify these, so we have enough time to prepare
10 these, individually as applications and still meet the
11 ten days. The seven days can overlap with the ten days.
12 It's putting it in an extremely tight time frame and I'm
13 not sure we can comply with that on every occasion.

14 MR. BRAUN: Other than at the Environment
15 Committee Meeting, did you testify or did you simply ask
16 it be tabled?

17 MR. ISLES: It's simply tabled.

18 MR. BRAUN: Can we propose that the director
19 attend the next meeting and he testify, offer to testify
20 at the next meeting as to the department's and
21 commission's feelings?

22 THE CHAIRMAN: I think it certainly would be
23 appropriate if he was asked. I know there are more back
24 channel ways of communication that are going on right

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1 now. The other thing is certainly, one concern is the
2 time. We might be able to find a middle ground on the
3 time. One concern that I have, I would be interested in
4 getting everyone thoughts on it, the whole notion what
5 is our purpose. Linda, this goes to what you talked
6 about. What is supposed to be in the binders that we're
7 supposed to look at. It increases the issue.

8 MR. BRAUN: That is exactly my point. It's
9 the function of the commission dealing with the
10 municipality rather than the applicant.

11 MS. ESPOSITO: Normally, legislation is
12 drafted to solve a problem. I would like some insight
13 into this. What problem is the legislature attempting
14 to solve? I don't know of one currently, so I don't
15 know the motive behind the legislation. Perhaps if we
16 better understood the motivation, we could better
17 address the issue. I think we could have a consensus.

18 MR. ISLES: My understanding is that there
19 was a case referred to the County Planning Commission
20 that was within Mr. Schneiderman's district. It
21 involved a land locked parcel. Senior Planner Ted Klein
22 handled the case for us. The commission reviewed it.
23 Since it was a land locked parcel, the commission
24 recommended a disapproval, which went back to the

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1 municipality. It was a Board of Review case, I believe.

2 The local body did not override the planning
3 commission, so the decision was denied. Apparently, the
4 property owner, the applicant was unhappy with that,
5 made the point to Mr. Schneiderman had they known about
6 the commission meeting they would have appeared at the
7 meeting and argued their case. Of course, whether that
8 would have changed the mind of the commission, we don't
9 know. I think that is what he was concerned about.

10 He spoke to me about it several months ago. I
11 said to him pretty much the explanation that I provided
12 to the commission today. I'm sympathetic to the
13 circumstance of that applicant, but I'm a little bit
14 leary of changing everything for one circumstance that
15 we have no quarrel about how it affected them, but in

16 terms of the process and kind of the sanctity of the
17 process, here again, if that applicant appeared, would
18 you be bound to ask the neighbor what do you think.

19 THE CHAIRMAN: That is a kind of a policy
20 issue that I think the legislature can put their hands
21 around. With regard to the rule that we're supposed to
22 judge by on the application itself, is that a state
23 rule? Where does that come from. Is that something
24 that the county has any kind of discretion over? In

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1 other words, can the county say to us you have to give
2 notice to the person and take account of what they say?

3 MR. ISLES: I think the commission is
4 required to have a full statement of the facts. It's
5 the complete record, as I understand, that the
6 municipality has to be shared with the commission. When
7 we receive it from a staff standpoint in the past,
8 extraneous information, we always suggested that it go
9 through the municipality, that it not come separately,
10 that the municipality is aware of it and that they send
11 it to us from that standpoint.

12 THE CHAIRMAN: "A full statement of fact,"
13 that phrase, is that a state standard, something that
14 has been kind of judicially determined what it means?

15 MS. SPAHR: It's spelled out in the General
16 Municipal Law and also the County Code, which is
17 basically tracks the General Municipal Law. Also
18 spelled out in the referral requirements, in village and
19 town law. It is the essence of what the county planning
20 function is, which is a review function. It is also

21 discussed in case law, in appellate case law. The
22 notion of notice really relates to, there are a lot of
23 lawyers on the commission, so I'm telling you what you
24 already know, it relates to the question of due process.

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1 It's the person whose property interests are being
2 discussed by the board, does that person -- is that
3 person getting due process, do they have a right to be
4 heard.

5 what the appellate cases say is basically the
6 due process is being provided at the municipal level.
7 It's not provided at the county level. The county
8 planning function is to review.

9 MS. HOLMES: That is what I was going to,
10 ask, because in this instance, that Director Isles just
11 referred to, why is not the burden on the municipality,
12 if they are referring something to the commission, why
13 is the municipality not required to notify the applicant
14 your application is being sent to the planning
15 commission and they meet next on such, the first
16 wednesday of the month? I would think that certainly
17 the legislator from East Hampton should have made sure
18 that the municipality notified the applicant that the
19 municipality was referring that application to us for
20 review.

21 That is not our function. I think the General
22 Municipal Law could be referred to in commenting to the
23 legislature that this is really a function of the
24 municipality, to make sure that the applicant knows his

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1 project is being sent to the County Planning Commission
2 and when and where we meet. That's easy enough for a
3 legislator to find out.

4 MS. ROBERTS: I totally reinforce what Linda
5 is saying. Perhaps in the South Fork I often get calls
6 from applicants asking if they have been referred here,
7 so the towns are not notifying applicants when things
8 are referred. That seems to be basic, so they should at
9 least know. What is the law on that? I agree with
10 Linda that is a better direction to go, to have it as a
11 requirement to have the municipality to notify the
12 applicant.

13 MS. HOLMES: That's it's the function of the
14 municipality to give due notice. Isn't that what you
15 just said? I think Linda just told us that it's the
16 function of the municipality to give notice.

17 MS. SPAHR: To clarify, the applicant is not
18 entitled to due process before the County Planning
19 Commission. They're entitled to due process before the
20 town or village proceeding.

21 MS. HOLMES: If the town gives due process to
22 the applicant at the local level, and then decides to
23 refer it to us, is it not incumbent upon the town to
24 notify the applicant that they are referring it to us?

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1 THE CHAIRMAN: I don't think there is one.

2 MS. SPAHR: They don't have an option under
3 the state law about whether to refer it. That doesn't
4 mean that they necessarily always comply with the law,

5 but they are required to refer. There is a distinction
6 though, perhaps, I don't know if the legislator is aware
7 of that distinction. I understand, in discussing this
8 with staff, there may be hundreds of matters that are
9 referred each month. Because they have been processed
10 by staff in connection with your direction, there has
11 been a determination that they're not significant or
12 there is reasons why they don't need to be presented.
13 There is just a tiny fraction of the matters that are
14 actually heard at a public meeting by the commission.

15 The other distinction, if I could, is the fact
16 that they're considered by the commission in a public
17 meeting is not the same as a public hearing. That may
18 also be some confusion among people that might be
19 considering the legislation.

20 THE CHAIRMAN: From a legal perspective due
21 process occurs in the town. I understand people want to
22 have a say, since we put our thumbs on the scale here.
23 There is an issue, because we do get these hundreds and
24 hundreds of applications, the town would have to let a

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1 lot of people know that they're sending things that
2 don't actually come here. When we do those
3 intermunicipal agreements, those numbers should be cut
4 down significantly. This legislation, both for the time
5 because of the tight time line, which is not practical
6 at least as written, and the notion that what we are to
7 consider and what are to incorporate into the decision
8 making process, those are two substantial issues we
9 should share with the legislator. Anything else?

10 MR. TALDONE: In my naivete I was actually
11 excited when I first saw it. One of my concerns is I
12 would love to have an applicant sitting in the audience
13 and the Planning Department representative there to
14 answer our questions, not so much to reargue their case
15 as they did before the local planning board, but just to
16 answer factual questions for us. But they're not here.
17 We have an item coming in where I have substantial
18 questions and there is no one who can answer the
19 questions, so I'm then required to vote on basically
20 someone's development right on their property without he
21 knowing the answers to questions I would really need to
22 know.

23 Regardless of whether it's accomplished
24 through legislation or just a policy of this commission

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1 to notify the departments, because departments do not
2 necessarily know, their staff doesn't know when we're
3 going to hear something until the last minute. Even if
4 they don't have the right to due process, which they
5 already have before the municipality, they have a right
6 to be here if one of us wants to asks a question of
7 fact, and the Planning Department can represent what
8 actually considered at the hearings, what the neighbors
9 thought. The owner can come in and say my neighbors
10 love me and the Planning Department can come in and give
11 us what they heard at the hearing.

12 I don't want to reargue what occurred at the
13 local level, but there are facts where I don't want to
14 vote without the information. I can see how restrictive

15 this will be and how it's nearly impossible to meet, but
16 that is a question of dates and how it's accomplished.
17 But the concept of notifying applicants that a decision
18 is going to be made that affect them on a certain date,
19 I think that is an open government sort of thing. I
20 know it adds complexity. I don't know how to make it
21 work without it being a burden on the County Planning
22 Department, but it's important to me, at least in my
23 deliberation.

24 THE CHAIRMAN: We've been advised that we are

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1 not to really incorporate anything outside of the papers
2 that we have and staff's analysis of it. Maybe that is
3 much a broader conversation than we had in the last
4 year. People come and then people disagree with what
5 they said, and then we become arbiters of fact, which
6 we're not in the position to be arbiters of facts. You
7 want to have the information to make the right decision;
8 we're all here to try to make the right decision. But
9 the way the process is set up, as I understand it under
10 state and county law, we're supposed to look at the full
11 statement of facts from the information we have from the
12 town. Which is why a couple of months ago we wouldn't
13 watch a video someone had about the property. And the
14 down side is there are situations where we can't always
15 get our questions answered. It's frustrating.

16 MS. HOLMES: Following up on something Barbara
17 said, I know in our planning board on Shelter Island,
18 the planning board notifies me, as commissioner, when
19 the planning board plans to send something to the

20 commission. The planning board makes that decision at
21 their meeting, where the applicant is presumably there
22 having or his representative is there having his project
23 discussed. So, you know, I don't know why all planning
24 boards or town zoning and planning boards, if they're

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1 notifying their own commissioner, certainly, they should
2 be -- the applicant should be aware, that this project
3 is now being sent to the commission, because that
4 decision is made at a public hearing at the town level.
5 I'm wondering, why that didn't happen in the case of
6 East Hampton.

7 MS. ESPOSITO: I think we have a short-term
8 question and a longer term question. The short-term
9 question is about the legislation that is on the table,
10 literally and figuratively. That is probably not
11 workable. It could be also counterproductive. I found
12 that with legislators, they're often well intentioned
13 and seeking to resolve what we currently perceive as a
14 problem, but they don't necessarily have a comprehensive
15 understanding of the impact of the proposal they're
16 suggesting.

17 I would like to propose that our Chair have a
18 conversation with Legislature Schneiderman and bring him
19 up-to-date about the concerns about what he's suggesting
20 and request that he withdraw the legislation until we
21 can work with him closer.

22 Then we have the longer term question, which
23 we can address that, but for the short-term, I think we
24 need to address that, especially since it's going to be

1 on the table on Monday.

2 THE CHAIRMAN: Any other thoughts?

3 MR. TALDONE: I think perhaps we can sit
4 down, a couple of us, with the legislature. This
5 legislation didn't come out of nowhere. There had to
6 have been a level of frustration of getting information.
7 People feel that their application went into this hole
8 and came out with a denial and they don't know what
9 happened. No one told them they couldn't come and
10 listen to the hearing. They didn't know when the
11 commission was meeting. That is the main concern.

12 MS. ROBERTS: I want to point out his office
13 is in Sag Harbor. I think a little bit of this is
14 Bulova, that the community was not aware when it was
15 here and that also might be a little bit of noise behind
16 it. I agree with Vince, I would love to come back to
17 this, and would be happy to host if anybody wants to
18 come to Sag Harbor and meet with him directly.

19 MS. ESPOSITO: We are having a deja vu, many
20 of us who have been here for a while. We have had
21 applicants here and public here and had a potpourri of
22 information that was not given to the county that came
23 out at the public meetings. Because of the forty-five
24 days we had to decide then. We have the applicants'

1 concerns and public's concerns and it was a true dilemma
2 that was raised.

3 So there are pros and cons to both of the
4 scenarios and we have been through them all. It's not
5 an easy or perfect answer to this.

6 MS. ROBERTS: I think a third issue is just
7 that it's noticed that it's here. I think there's
8 variations even on that theme.

9 THE CHAIRMAN: This remains an important
10 topic for the commission. In the sort term, Tom and I
11 actually discussed a meeting with Legislator
12 Schneiderman. I'm happy to do that. If anyone is
13 inclined to join us that, would be fine with me.

14 MS. HOLMES: Are you going to have to meet
15 with him between now and next Monday?

16 THE CHAIRMAN: Suffice it to say I think we
17 can talk to him and help him understand our concerns.
18 I'm happy to do that. If there is additional follow-up
19 from that, maybe I'll let everyone know. I expect Tom
20 and I will do that. Any other thoughts, comments,
21 questions, Tom?

22 MR. MCADAM: I don't want to beat this to
23 death. I have a technical question. At the local
24 planning board, when the applicant is there, does the

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1 planning board itself say that we're referring it to the
2 Suffolk County Planning Commission?

3 MS. ROBERTS: No.

4 MR. MCADAM: It may happen on Shelter
5 Island.

6 THE CHAIRMAN: There is actually a
7 requirement, there is no vote on it. They may mention

8 it at the Planning Board of Shelter Island, they may
9 not.

10 MS. ROBERTS: We have also had instances
11 where the village clerk refers things and even the local
12 planning board didn't know it was referred to us. I
13 think it's an issue of clarifying what the actual
14 process was. Maybe in the intermunicipal agreement, we
15 may want to add a paragraph.

16 MS. BOLTON: I think as far as an applicant
17 having knowledge of it being referred, the file is an
18 open file. Assuming that the applicant or his attorney
19 are looking at the file, they will know that it's been
20 referred. But at what date we're going to take it up is
21 another question.

22 MR. FIORE: I'm under the impression that the
23 local planning board gets it first and then sends it to
24 us.

□

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1 MS. ROBERTS: Yes.

2 MR. FIORE: Local planning board does have a
3 checks and balance. They can override our decision.
4 whatever happened with Mr. Schneiderman, we have a
5 policy here, so, as long as I've been sitting here, when
6 you have a land locked piece of property, we kind of
7 frown on it. I think everybody here, we all feel the
8 same way. Now all of a sudden he has a problem with
9 it. But the local planning board could have overridden
10 this whole thing and they didn't do it. So they had a
11 problem with it. Evidently everybody has a problem with
12 it but the person that owns the property and Legislator

13 Schneiderman, but we can't keep on reacting.

14 If we are going to react to everything that
15 comes down to every decision that we make, you will be
16 here forever and ever and never get out of this meeting.

17 THE CHAIRMAN: I'm feeling that way right
18 now. I think you raised an extremely important point,
19 which is we are not the last word. They can override
20 us.

21 MR. KLEIN: I'd like to inform the
22 commission, it was a very typical application that was
23 handled in an atypical way. The applicant was handled
24 by a friend of hers, it was an attorney who said she

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1 would handle it for her.

2 THE CHAIRMAN: I understand. There may be a
3 lot of people to blame for not keeping us on top of the
4 details. Why don't we move on? Tom and I will speak to
5 Legislator Schneiderman. If we need to have another
6 conversation, we can have it, but let's move on to the
7 regulatory agenda. What do we have?

8 MR. FRELENG: Ladies and gentlemen of the
9 commission, the first regulatory matter before the
10 Suffolk County Planning Commission this afternoon is
11 referred to us from the Town of Brookhaven Michael J.
12 Grant Funeral Home. It's an amended application.

13 The applicants are seeking Town Planning Board
14 site plan approval for the addition of three hundred
15 seventy square feet of basement and eleven hundred
16 fifty-six square feet of first floor addition to
17 existing funeral parlor. Town of Brookhaven requires on

18 site off street parking stalls of sixty spaces. The
19 site plan provides for only forty-four stalls. That's a
20 27% shortfall.

21 Of the proposed forty-four spaces, only
22 twenty-six are to be paved. Thus, the twenty-six paved
23 parking stalls of the required sixty results off street
24 stalls results in a 57% deviation from the zoning law

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1 required parking. The property is located on the
2 northwest corner of Patchogue-Port Jeff Road, otherwise
3 known as New York State Route 112, and Second Street,
4 which is a town road in the Hamlet of Coram. The
5 property is located within a corridor of J-2 Business.

6 The land use around the area, as you can see
7 to the east, is open space. This is known as the
8 Overton Preserve, mix of various commercial uses located
9 along the corridor, on the west side of the state road.

10 Access to the proposed site is intended via
11 three existing points of access. The southwest corner
12 of the property is an ingress-egress. Northwest corner
13 of the subject site is also ingress-egress. Then at the
14 southeast corner of the site there is an egress only to
15 the road, which we are pointing out. I just want to
16 point out with this access here to the road, it's very
17 close to the intersection of New York State Route 112
18 and also on the north side of the street, so anybody
19 making an eastbound movement would have to cross over
20 Second Street and it would make it difficult to
21 maneuver.

22 It's the belief of the staff that the proposed

23 addition is an over intensification of the use of the
24 premises, as is evidenced by the required off street

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1 parking shortfall. There has been no information
2 submitted on behalf of the applicant through the local
3 municipality which demonstrates a parking demand
4 supporting the argument for a nearly fifty-seven percent
5 variance. Moreover, elements in the site plan design
6 are problematic. This is with respect to the design of
7 this exit onto Second Street. And finally, it should be
8 pointed out that there is a New York State DOT study,
9 access management study currently ongoing, as well as a
10 Town of Brookhaven Comprehensive Plan Update, currently
11 ongoing, and we believe that the application should be
12 coordinated with those two initiatives.

13 Let me go through the slides. That is the
14 subject site located on west side of 112. That is an
15 oblique, you can see the existing curb cuts to Third and
16 Second as well as the problematic curb cut here. This
17 is the zoning. You can see the subject property. The
18 property is located in the J-2 zoning; this is mostly
19 A-1 zoning. This is the site plan. We did do a site
20 inspection. This is the existing funeral parlor. You
21 can see the access way which comes in front.

22 This is New York State Route 112 here. There
23 is the problematic curb cut is way down here. This is
24 the front of the building. This is where the land bank

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1 parking would go if it was constructed. There is where
Page 43

2 the parking is land banked now, and as explained, even
3 with the addition of land banked parking, the
4 application would be short in its requirement.

5 That is the one of the access points. I think
6 that is the southwest point.

7 THE CHAIRMAN: That little parapet is
8 directly blocking someone's view, isn't it? The little
9 column in the closest part of the picture to us.

10 MR. FRELENG: This is back here. This
11 column would be right there. (Indicating)

12 MS. ESPOSITO: They're adding a basement?

13 THE CHAIRMAN: Anything else, Andy?

14 MR. FRELENG: I wanted to read the
15 recommendation. Staff is recommending disapproval for
16 the following three reasons: First, it is unwarranted
17 over intensification of the use of the premises.
18 Second, it undermines the effectiveness of the existing
19 zoning ordinance, and use of the building would tend to
20 necessitate the use of surrounding roadways for parking
21 purposes and would diminish the safety of traffic
22 carrying capacity of the adjacent roads.

23 Survey and the comments that follow are
24 excerpted from the staff analysis.

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1 THE CHAIRMAN: Any comments or questions?
2 Secretary Esposito.

3 MS. ESPOSITO: They are adding a basement and
4 first floor. Are they just raising the whole building;
5 are they taking it down and doing it over? What exactly
6 are they doing? It says for basement and first floor.

7 MR. FRELENG: You can see the proposed first
8 floor addition is here. The existing structure would
9 stay and they will just add a one story addition to the
10 west of it. They would excavate a hole and build an
11 addition.

12 MR. BRAUN: You're calling this an amended
13 application. Did we consider this before?

14 MR. FRELENG: Yes, we did. Back in '02 this
15 application was referred for site plan. It was not the
16 addition on it. It was sent back for local
17 determination at that time.

18 MR. BRAUN: So the commission itself never
19 saw this before?

20 MR. FRELENG: That's correct.

21 MS. BOLTON: If you're concerned about
22 parking supply and you're also concerned about access,
23 that access point is near 112. Since there are two
24 other access points on the plan now, which didn't exist

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1 before --

2 MR. FRELENG: (Interposing) They did, all
3 three access points exist at the moment, yes.

4 MS. BOLTON: Why can't they abandon at least
5 part of that access point that exists now that is so
6 close to the roadway and use some of that space that is
7 created for parking?

8 MR. FRELENG: I would agree with the
9 commissioner. Its a retro -- this funeral home appears
10 to be a retro-fit of an existing home. The way the
11 house was structured when they put the driveway there,

12 that is for a drop-off. That is a drop-off in the front
13 of the funeral home over there. They would have to
14 rearrange the drop-off entrance or make many
15 accommodations on the design, which they could do.

16 MS. BOLTON: They would have to change the
17 entrance point, too, if they want to keep the site as an
18 ongoing business. For I believe that roadway in the
19 front of the building serves a purpose with regard to
20 the funeral home, with regard to the business that
21 they're in business for.

22 THE CHAIRMAN: They may be able to come in
23 from the back.

24 MR. FIORE: If you look at that, that exits

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1 right onto Second Street. It's probably some sort of an
2 egress for a procession coming out of there.

3 THE CHAIRMAN: Okay. Commissioner McAdam.

4 MR. MCADAM: Do you know how many viewing
5 rooms they have there or how many wakes they can have
6 simultaneous?

7 MR. FRELENG: I don't know off the top of my
8 head. Having said that, though, the parking is
9 determined based on the number of viewing rooms.

10 THE CHAIRMAN: Is a funeral home a specific
11 standard?

12 MR. FRELENG: In the Town of Brookhaven
13 ordinance, it would be a certain number of spaces per
14 viewing room. It's specific to a funeral home. If you
15 give me a couple of minutes, I'll take a look at the
16 referral and get back to you on how many viewing rooms

17 they have.

18 THE CHAIRMAN: Anything further?

19 MS. HOLMES: I move for the adoption of the
20 staff report.

21 MS. ROBERTS: Second.

22 THE CHAIRMAN: All in favor of adopting the
23 staff report for disapproving the application for the
24 reasons indicated, and including the comment, please

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1 raise your hands. (Show of hands) Eight opposed.
2 Abstain?

3 MS. BOLTON: Abstain.

4 THE CHAIRMAN: There are eight in favor.
5 The motion passes.

6 MS. BOLTON: I don't accept this, Rob.

7 MS. HOLMES: Are you voting no or
8 abstaining?

9 MR. BRAUN: Are you voting against the motion?

10 MS. BOLTON: I'm voting against the motion.

11 THE CHAIRMAN: The vote is eight to one and
12 the motion carries. The next item on the agenda is?

13 MR. BRAUN: It would be nine to one.

14 THE CHAIRMAN: Counting myself. I wasn't a
15 math major, you know.

16 MR. KLEIN: Asphalt Supply, referred to the
17 commission by the Town of Islip. It's located adjacent
18 to County Road 6, better known as Rabro Drive, adjacent
19 to the Town of Smithtown boundary line. The property is
20 located in the Hamlet of Hauppauge along an improved
21 roadway. There is adequate frontage on Rabro as well as

22 paved parking in front. Light industrial use
23 surrounding on three sides with just this only exception
24 would be the residential development to the northeast

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1 here. You can notice the Long Island Expressway to the
2 south.

3 The property consists of two tax map parcels,
4 totaling four point five eight acres, which is mostly
5 cleared and level. Property is presently an improved
6 asphalt plant consisting of several buildings. In the
7 front of the property is a typical more modest type of
8 industrial building, which probably houses offices or
9 administration, attached to some asphalt type tanks and
10 small silos. To the rear portion, which is the more
11 substantial part of the operation, that is the plant
12 itself, probably the most nonconforming improvements on
13 the property. Three large silos, tanks, storage
14 buildings as sort sheds. I estimate the height of that
15 building is probably sixty feet.

16 Zoning on the property is Industrial-1 zoning,
17 pretty much light industrial uses. Lots have a minimum
18 of twenty thousand square feet. Zoning along Smithtown
19 is similar, also surrounded by light industrial, and to
20 the north is the residential zone.

21 The applicant is seeking Special Exception to
22 establish a nonconforming use of the asphalt plant,
23 which now exists, and seeking permission to reconstruct
24 portions of the actual plant to the rear of the

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1 property. They would like to remove it and reconstruct
2 it here. It is the belief of staff that the request for
3 special exception to establish a nonconforming use based
4 on a preexisting condition is not unreasonable, and in
5 most cases is a matter of right. However, to permit the
6 removal and reconstruction of a significant portion of
7 the building classified as nonconforming elsewhere on
8 the property would tend to substantially undermine the
9 effectiveness of the current zoning ordinance.

10 Currently, the ordinance says no building or
11 structure should be altered except in conformance with
12 the existing ordinance. They must comply to zoning,
13 which they don't now. No variance would be permitted in
14 a nonconforming use, so the height of that silo could be
15 in question in the future. The nonconforming use may
16 not be reconstructed or structurally altered exceeding
17 an aggregate of twenty-five percent of the area of the
18 building unless it's changed to a conforming use, which
19 it wouldn't be.

20 The current application is inconsistent with
21 these regulations and a typical municipal intention for
22 establishing or allowing a nonconforming use is that it
23 will be eventually phased out and the current use would
24 change over to a light industrial use. Staff recommends

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1 disapproving for the following reasons: The proposal
2 requires a permit to reconstruct a nonconforming use
3 building to the extent greater than what is permitted by
4 town law, and therefore undermining the effectiveness of

5 the town zoning code.

6 THE CHAIRMAN: This is an Islip project. Any
7 thoughts on the area or anything you would like to
8 share?

9 MR. FIORE: I'm trying to locate that. It's
10 on Rabro?

11 MR. BRAUN: I had a couple of questions.
12 Are they putting up a different kind of structure, a
13 less protruding structure, a bigger or smaller
14 structure? Are they trying to improve traffic flow on
15 the site? What's the point of this?

16 MR. KLEIN: Maybe to upgrade, modernize the
17 existing plant. I did hear some DEC type of suggestions
18 that from the town, but I don't know exactly what they
19 were. Maybe they're trying to appease DEC.

20 MS. ESPOSITO: Those are my questions. There
21 was no SEQRA information provided.

22 MR. BRAUN: If they're a Super Fund site and
23 they want to clean it up and they have to move the
24 building out of the way to do that, I don't know the

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1 answers to any of these things. If the modernization of
2 this plant becomes less polluting of groundwater, or the
3 air, quieter --

4 THE CHAIRMAN: (Interposing) Why was there
5 no SEQRA? What information do we have on that, why no
6 SEQRA was provided.

7 MR. FRELENG: Staff determined that we had
8 enough information to render a determination. The
9 rationale of the commission for disapproving the action

10 would be explicit in the letter back to the
11 municipality. If the municipality has information that
12 would render the commission's determination irrelevant,
13 then they would put that in their record and override.
14 We were given no information as to what motivated the
15 applicant to offer this variance.

16 MR. BRAUN: Is that going to be shorter or
17 taller?

18 MR. KLEIN: I couldn't ascertain whether it
19 was taller, just that they we were moving it back.

20 MS. HOLMES: I certainly agree with the staff
21 because we just went through something similar on
22 Shelter Island. We were reminded by several lawyers
23 involved in the zoning determination, which is that a
24 preexisting nonconforming regulation is designed to be

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1 fair to somebody who happened to have a business in
2 place before the zoning law, local zoning law was
3 implemented. So he is preexisting and nonconforming in
4 its time of use to the zoning that surrounds the area.

5 It's to be fair to somebody who is already in
6 business. But it certainly is objectionable if somebody
7 tries to intensify his nonconforming use, because as you
8 note in your report, the purpose of preexisting
9 nonconforming allowance is that eventually that will be
10 phased out. That use will be phased out. But it's not
11 to be added to.

12 THE CHAIRMAN: I think the interesting thing
13 is about this it's allowed. It's not supposed to be.
14 The interesting thing is there are a lot of variables.

15 It might be a bigger size to a greater extent, but what
16 does that mean when you might have other variables like
17 less pollution? I think there are two things you can do
18 with this. We can adopt the staff report, which is a
19 disapproval, but make clear we understand that there are
20 reasons why it might be overridden, or make a --

21 MR. GULIZIO: (Interposing) In terms of the
22 SEQRA review, it's not uncommon for a town such as Islip
23 to not get too deeply into SEQRA if, upon face value of
24 a land use standpoint, the land use policy doesn't

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1 comply with the basic aspect of the code. Islip will,
2 at times, not require the applicant to go through the
3 expense of preparing a full Environment Impact Statement
4 on the application if it's not consistent with their
5 land use policies, regardless of whether or not it's
6 positive or negative from an environmental standpoint.

7 The second point, in terms of the
8 nonconforming use aspect of this application is, it's
9 important to point out the nonconforming use provisions
10 within most local codes don't consider whether or not
11 modifications to the nonconforming use would have a
12 positive or negative impact from an environmental
13 standpoint. The idea is if those uses are protected for
14 the lifetime of the structure or lifetime of the use,
15 thereafter the use is to be removed. The idea is that
16 the property would only be used in conformance with the
17 zoning, so the idea of reconstructing the structure in a
18 way that may be more efficient or less polluting, is
19 disfavored in view of the complete removal and

20 elimination of the use to start.

21 otherwise, the concern would be just the
22 perpetuation of nonconforming uses throughout the
23 lifetime use of the structure.

24 MR. TALDONE: This was the project that I had

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1 in mind when I was discussing having the applicant or
2 someone else here to answer questions. While I
3 understand Dan's point, the hope is eventually the use
4 goes away, the reality is, like coal fired power plants,
5 never go away, they sit and are repaired and they're
6 ugly and dirty and they go on forever. Certainly, if an
7 area like Long Island, where we have a low capacity to
8 produce asphalt, anywhere there is production, most
9 builders are happy it's out there and they want more of
10 it.

11 Having it in this location we would say well,
12 the zoning now would dictate that over time it would
13 disappear. My point is, it will never go away and they
14 will keep repairing an old polluting factory. Here we
15 have an opportunity, I believe, if the town or
16 applicants or town were here I would ask them to confirm
17 this, where a less noxious use will replace a more
18 noxious use and a more environmentally friendly use will
19 replace a less environmentally friendly use. The
20 contractors who get supplies from a short list of
21 suppliers would be much better off. If they're looking
22 to continue an existing use, that use that was in place
23 before the zoning law was changed, and I believe they're
24 looking to modernize their facility, which the

1 alternative is to have an old facility that we don't
2 like as opposed to a new facility that would be better
3 off for the environment. They're not here to answer the
4 questions.

5 MS. ESPOSITO: That will be a requirement;
6 it's a reasonable assumption.

7 MR. ISLES: The way the town code is
8 structured, the Town Board is giving the Board of
9 Appeals the authority to certify the existence of the
10 nonconforming use and allow the expansion to twenty-five
11 percent. The Town Board said this was as far as you can
12 go. You can't go any further than that. Is that more
13 than twenty-five percent? It appears that it's not.

14 Mr. Taldone's point, maybe this is a good
15 reconstruction that is occurring here, maybe it does
16 have positive -- that certainly is a reasonable question
17 to raise. I think that is a different path, however. I
18 think in that circumstances the direction of the
19 application would be to seek rezoning of the property so
20 it's not nonconforming, and go through this step and say
21 this should be Industrial-2 for the purpose of upgrading
22 and legitimizing and improving the property.

23 I think there is a fundamental point in terms
24 of the application that has been made. It appears to be

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1 beyond the twenty-five percent, appears to violate the
2 spirit and intent of the code which is to seek
3 discontinuance of nonconforming uses. I think there is

4 a path available to the applicant, which at this point
5 it does not appear that they have chosen that path, but
6 that path is open to them if they want it.

7 MR. TALDONE: One last point. That is
8 actually the same assumption that it will go away some
9 day, that they have the opportunity to come in and have
10 it rezoned. That wouldn't happen. There will be
11 opposition. They wouldn't get the rezoning and they
12 will continue to have an asphalt plant going on and on.
13 They're not popular in any neighborhood. I don't think
14 we have the option to say we want to make sure they go
15 out of business.

16 MR. ISLES: That is the decision of the
17 Zoning Board of the Town of Islip. To presume that
18 they're going to say it should not be here, you know
19 what, they're not going to rezone it, so we should allow
20 an expansion beyond the twenty-five percent. I think we
21 should do that.

22 MS. HOLMES: We have, many times have
23 applicants come before us where we assume. We can't
24 assume anything. We have to act on the application as

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1 presented to us and the facts that were presented. If
2 we start to hyperbolize about what they could be doing
3 with this, that is not our purview. We need to uphold
4 the town in saying this goes beyond the twenty-five
5 percent that the town allows, and I think Tom's point is
6 well taken, that if the applicant wishes to convince the
7 town that they're doing something environmentally
8 upgraded, they can present that kind of proposal. But

9 they haven't done that in this instance and they're just
10 hoping, you know, to be able to expand at will a
11 nonconforming use.

12 But I agree completely with Tom, that we have
13 to stay within the purview of what was presented to us
14 and much as we might like to see them make an
15 improvement for the reasons you mentioned, it isn't part
16 of their application and it isn't what they stated they
17 intend to do, so I certainly agree with the staff report
18 in that way.

19 MR. FIORE: I'm going to go with what Linda
20 said. I think that the staff is correct in its
21 assumption as to disapproval at this point. I don't
22 want to cut off debate on this. That is why I'll let
23 you go first.

24 MR. BRAUN: Quick question. We're talking

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1 about exceeding the twenty-five percent limit on
2 expansion, but it's not clear to me from the report that
3 this is an expansion rather than a relocation. Is what
4 they're putting up bigger in the capacity or in the size
5 of the footprint of the building that they currently
6 have or they grab ahold of it and drag it to a different
7 part of the lot?

8 MR. KLEIN: The town code, it's alteration as
9 well.

10 MR. BRAUN: I still have the same question,
11 if you could grab the building by the edge and drag it
12 to a different part of the lot, is that what they're
13 doing or are they building something bigger?

14 MR. KLEIN: The application says to rebuild.

15 MR. TALDONE: Code says if you take it down
16 you can't put up something more than twenty-five percent
17 of what is there. Reconstruction of a significant
18 portion greater than twenty-five percent of the
19 building.

20 MR. GULIZIO: What the code doesn't allow is
21 a structural alteration by more than twenty-five
22 percent. If you remove more than twenty-five percent of
23 the structure, that goes beyond what the town considers
24 maintenance of the nonconforming use. If you demolish

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1 the structure and replaced it in kind, that would be
2 prohibited by the code.

3 THE CHAIRMAN: Once you have taken down
4 twenty-five percent of it, that is the tipping.

5 MR. GULIZIO: That's correct.

6 MR. BRAUN: Is what they propose to put up
7 bigger than what they have there already?

8 MR. KLEIN: The size, square footage wasn't
9 stated on the site plan.

10 THE CHAIRMAN: What they're doing is taking
11 down what they already have. That in and of itself
12 triggers over that threshold.

13 MR. GULIZIO: Correct.

14 THE CHAIRMAN: The fact that they're building
15 something new, whether what they're building now is a
16 foot bigger or a hundred feet bigger, that is the
17 threshold, is whether you're taking down twenty-five
18 percent of what you had. You're saying they're taking

19 down all of what they had and also building it again.

20 MR. KLEIN: That can be argued at the town
21 level. The applicant's representative can argue the
22 amount, probably. I just predict that.

23 THE CHAIRMAN: The site plan says, "building
24 and concrete to be removed in this area." They're

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1 either removing it or knocking it down; one way or the
2 other. Presumably they're knocking it down. That in
3 and of itself, based on what Dan told us, is more than
4 twenty-five percent removed.

5 MR. KLEIN: They're going to argue the
6 building is in front of -- maybe more than seventy-five
7 percent; I predict that.

8 THE CHAIRMAN: There is more than one
9 building?

10 MR. KLEIN: Yes.

11 MR. TALDONE: What I was hoping to head
12 toward is a consideration of an approval with some
13 restrictions or actual conditions that it not exceed the
14 size of the existing facility, that they document the
15 reduced noxious level with better terminology than that,
16 perhaps, so that we can have an understanding, or the
17 town can have an understanding of what it is that
18 they're doing.

19 It's not entirely clear to me. My
20 understanding, from what I read here, they're replacing
21 the actual production facility with a new one, which to
22 me sounds like a good idea, absent the zoning problem.
23 That, you know, it does continue a nonconforming use, my

24 argument is that use will be continuing anyway, so what

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1 is best for the community. I think you have to weigh
2 that in as well as strict compliance with the zoning.

3 THE CHAIRMAN: It does say that the asphalt
4 construction facility is going to be reconstructed.

5 MS. HOLMES: It says "relocate and
6 rebuild."

7 THE CHAIRMAN: In other words, there is going
8 to be something new there at the end of the day.

9 MS. HOLMES: The heaviest industrial
10 buildings now on the site. I still say we need to
11 uphold the town zoning.

12 THE CHAIRMAN: Any other conversation?

13 MR. BRAUN: I'd like to make a motion.

14 MS. HOLMES: Second.

15 THE CHAIRMAN: The motion is to adopt the
16 staff report, disapproved with the comment. Also
17 requires a permit to reconstruct a nonconforming use
18 building. Can we have a show of hands?

19 MS. ESPOSITO: Can't we have more comments?

20 THE CHAIRMAN: This is to disapproval.

21 MR. TALDONE: I was suggesting conditions or
22 comments if we were to conditionally approve, not
23 disapproval.

24 THE CHAIRMAN: The motion is to adopt the

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1 staff report for disapproval. All in favor of adopting

2 the staff report to disapprove, raise their hand.
3 Five. All opposed? Two. Abstentions? Two. So it's a
4 local determination. No action on that motion. It's
5 six to two. I didn't count myself, but it doesn't
6 matter.

7 MS. HOLMES: We had two abstentions?

8 THE CHAIRMAN: Yes.

9 MS. HOLMES: Do they wish to say why they
10 were --

11 THE CHAIRMAN: (Interposing) Hold on; that's
12 my job. People are not under any obligation to give us
13 --

14 MS. HOLMES: But you give them the
15 opportunity if they wish.

16 MS. ROBERTS: Is the process that the person
17 who made the motion --

18 THE CHAIRMAN: (Interposing) Anyone who
19 votes against can move. You have to -- I'm sorry, the
20 trick is if you vote for it you can change your vote to
21 against. Someone with a no vote can make a motion to
22 reintroduce. What a lot of people do, they're in favor
23 of it, you vote for it, it's going to fail, you make a
24 motion to reintroduce. Is that right?

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1 MS. SPAHR: (Indicating)

2 MS. ROBERTS: I don't know if everyone
3 noticed, we have new signs saying that committee
4 meetings are being broadcast on the Internet. I want to
5 be firm, we're not being broadcast over the Internet? I
6 just wanted to confirm that.

7 THE CHAIRMAN: Don't left, but I want to make
8 sure we have a quorum. We have a quorum.

9 MR. FRELENG: If I might, Commissioner McAdam
10 came back and I have a clarification on the number of
11 viewing rooms in the Grant Funeral Home. Three viewing
12 rooms, and the parking requirement is twenty stalls per
13 viewing room. The parking requirement was sixty stalls
14 and they have three viewing rooms.

15 MR. MCADAM: Thank you.

16 MR. GULIZIO: Next item is another action
17 from the Town of Islip, proposed code amendment
18 involving accessory wind energy turbines or accessory
19 wind turbine. The purpose is "in order to accommodate
20 alternative and renewable forms of energy production
21 across the town while regulating the visual impacts of
22 any such form."

23 Definition of an accessory wind turbine under
24 the code is "assemblage of towers, poles, structures or

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1 devices attached thereto, used to convert wind energy
2 into electrical or mechanical energy in order to
3 supplement an existing power source of a primary
4 permitted structure."

5 The idea of renewable nonpolluting energy
6 sources is something that has been discussed briefly in
7 our new guidelines. It's been talked about not just
8 locally but regionally and nationally. It's something
9 that Islip should be applauded in pursuing.

10 In discussion with Islip staff, they're
11 receiving increasing requests for these types of

12 structures across a variety of districts, from single
13 family residences to commercial structures. In
14 summarizing the staff report, we are supportive and
15 respectfully recommend conditional approval of the
16 proposed ordinance amendment, but we would like to point
17 out a couple of considerations for the board's review.

18 First, in reading the definition of an
19 accessory wind turbine, its use is limited to providing
20 energy to the primary or principal structure on the
21 property. That seems somewhat restrictive for something
22 as simple as having a workshop or detached garage; you
23 would be prohibited from providing energy, as well as a
24 commercial environment. They are permitted there, too.

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1 It would seem reasonable to providing energy to all the
2 structures on the property would be reasonable and
3 should be considered with in the ordinance.

4 Secondly, in terms of the energy source, it's
5 only permitted to providing a supplemental source to the
6 principal energy source of the structure. That, again,
7 is somewhat restrictive. If someone could design a
8 facility that would be efficient enough to provide
9 energy to the whole structure, why should they be
10 precluded? We would recommend Islip would amend the
11 restriction.

12 We also notice, in looking at the code, there
13 is no limitation on the number of wind turbines
14 permitted on the property. I think that is an
15 oversight. We respectfully provide as a comment that
16 Islip consider some type of limitation or standard with

17 respect to the total number of turbines that would be
18 permitted on a given piece of property.

19 The ordinance also discusses potential impacts
20 associated with the use of wind turbines, noise, shadow
21 flicker, which I assume is the shadow pattern which
22 results from the turning of the turbine, as well as
23 interference with the electrical appliances within the
24 home. We think the code is somewhat vague in terms of

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1 what actually an individual property owner or user of
2 the facility would need to do in order to correct any
3 problems that would occur. We would like that specified
4 under the code, what enforcement action would be
5 pursued.

6 Finally, the last comment we noticed was that
7 the certification of the design of these structures is
8 provided under the New York State Building Code or third
9 party certifications, and it lists a number of companies
10 that are permitted to certify the design of the
11 structure. We respectfully recommend to the town they
12 consider adopting a local standard, even as simple as
13 the State Building Code or Islip's local code so it's
14 not a moving target. If modifications to the standard
15 could occur where the town is not aware of the
16 modifications, we believe that it's more prudent.

17 We respectfully request conditional approval
18 with those comments. If any commissioners have any
19 comments, I'll be glad to address them.

20 MR. BRAUN: Was any consideration made of the
21 possibility of the sale back to the grid of excess

22 capacity? I mean, while the primary use is to power
23 that site, what is the feeling on that?

24 MR. GULIZIO: That is a great question. It's

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1 not specifically referenced anywhere in the code. I
2 know there are limitations also, as I understand it,
3 from LIPA that limit the amount of energy you can sell
4 back to the grid.

5 MS. ESPOSITO: It doesn't need to be in a
6 local code. It's really guided by state legislation.

7 MR. BRAUN: If the code says you can only use
8 this to power your main building on your site, are you
9 in violation of the local code by selling it back.

10 MS. ESPOSITO: No, but LIPA was brought into
11 net metering and a cap of how much you can sell back to
12 the grid, which was already codified into state law in
13 2008. The code doesn't restrict.

14 THE CHAIRMAN: If the code is too
15 restrictive, the state law kind of trumps it.

16 MS. ESPOSITO: The local code does not
17 eliminate net metering, I think is what your question
18 is.

19 THE CHAIRMAN: If there is any conflict
20 between the two, you might as well make it consistent
21 with the state meter law, so people might think I would
22 like to meter, but I can't because of the local code.

23 MS. ESPOSITO: Let's be very clear that the
24 technology between now and the next ten years, we will

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1 be lucky if it can even power a house for wind. You're
2 correct, we should think long-term. But the current
3 technology really doesn't allow for much net metering
4 regarding wind.

5 THE CHAIRMAN: My concern would be A, if
6 technology improves, and B, if this code is in use for
7 other kinds of alternative energy.

8 MS. ESPOSITO: This is specifically wind.

9 THE CHAIRMAN: Islip might look to geothermal
10 or other things.

11 MR. GULIZIO: We would be happy to prepare a
12 comment along those lines. If we were to do that, the
13 only other suggestion I would make, you might want to
14 prepare a comment that addresses the situation, what if
15 somebody wants to sell the energy not to the grid, but
16 to a neighbor. Do you want to address that?

17 MS. ESPOSITO: No. I don't think we are set
18 up technologically to be able to do that with the grid
19 system that we currently have.

20 MR. GULIZIO: I don't know if we are either.
21 I don't know from a land use standpoint if it makes good
22 sense to promote that either. Do you want to comment on
23 it?

24 THE CHAIRMAN: I think the net metering is

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1 the real issue.

2 MR. GULIZIO: I can certainly do that.

3 MS. ROBERTS: Have we positively done all we
4 can on the visual impact? There is a little bit of
5 noise on the impact, with bird migration.

6 MS. ESPOSITO: These are residential. I had
7 a long conversation with Islip Town Council
8 representatives. They're looking at the very small
9 seventy-five kilowatt, fifty kilowatt. The bird impact,
10 as minor as it is, I say that as someone who researched
11 it diligently, is for the large scale, two point five
12 megawatt turbines. A bird can just as easily -- the
13 leading cause of death of birds is flying into windows
14 and cars and the second is pesticides. The bird issue I
15 don't think is one.

16 I think the issue of visual will always be
17 there. You can see them. You can see them.

18 THE CHAIRMAN: I think it sounds like they
19 mitigated as much as they could with regard to color.

20 MS. ESPOSITO: This is one design. The new
21 designs, Barbara, are small, they're elliptical. There
22 are vertical ones, an array of designs that will be
23 coming out in the next few years for residential and
24 small scale use that look nothing like that.

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1 May I make a comment? I'm not sure I agree
2 with having the local ordinance limit the number. The
3 reason I say that is that the technology itself in this
4 design limits the number because you're going to put so
5 many in such a space, until you're interfering with the
6 wind and effectiveness. With the new ones coming out
7 you may be able to fit more. Some of them you don't
8 know it's an energy generating structure.

9 I'm not sure you want to limit that because it
10 may not have a noise or visual impact. I'm not sure I

11 agree with the town coming up with a number because I
12 think it may be arbitrary to some degree, based on how
13 fast the technology is advancing.

14 MS. HOLMES: If I understand Dan correctly
15 and understood Comment 5 design specifications, which
16 might be very nice for the locality to investigate some
17 of the nice designs that Adrienne was talking about it.
18 It's design specifications that you're talking about the
19 locality implementing, and not number.

20 MR. GULIZIO: Item Number 3 addresses the
21 total number on the site itself; it's both.

22 THE CHAIRMAN: Alternative to Number 3 is say
23 you should consider it, but keep it in mind, but
24 technology may change that over time.

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1 MR. GULIZIO: All these are comments.
2 They're not conditions of approval. The language is
3 fairly flexible. It's just consideration to be taken
4 into consideration in case they missed it when they were
5 preparing the ordinance.

6 MR. TALDONE: I request Item 5 actually be
7 reworded so it's clear to the municipality we are not
8 looking to have a town engineer decide what is
9 appropriate every year as technology changes. Maybe we
10 should encourage them to adopt a town design
11 specification that may be well based on the superior
12 organization. I didn't get that when I read that. I
13 thought you wanted each of the local towns to come up
14 with their own design specification.

15 I would like it to be clear to the locality we
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16 are not asking them to do that. We are asking them to
17 establish what the specifications or who determines the
18 specifications. They may go with the State of New York,
19 they may -- each town can decide. We don't want the
20 town engineers to have to figure out every year as the
21 technology changes what is appropriate in that town.

22 MR. GULIZIO: I can clarify, certainly. The
23 idea was just to mimic any other certification or design
24 standard under the local building code that there be

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1 some uniform standard established, that it's not solely
2 dependent upon a third party standard. Whether that is
3 referenced to the State Building Code or incorporation
4 within the local building code to some specific standard
5 they're comfortable with, that's fine, just so that it's
6 not a moving target so people understand clearly what
7 the requirements are incorporated in the local building
8 code.

9 MR. TALDONE: I would like people not to have
10 to revisit this every year if they do adopt that.

11 MR. GULIZIO: Like with any other building
12 code, that people visit it as they saw fit. It could be
13 in place for five or ten years.

14 THE CHAIRMAN: Not in lieu of or in addition
15 to.

16 MR. KONTOKOSTA: This fifth comment, is that
17 referring to Paragraph F, certification in the actual
18 code? what are you relating to the actual certification
19 and design of the turbine or are we talking about
20 aesthetics here?

21 MR. GULIZIO: That a great point. No, I'm
22 talking about engineering design standards.

23 MR. KONTOKOSTA: The way I'm reading
24 Paragraph F, it seems like the building division's

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1 responsibility, but they may, under certain
2 circumstances, accept certain certifications. It looks
3 like the building division retains that responsibility
4 and final say so in terms of how they're going to
5 certify this.

6 It seems Point 1 and Point 2 says they're
7 going to certify it based on their own town employees
8 getting certain certification, having certain
9 educational certifications, not that they're going to
10 rely on a third party to do that.

11 MR. GULIZIO: My only concern was if there
12 isn't some specific standard that is established
13 specific to a reference standard that is incorporated
14 into the code, how is someone going to know what
15 standard is acceptable when they're submitting their
16 permit application?

17 MR. KONTOKOSTA: They list several
18 standards.

19 THE CHAIRMAN: Assuming the building division
20 is going to have to pick one of these.

21 MR. GULIZIO: While those companies are in
22 operation. Again, it's just the impermanence --

23 THE CHAIRMAN: (Interposing) It's almost
24 like LEED, a third party. At least folks know what

1 LEED is at any given time.

2 MR. GULIZIO: Whatever the commission is most
3 comfortable. If you want that comment stricken or
4 clarified.

5 MR. KONTOKOSTA: That's fine. I am just
6 trying to clarify what you're getting at.

7 THE CHAIRMAN: what the code says the
8 building division may do X, Y or Z, so there is
9 flexibility there. Maybe something along the lines the
10 building department should promulgate something that
11 they pick.

12 MR. GULIZIO: Even if it meets New York State
13 Building Code, that's fine.

14 MR. TALDONE: Where it indicates in lieu of.
15 That is what threw me. We don't necessarily want to
16 impose that. They may choose a third party
17 certification, but we want them to express what that is.

18 THE CHAIRMAN: whatever they choose, let them
19 be clear.

20 MR. BRAUN: I'm not sure what you're saying.

21 THE CHAIRMAN: Any other comments or
22 questions on this? We will clarify 5 a little bit. On
23 the other open issue was this number.

24 MS. ESPOSITO: I say we take it out.

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1 THE CHAIRMAN: Number 3, which is the number
2 of wind turbines permitted on a piece of property.

3 MS. ROBERTS: I also agree with Adrienne. I

4 attended a conference recently discussing the
5 technology, and the trend is really to tiny unobtrusive
6 units.

7 MS. ESPOSITO: Some of them you would think
8 is a kinetic art structure and not a wind generator.

9 MR. BRAUN: There is a guy on 25A that sells
10 bird houses. He has forty-six birdhouses on tall poles
11 all over his property. I don't think someone's house
12 should look like that with wind turbines.

13 THE CHAIRMAN: The town should consider a
14 limitation. If it's ridiculous, they probably will put
15 in a limitation.

16 MS. ESPOSITO: I want to say again just so
17 you understand. You could not have more than one of
18 those structures on your property because
19 technologically it would interfere with each other's
20 wind. Brookhaven Town, for instance, has a three
21 kilowatt wind turbine. If they're going to put up
22 another one, they're going to put it very far away.
23 This is on Town Hall property. In order for it to have
24 enough wind to generate to its capacity.

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1 There is an automatic distance built into the
2 structure. In order for it to run effectively engineers
3 won't put them up. A homeowner won't be putting them up
4 to not benefit from the energy.

5 THE CHAIRMAN: Does anyone feel strongly that
6 we should include a restriction on numbers?

7 MS. HOLMES: If it wasn't specified by the
8 town, then the point is well taken they need to ask, you

9 know, ask the applicant to specify how many they intend
10 to put up because some jerk may try to put up more
11 thinking that he will get more energy and doesn't know
12 that it won't -- the point is well taken, I think, that
13 they need to clarify what is appropriate, or clarify
14 some engineer's recommendations. Maybe that is what we
15 need to --

16 MR. KONTOKOSTA: (Interposing) What I would
17 just assume, this would probably fall under Number 5 or
18 the certification. If it's going to be certified as
19 operationally effective, the engineer is not going to
20 certify it if it's too many and won't be an efficient
21 system.

22 THE CHAIRMAN: Point taken. Any objection to
23 striking Number 3, given our conversation? Okay.

24 MR. BRAUN: I would like to add the comment

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1 that we discussed before that. Net metering.

2 THE CHAIRMAN: We're discussing keeping
3 Comments 1, 2 and 4, clarifying 5 and adding a new
4 comment related to net metering, or would be consistent
5 with the net metering law.

6 MS. ESPOSITO: Of New York State.

7 THE CHAIRMAN: I will entertain a motion.

8 Adrienne gets the motion.

9 MS. ESPOSITO: Motion.

10 MS. ROBERTS: Second.

11 THE CHAIRMAN: All in favor? (Show of hands)
12 Nine to zero to zero. Okay. Moving along.

13 MR. FRELENG: Next application is the

14 application of Great Rock Golf Villas referred to us
15 from the Town of Riverhead by the commission's internal
16 standards regional standards project because it's
17 greater than fifty units not connected to a regional
18 sewer system. The applicants are seeking planning board
19 site plan approval for the construction of seventy-eight
20 age restricted units with the construction of an
21 approximately six thousand square foot clubhouse
22 addition.

23 All the parking requirements seem to be in
24 conformance with the Town of Riverhead law. The subject

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1 parcel is located on the south side of Wading River Road
2 approximately two hundred twenty-eight feet east of
3 Dogwood Road, in the Hamlet of Wading River. I should
4 indicate that the subject site is located on the Great
5 Rock golf course. The subject property is located in
6 RV-80 residential zoning district with a Recreational
7 District overlay.

8 The land use around the location is improved
9 residential lots and land use slash water space. Access
10 to the subject property application is to have one point
11 of access off an existing town street known as Fairway
12 Drive. It should be noted that with regard to
13 environmental conditions, there is a state/federally
14 regulated wetland off site to the west identified as
15 wetland W-11 on the DEC Freshwater Wetlands Maps.

16 Staff is cautious that the yield may be
17 accurate, considering there appears to be several
18 subdivisions that may have been subdivided out of a

19 parent property and clustered around the golf course.
20 The golf course is active with fertilizer nitrogen load
21 to the water table. It's not clear if the Department of
22 Health will grant additional sanitary discharge to the
23 groundwater table.

24 The proposal will address the need for houses

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1 for an aging population. It's also not anticipated to
2 generate a significant number of school age children.
3 There is no accommodation for affordable units. Staff
4 believes a minimum number of units, or sixteen, should
5 be maintained in accordance with county guidelines. The
6 staff believes there should be consideration given to
7 alternate access; that would be Old Field Court.

8 If I could summarize, we have an application
9 for seventy-eight units on the existing golf course.
10 Those units would be set up right here. This is the
11 existing Fairway Drive. There is an access point here
12 and Fairway Drive continues into the subdivision. What
13 is interesting, the shape of the property. What we saw
14 when we were looking at it at the staff level, it looks
15 like this subdivision might have been carved out of the
16 original piece, as well as this subdivision maybe looks
17 like it might have been carved out of the original
18 property.

19 These look a little older; we're not sure.
20 Staff was concerned maybe this property was yielded and
21 some residential development was clustered off on the
22 east end of the property. This is a picture of the
23 community building that is going to be expanded upon.

24 This is the actual construction site of the villas. You
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1 can see this is the existing driving range. They would
2 tee up over here and hit out that way.

3 THE CHAIRMAN: How robust was your site
4 visit?

5 MR. FRELENG: I forgot my clubs. You can see
6 the construction site is relatively level, already
7 cleared, wraps a little bit around the corner here.
8 This is a shot looking away from the site looking back
9 into the existing parking lot. You can see there is
10 quite a bit of parking in the background, so that the
11 application would meet the parking requirements.

12 Staff is recommending approval with the
13 following conditions: First, that the town verify the
14 allowable yield on the subject property. That refers to
15 the notch-outs that indicates that the property might
16 have been yielded and clustered.

17 Second, that the Suffolk County Department of
18 Health Services be contacted immediately or the earliest
19 possible time to verify the ability to discharge
20 additional sanitary waste into the golf course, which
21 already has a nitrogen load.

22 In addition, that twenty percent of the units
23 be set aside for affordable housing purposes, and
24 fourth, that an alternate means of access to the

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1 attached units be provided. The development would be
2 here and we're recommending that an alternate access be

3 attached to the cul-de-sac here. It does not have a
4 structure. It looks like it was designed to end and
5 perhaps be an extension of the street, if it was ever
6 developed.

7 THE CHAIRMAN: This is a Riverhead project.
8 Any thoughts or comments, Vince?

9 MR. TALDONE: One comment regarding staff
10 Condition Number 4. I suggest it be changed to indicate
11 means of emergency access for emergency vehicles. You
12 don't necessarily need to have two access points to the
13 facility with regard to gates, but you do want another
14 location where an emergency vehicle can come in or
15 people can get out in case of an emergency.

16 THE CHAIRMAN: I think that is reasonable.
17 Adrienne, did you have a request?

18 MS. ESPOSITO: Yes, I did. I'm sorry, I
19 stepped out for a moment. Could you just clarify or
20 explain the -- I heard you say before I left that there
21 is no sewer treatment facility available. What are they
22 going to do?

23 MR. FRELENG: It's a sanitary system on site.

24 MS. ESPOSITO: Didn't I hear you say they

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1 were going to discharge it in the middle of the golf
2 course?

3 MR. FRELENG: I said they were going to
4 collect the sanitary into a septic tank leaching pool
5 system and discharge it onto the golf course property
6 underground.

7 MS. ESPOSITO: You did say "on the course"

8 and I was trying to figure out.

9 MR. MCADAM: I have two questions. I would
10 like to follow up on that one. That is not a chroma
11 glass system that they're using?

12 MR. FRELENG: I have no information on that.

13 MR. MCADAM: Like cesspools put together.

14 MR. FRELENG: Leaching pools.

15 MR. MCADAM: The second question, the
16 emergency route, does that go into a residential area?

17 MR. FRELENG: Yes.

18 MR. MCADAM: Is it families, things of that
19 nature? Is it another retirement community?

20 MR. FRELENG: Detached single family home
21 residential area.

22 THE CHAIRMAN: Where would that be on the
23 map?

24 MR. FRELENG: If you go to the site plan,

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1 it's hard to see on this version, there is a cul-de-sac
2 in here somewhere. The development is to wrap around to
3 almost here so there would be a small extension off this
4 cul-de-sac.

5 THE CHAIRMAN: It's emergency access when the
6 normal access is not available.

7 MR. MCADAM: I think the question is how is
8 it emergency; how do you restrict the emergency road?

9 MR. FRELENG: There would a crash gate that
10 emergency vehicles could easily break, that a typical
11 car would sustain a lot of damage if it did. Once the
12 emergency vehicles got onto the golf course, they could

13 get in the back way onto the condos.

14 MR. BRAUN: That was my question.

15 MS. ESPOSITO: Can you just show on the site
16 plan where the wetlands are.

17 MR. FRELENG: Right about there.

18 (Indicating)

19 MS. ESPOSITO: I see here that they did
20 submit an EAF and some SEQRA information. Was there any
21 information on stormwater runoff, being it's a golf
22 course?

23 MR. FRELENG: We didn't get any supplemental
24 information on that.

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1 THE CHAIRMAN: What is being built is not
2 near the wetlands.

3 MS. ESPOSITO: Five hundred feet.

4 MR. FRELENG: The property line is five
5 hundred feet, but the actual development is way down
6 here.

7 THE CHAIRMAN: Whatever is existing there
8 should not be any impact on the wetlands.

9 MR. FRELENG: The water features on the site
10 are not regulated wetlands.

11 MR. MCADAM: Do you know the groundwater
12 flow, does it run towards the wetlands? In other words,
13 if the septic system was here and the wetlands was here,
14 is the groundwater going to run towards the wetlands?

15 MR. FRELENG: No, I would have to hazard a
16 guess that the groundwater is going to run towards the
17 north. There is Wading River Road. If the development

18 was here, I imagine that the wastewater flow would be
19 going in the direction this way. I do not believe that
20 it would impact the wetlands; that is my opinion.

21 THE CHAIRMAN: Any other thoughts or comments?

22 MS. HOLMES: I was echoing Adrienne's concern
23 about runoff. One of the big problems with golf courses
24 is the over use of pesticides. A lot of them have cut

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1 down, but many of them have not. In my subdivision on
2 Shelter Island, the people bordering the golf course
3 have to keep having their water tested for nitrates.
4 The golf course over the years has cut down. That was
5 only because of loud protests.

6 MR. FRELENG: All the stormwater would have
7 to be maintained on site, which would be the site of the
8 condominium development. We will specify that in our
9 review.

10 The Phase 2 Stormwater Guidelines imposed upon
11 the municipality as well as keeping all stormwater on
12 site, we do not have any oversight with the maintenance
13 of the golf course. It's the condominium units.

14 MS. HOLMES: It would be nice to remind them
15 of that.

16 THE CHAIRMAN: We have recommendations of
17 approval with four conditions. The fourth condition we
18 made clear that the alternative means of access is for
19 emergency purposes and we added a comment that Linda
20 mentioned about maintaining stormwater runoff on site.

21 I will entertain a motion. Vince, would you
22 like to make that from Riverhead?

23 MR. TALDONE: Sure.

24 THE CHAIRMAN: Second from Commissioner

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1 Holmes. All in favor of approving the staff report as
2 recommended, please raise your hands. (Show of hands)
3 We have eight, and any opposed?

4 MR. MCADAM: (Show of hand)

5 THE CHAIRMAN: One opposed. Any
6 abstentions? It's eight to one to zero. That passes.
7 We are onto our last item on the regulatory agenda.

8 MR. KLEIN: The application is for map of was
9 Four Estates, referred to us by the Town of Huntington.
10 Commissioners' jurisdiction for review is that the
11 property is adjacent to county parkland.

12 This piece along here, the property is located
13 in the Hamlet of East Northport along an improved
14 roadway with access on Middleville Road. It's
15 residential. You can see to the west and to the south.
16 To the east is county parkland and east is the VA nine
17 hole golf course. Directly across the street is the
18 Northport Junior High School.

19 Property consists of two tax map parcels
20 totaling ninety thousand four hundred eighty-four square
21 feet. Approximately two hundred fifty-six feet of road
22 frontage. Property is mostly wooded, steep slopes that
23 lead down to the road. It's currently improved with two
24 single family dwellings. These are the dwellings that

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1 exist now. You can see the steep slopes to the property
2 down to the road. R-10 residence, which permits single
3 family residences on lots having a minimum size of ten
4 thousand square feet.

5 According to Article 6 of the Suffolk County
6 Sanitary Code in that area, they require twenty thousand
7 square feet minimum. Further, the Town of Huntington
8 has a hillside ordinance which says properties can be
9 subdivided as long as at least one lot conforms to the
10 area requirements in accordance with R-40
11 classification, which requires minimum lot size of
12 forty-three thousand three hundred sixty square feet, or
13 one acre.

14 The applicant is proposing to subdivide the
15 property into three building lots, which is the maximum
16 allowed, but they're not proposing a road. Instead of
17 the road, the applicant is proposing a common driveway
18 over an easement to access all the lots. There are
19 significant slopes present on the property, having an
20 overall average of twenty-two percent, with the steepest
21 over thirty percent. The common driveway would cut
22 through steep slopes on the property and has two major
23 bends, pretty sharp. This one is probably tighter than
24 ninety degrees. There is no indication that the local

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1 fire marshal reviewed the plan.

2 Lot 1 conforms to zoning, twenty-five thousand
3 five hundred thirty-six square feet with direct
4 frontage. Lot 3 conforms to the town's Hillside
5 Ordinance. That is the one acre lot, just over an

6 acre. Proposed Lot 2, having an area of twenty thousand
7 nine hundred eighty-nine square feet is the problem lot
8 since it's only accessible via proposed common driveway
9 and access is proposed over Lot 1 and 3. It is by
10 definition land locked. Creation of such a lot is
11 contrary to commission guidelines and good planning
12 principals. Staff recommends disapproval for the
13 reasons stated in the report.

14 THE CHAIRMAN: This is a Huntington matter.
15 Charla, any thoughts or comments that you would like to
16 share?

17 MS. BOLTON: The area is evident from the
18 site plan, which is extremely steep. It looks to me
19 that the common driveway is designed about as well as it
20 can be designed, considering the topography. In fact,
21 it's including access to both lots that have legal
22 frontage. The question of land locked lot and creating
23 a land locked lot is contrary to the commission's
24 guidelines. That is a separate issue altogether.

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1 As far as the common driveway, I think
2 somebody was trying to do a job of not grading that they
3 would if they created two driveways. The driveway is
4 not the problem. The problem is you don't like to
5 approve land locked lots.

6 MR. TALDONE: Regarding the creation of land
7 locked lots, easements, offers of dedication to the
8 municipality, there are a number of ways that you can
9 sort of guarantee that this access will always be
10 provided. It's not as if we're creating a land locked

11 property that has no access to the street. That there
12 is no legal remedy for future owners, tax foreclosures
13 anything. These things can be implemented even through
14 offer of dedication.

15 In the future, should this be a problem, the
16 town can step in and say this is ours, easement
17 procedures, are those options?

18 MR. KLEIN: As was written in the staff
19 report, the question of land locked lots with access
20 over an easement can create problems in the future over
21 maintenance of these easements. Who is going to
22 maintain them in such a way that they can be accessed by
23 emergency vehicles. There are a lot of things in the
24 future. The best may be to guarantee that they do have

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1 access. You might want to redesign it with a flag and
2 then have an easement. If the easement broke down, you
3 would still have frontage and they can maintain it
4 themselves.

5 MR. TALDONE: The offer of dedication or
6 declaration that would run with the land. They can't
7 really have disagreement within the future.

8 MR. KLEIN: The town probably wouldn't accept
9 it.

10 MR. TALDONE: That's up to the town.

11 MS. HOLMES: The town is prohibited by law
12 from accepting a road that doesn't meet town
13 specifications. An easement is usually drawn on a map.
14 We have had a great deal of that on Shelter Island where
15 an easement is drawn, then the private owners on

16 adjacent properties object to having it eventually cut
17 through and we also have had a lot of trouble with road
18 maintenance where people want the town to maintain a
19 parcel that the town doesn't own and the town says they
20 are prohibited from doing that. So, I think it's always
21 messy.

22 MR. TALDONE: It could be messy if it's not
23 done properly. The town would not accept an easement
24 alone. They would want a fee on that property. By

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1 filing the offer of dedication against each of the three
2 lots, it runs with the land.

3 MS. HOLMES: Isn't it true that there is no
4 indication of how they plan to dedicate the easement or
5 how they plan to provide for it?

6 MR. FRELENG: You are correct, Commissioner
7 Holmes, there is no intention of how they intend to
8 maintain the easement or the future of the easement.

9 MS. HOLMES: Or to whom it's dedicated.

10 MR. FRELENG: The way it's been done in the
11 past is place the driveways in a fifty foot wide
12 right-of-way to provide access into the property. You
13 would not get a three lot yield. I believe that the
14 applicant is trying to avoid a town specified road in
15 order to guaranty that he gets a three lot yield.

16 As Ted indicated, you could draw Lot Number 2
17 as a flag lot. That provides legal frontage, but
18 physically you could not get legal access unless you cut
19 through the slopes.

20 MR. TALDONE: There is the country lane spec

21 that allows for a maximum paved width of twenty or
22 twenty-two feet, and the town accepts those but it is
23 barely adequate for access by emergency vehicles. I can
24 see wanting to impose that minimum. That is the Country

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1 Lane Law in the Town of Southampton.

2 MR. FRELENG: The shoulder lengths were
3 increased.

4 MR. TALDONE: My point is that only the
5 twenty feet would need to be cut through. Even if it's
6 a fifty foot right of way, the hills could be kept
7 intact.

8 MR. FRELENG: That won't be an option for
9 this applicant because he would lose the third lot.

10 MR. GULIZIO: It's to ensure that there is a
11 minimum amount of safe access for each lot. It's an
12 important distinction between modifying the design
13 standards either as a country lane within a fifty foot
14 right-of-way, or modifying a right-of-way to accommodate
15 steep slopes as opposed to modifying an existing
16 standard simply to accommodate additional density.

17 If it's to accommodate steep slope, or certain
18 character or quality of development in terms of the
19 roadway, I think that is an important consideration. If
20 the designing modification or relaxation in that case is
21 merely to accommodate additional yield that otherwise
22 wouldn't be permitted, that is an important point.

23 MR. BRAUN: Am I correct that the lot sizes
24 would be undersized if the road were dedicated and not

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1 part of the lot?

2 MR. KLEIN: It wouldn't be, say, the town's
3 steep slope requirement.

4 MR. BRAUN: I understand. If you
5 deduct from Lot 3 all of the area taken up by the
6 easement, would Lot 3 still be big enough?

7 MR. KLEIN: Not to meet one acre, no.

8 THE CHAIRMAN: The land locked lots is
9 obviously in our guidelines. There may be situations
10 where we move away from that. I don't know that is such
11 an egregious thing if we were do that. Comments?

12 MS. HOLMES: I move for adoption of the staff
13 report.

14 MS. BOLTON: I second that.

15 THE CHAIRMAN: All in favor of approving the
16 staff report for the following reasons: There is also
17 a comment that the angle or bend may not be able to
18 accommodate certain emergency vehicles. All in favor of
19 that, please raise your hands. We have nine in favor
20 and none opposed. None abstain.

21 That is the end of our regulatory agenda. We
22 have two things, one, nominating committee. The
23 nominating committee doesn't have to make a formal
24 report until January. I think there is an interim

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1 report they want to make.

2 MS. ROBERTS: The nominating committee, just
3 to refresh, is Bob, Charla and Linda have been regularly
4 communicating over the last month. I think most of you
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5 know that we have sent at least one e-mail to all of
6 you. I'm happy to report that everyone responded with
7 no more than two e-mails required, except for Sarah, who
8 is excused for having a baby, and Josh, who we believe
9 did not respond because he mentioned that he thought he
10 was too new to the commission. Everyone who suggested
11 by themselves or another member of the commission was
12 contacted.

13 I'm extremely pleased to report that there is
14 total consensus between who is interested in serving
15 with who we would like to see serving. We met formally
16 this morning and I will be back with the formal final
17 slate today, so you know you're on the slate in
18 January. There appears to be a lot of interest from
19 members about future leadership opportunity. As a
20 result of all the commission members being asked that
21 question, I would report that no member of the
22 commission wants mandatory term limits. That also
23 require us to get legislative approval.

24 Two members said they would like no suggestion

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1 on limit. I will report that every other commissioner
2 did suggest that we at least have a guideline or
3 tradition of having a term limit of two to four years,
4 with the consensus being two to three years. Our last
5 group of officers served two years. That is the main
6 things to report today. Anything else?

7 MS. HOLMES: We were hoping we were setting a
8 tradition by doing that last time.

9 THE CHAIRMAN: Any questions on the

10 nominating process? If not, we move onto the planning
11 commission guidelines. Do you have anything to say
12 about the guidelines? You have lived with them.

13 MR. GULIZIO: Not particularly. I thank
14 everyone of the staff and everyone on the commission and
15 everyone who participated in picking up on issues that
16 were omitted and giving direction in terms of specific
17 policy development. If anybody has any questions, I'll
18 be happy to try and address them.

19 MS. BOLTON: Based on the presentation we
20 heard today about universal design, I'm wondering if
21 that is an element that should be included. I don't
22 recall there was anything there addressing handicapped
23 design issues in the guidelines at present. I was not
24 aware of this universal design concept and it certainly

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1 makes eminent good sense, given the aging of the
2 population, you don't have to be old to be disabled.
3 Almost everybody is disabled at some point in their
4 life, even young people due to sports, et cetera. So it
5 makes a lot of sense.

6 MR. KONTOKOSTA: I just want to say that is a
7 great point. I think we can fold that into our design
8 guidelines easily.

9 MS. ROBERTS: I like the word "universal."

10 MS. BOLTON: It talks to inclusiveness, it's
11 not just everyone else, it's everyone.

12 MS. HOLMES: When we publicize in local
13 newspapers, we can take up the thought that Judy had in
14 view of the high number of veterans who will come back

15 from Iraq and Afghanistan who will come back with life
16 long issues. It's important to have lifelong design
17 going forward.

18 THE CHAIRMAN: I think we could probably add
19 one additional policy in the design section with maybe a
20 couple of sentences. I think that would be
21 appropriate. There are also a couple of other things
22 that we talked about adding. I want to add them on the
23 record. Based on what you have in front of you as the
24 basis, we talked about removing Exhibit A. I think it's

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1 called Appendix A, the regionally significant project
2 definition, and the concept is we would put that into
3 our rules, which the nominating committee is working on
4 putting together and editing.

5 We will add as a new Exhibit A, a standard
6 referral form, which staff is working on. I think
7 everyone had a chance to look at its latest status; it's
8 something we continue to work on. That will be added as
9 a new Appendix A.

10 There was a sentence tweaked in the Energy
11 Efficiency section, some language on Page 41, just the
12 top paragraph, and there was also added to the Energy
13 Efficiency guideline with the notion that we will not
14 implement them as a commission until July 1, 2009.

15 with those amendments, I think those are all
16 the amendments.

17 MR. GULIZIO: One other, I believe we also
18 discussed the term "seniors" to the General Policy
19 section under Housing.

20 THE CHAIRMAN: That is Page 25.

21 MR. GULIZIO: Also the standard referral
22 form, when complete, would include reference to our
23 water bodies.

24 THE CHAIRMAN: Those additions, I think what

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1 we can do with respect to the exhibit and new language,
2 probably vote on those to add to the guidelines in
3 January. What I would like to do is entertain a motion
4 to pass the guidelines as they are now, with the
5 understanding that we are going to be adopting a new
6 zoning referral form when that is done and adding
7 language, which Dan will draft with regard to universal
8 design, and that is anticipated that we will do that at
9 the next meeting.

10 MR. GULIZIO: And cleaning up the format.

11 THE CHAIRMAN: Substantively that is done.
12 Any comments or questions?

13 MR. TALDONE: The changes will be
14 incorporated before these go out to all the towns.

15 THE CHAIRMAN: Yes. Entertain a motion.

16 MR. KONTOKOSTA: Motion.

17 MS. HOLMES: Second.

18 THE CHAIRMAN: All in favor of passing the
19 new Suffolk County Commission guidelines, please raise
20 your hands. Opposed? Unanimous. Thank you very much.
21 Thank you again Dan, Constantine, Barbara, Linda, Charla
22 for making it happen. Any other items of business?

23 MS. HOLMES: Before you close --

24 THE CHAIRMAN: (Interposing) I'm not closing
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1 before any people start leaving. If anyone wants to
2 stay about publicity, please do so. Linda?

3 MS. HOLMES: I want to make you all aware of
4 a project that came to my attention that we reviewed.
5 It was the CVS Pharmacy on William Floyd Parkway in
6 Mastic. I had the opportunity to see that and ride by
7 it with my son. He made the point of taking me by it
8 this past month. The town incorporated all of our
9 suggestions. The store itself is a smaller footprint.
10 All the parking is off site and something we weren't
11 aware of, of how much difference that was going to make
12 in this area is not only did it make it possible -- I
13 was thinking of the Sunrise Highway corridor
14 presentation Tom made last month -- it allows people to
15 drive five minutes to the pharmacy instead of twenty
16 minutes down to Sunrise Highway, so it's in line with
17 our thoughts for the future.

18 Even more important, a lot of people in that
19 area do not own cars. When they need to go to the
20 pharmacy or doctor, they need to take a taxi cab. This
21 cuts down on their expense tremendously. I just want
22 you to know how very nicely that project works out and
23 how much it means to the people in the area.

24 THE CHAIRMAN: Thank you for updating us on

1 that. Any other business?

2 MS. ROBERTS: A quick update. The Bulova

3 watch factory financing was denied, so that project is
4 totally off the table.

5 MR. ISLES: The approval stands.

6 THE CHAIRMAN: When the economy turns around.

7 MS. ROBERTS: The building may not survive
8 and there is a sink hole that is created in the toxic
9 dump and that hole --

10 THE CHAIRMAN: (Interposing) Happy holidays.
11 Motion to adjourn? Motion by Commissioner Braun.
12 Second by Commissioner Holmes. All in favor? Thank
13 you, everyone. Happy holiday.

14 (Time noted: 3:10 p.m.)

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1 CERTIFICATION

2

3 STATE OF NEW YORK)

4) ss:

5 COUNTY OF SUFFOLK)

6

7 I, JUDI GALLOP, a Stenotype Reporter and

8 Notary Public for the State of New York, do hereby
9 certify:

10 THAT this is a true and accurate transcription
11 of the Suffolk County Planning Commission meeting
12 held on December 3, 2008.

13 I further certify that I am not related,
14 either by blood or marriage, to any of the parties
15 in this action; and

16 I am in no way interested in the outcome of
17 this matter.

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand this 27th day of December, 2008.

20

21

JUDI GALLOP

22

23

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