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SUFFOLK COUNTY PLANNING COMMISSION

William Rogers Building

Hauppauge, New York

July 6, 2011

12:00 p.m.

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MEMBERS PRESENT:

- DAVID CALONE, Chairman
- CARL GABRIELSEN, Town of Riverhead
- DIANA WEIR, Town of East Hampton
- LINDA HOLMES, Shelter Island
- THOMAS McADAM, Town of Southold
- JENNIFER CASEY, Town of Huntington
- MICHAEL KELLY, Town of Brookhaven
- JOHN FINN, Town of Smithtown
- MATTHEW CHARTRAND, Town of Islip
- BARBARA ROBERTS, Town of Southampton
- BILL SCHOOLMAN, At-Large

THOMAS YOUNG, ESQ., County Attorney for  
Planning Department

- SARAH LANSDALE, Planning Director
- DANIEL J. GULIZIO, Deputy Planning Director
- ANDREW FRELENG, Chief Planner
- ANDREW AMAKAWA, Planning

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2 THE CHAIRMAN: Good afternoon. Welcome to  
3 the July, 2011 meeting of the Suffolk County Planning  
4 Commission. I note that we have a quorum present and  
5 I will ask Commissioner McAdam to lead us in the  
6 pledge.

7 (Recitation of Pledge of Allegiance)

8 First item on the agenda is adoption of the  
9 minutes for May, 2011. I submitted some edits to our  
10 editor-in-chief. Let the Commission know that there  
11 were a number there was one substantive edit that I  
12 wanted to share with all of you. Page 103 of the May  
13 minutes, it was the project down here in North  
14 Bellport. I must have used the wrong phrase. I  
15 it conditions and they were actually comments.  
16 Throughout the rest of the minutes it refers to what  
17 were going to do as comments. At some point I used  
18 word "conditions" where we did both as comments  
19 than conditions on that project. That was the  
20 substantive change. I wanted to point that out for  
21 record. Anything else?

22 COMMISSIONER HOLMES: I found just  
23 errors, I think. It was more than that. They were  
24 fairly minimal. Mostly misspellings.

25 THE CHAIRMAN: Any other comments or edits

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2 the May minutes? I encourage the Commission members,  
3 particularly when we get the minutes, review  
4 particularly their own portions when you say  
5 to make sure that it's accurately reflected. A word  
6 change can make a big difference. I encourage you,  
7 when you get the minutes, if nothing else, check the  
8 portion where you have spoken.

9 Seeing no comments, entertain a motion to  
10 approve the May minutes.

11 COMMISSIONER HOLMES: So move.

12 COMMISSIONER McADAM: Second.

13 COMMISSIONER CASEY: I don't think I  
14 participated.

15 THE CHAIRMAN: We have two abstentions,  
16 Commissioner Schoolman and Commissioner Casey. Nine  
17 zero to two. The minutes as edited are adopted for  
18 2011.

19 Next item is the public portion. Mr.  
20 Gilmartin is here.

21 MR. GILMARTIN: David G-I-L-M-A-R-T-I-N  
22 from the law firm of Gilmartin & Bregman. I  
23 the developers of 220 Bishops Lane, LLC who are  
24 proposing a project in Southampton called the Ponds  
25 Southampton Village. The property that is the

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2 of this application is the single most disruptive use  
3 to the Town and the Village. It is a sand mine, a  
4 concrete manufacturing plant, a concrete batching  
5 and a compost manufacturing facility, all shoehorned  
6 into a residential neighborhood.

7 The site creates enormous amount of  
8 dust and noxious odors, and the noise is extremely  
9 disruptive to the neighbors. We have been in this  
10 process for four years with the Town, going through  
11 SEQRA process, and this project has unprecedented  
12 community support. We received a Negative  
13 from the lead agency, the Town Planning Board of  
14 Southampton, which noted if this project would be  
15 approved, it would result in a reduction of truck  
16 traffic, elimination of noise, air emissions from  
17 industrial uses, remediation of an industrial site,  
18 removal of commercial and industrial uses, and  
19 replacement with residential use that is a more  
20 consistent with the surrounding community,  
21 landscape buffers would be provided. No noise or  
22 impacts are expected after the construction.

23 The proposed density is similar to the  
24 multi-family developments in the area. The proposed  
25 project is in keeping within the zoning code. It's

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2 changed from one nonconforming use to a less  
3 nonconforming use.

4 The existing community can accommodate the  
5 project. It conforms with the Town of Southampton  
6 Tuckahoe Corridor Study, and lastly, the most  
7 thing, it acknowledged the extensive public support  
8 the project.

9 I had an opportunity to review the staff  
10 report, and they touched upon the master plans of  
11 and village but I thought there were some significant  
12 additions, and I have been through both documents  
13 thoroughly. With respect to the 1970 Town of  
14 Southampton Master Plan, it states in its future land  
15 use section, certain existing land uses are either  
16 incompatible with neighboring uses now or will so be  
17 the future. Sand and gravel mining areas and former  
18 solid waste disposal sites are an example of such  
19 This is an old sand mine. In the 1970 Master Plan in  
20 the neighborhood analysis, it states that the Town  
21 should encourage flexibility and innovation in the  
22 planning of housing groups or developments to replace  
23 these uses.

24 The plan goes on to goes on to say many of  
25 these nonconforming uses fall into the category of

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2 and gravel mining. The manner in which these sites  
3 have been worked indicates that the existing sand and  
4 gravel extraction methods are not functioning  
5 effectively in terms of site rehabilitation and will  
6 require rehabilitation if their sites are not to have  
7 blighting influence on future uses. It goes on to  
8 say --

9 THE CHAIRMAN: I ask you to wrap up.

10 MR. GILMARTIN: I also had an opportunity  
11 review the conditions. The first condition that the  
12 staff stated was twelve development credits should be  
13 retired. I don't think it's appropriate in this case  
14 zoning-wise. It's not an increase in density. We  
15 building an on site sewer treatment plant. The cost  
16 prohibitive to remediate the site. The sand pit is  
17 thirty-two feet deep.

18 The other condition that we took exception  
19 was sixteen units were to be set aside for workforce  
20 housing. Throughout the process we met with the  
21 We agreed with the Town that we would provide  
22 housing through either access to the on site sewage  
23 treatment plant or payment in lieu. This agreement  
24 memorialized in a resolution that led us out of the  
25 moratorium.

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2 THE CHAIRMAN: The next speaker is Steven  
3 Dubb. Mr. Dubb, you have three minutes.

4 MR. DUBB: I'm Steven Dubb from the  
5 Organization. We're the developer of the Ponds  
6 application. I want to read a letter from Frances  
7 Genovese, who a resident near the site. She is  
8 somebody would normally opposes the project in the  
9 Town, but she supports this one.

10 "To be read aloud and entered into the  
11 record. Dear Suffolk County Planning Commission. As  
12 somebody who lived next to the thirteen acre sandpit  
13 known as the Rambo, Inc. site for over thirty years,  
14 and who for many of those years was president of the  
15 Association of Southampton Neighborhoods, which was  
16 formed by the surrounding community to combat the  
17 problems caused by the operations and conditions of  
18 site, I request that the application before you be  
19 considered in light of the site's existing  
20 land uses, and history.

21 Currently, the site is utilized by Rambo,  
22 Inc., Guillo, Inc. and an unknown number of  
23 and industrial subtenants as well as landscapers,  
24 forgers, contractors, day laborers and others. The  
25 Guillo enterprises consists of eight plus acres of

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2 rotting unknown matter which is retailed as compost  
3 collection of stone, concrete and asphalt by  
4 machinery and the storage of heavy machinery. The  
5 is utilized seven days of the week. The gates are  
6 never locked and dumping occurs at all hours of the  
7 and night.

8 The site exists in the center of a fully  
9 developed residential neighborhood. Although  
10 grandfathered pre-existing, nonconforming use was  
11 abandoned two years prior to the purchase by Rambo,  
12 Inc. in 1974, the site was never subjected to zoning  
13 review, nor was any attempt made by the Town or  
14 of Southampton to bring it into conformity or the  
15 expressed intent of the zoning law to eliminate  
16 nonconforming uses.

17 Worse, because the site was used freely by  
18 both municipalities as a convenient dumping ground,  
19 was not subject to scrutiny, monitoring or regulatory  
20 control, though it has been singled out in all master  
21 plans in both the Town and Village of Southampton  
22 1970 for its anomalous and deleterious conditions and  
23 identified as a problem.

24 Instead of a solution to the problem, the  
25 Town, village and DEC have turned a blind eye to the

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2 continuous proliferation of more and more intrusive  
3 uses and environmental hazards such as spontaneous  
4 fires, dispersal of asphalt dust into the air and on  
5 houses within a three block radius, vibrations, water  
6 pollution, unendurable stench and noise heavy truck  
7 traffic and repeated calls for regulation.

8 Owing to its location, the surrounding  
9 neighborhood has been rated sixty-five out of a  
10 by the tax assessor, which directly impacts all  
11 property values. The Ponds application offers the  
12 first and only relief to the problems caused by this  
13 disgusting and disfigured site. As a matter of  
14 record, a companion site of Rambo, Inc., BB&S Lumber  
15 Speonk, and the one that directly fed the Rambo  
16 business, was placed on the Super Fund list after  
17 than two decades, and is now being remediated at an  
18 estimated cost of four and a half million dollars to  
19 borne by the taxpayers of New York State.

20 The private reclamation, remediation and  
21 integration of this irregular commercial site to  
22 it into conformity with the residential areas has the  
23 full support of those immediately impacted, as well  
24 the surrounding community and the Village and town at  
25 large. I ask is that the board support it as well

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2 take this opportunity to use its public power and  
3 endorsement to foster the planning goals of  
4 amelioration and improvement and revise a disgraceful  
5 history as well.

6 THE CHAIRMAN: Thank you, sir. Thanks for  
7 being here. Mr. Avuritine, you have three minutes.

8 MR. AVURITINE: Howard A-V-U-R-I-T-I-N-E.  
9 it's acceptable to the Commission, can I ask Mr. Chip  
10 Wiebelt to speak ahead of me? He's speaking  
11 the Sandy Hills matter, and that would be our  
12 preference, if that is okay with the Commission.

13 THE CHAIRMAN: Any objection? Seeing none,  
14 that's fine.

15 MR. WIEBELT: My name is Chip W-I-E-B-E-L-  
16 I work for the Town of Brookhaven Division of  
17 The Town has had the opportunity to take a quick look  
18 at the staff report regarding Sandy Hills. On the  
19 basis of that, they asked me to come down and go over  
20 couple of points.

21 First regards compliance with the Coram,  
22 Middle Island, Ridge Land Use Plan, the commercial  
23 component. If you take a look at the graphics in the  
24 land use plan, you can arrive at the conclusion that  
25 the commercial component should go no further west

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2 the boulevard proposed on the Sandy Hills  
3 However, if you look in the text in the land use  
4 you will see that it does support commercial use  
5 Route 25.

6 In conjunction with the Final Supplemental  
7 Environmental Impact Statement, as indicated in our  
8 referral letter to the Commission, the Town feels  
9 this project is in full conformance with our land use  
10 plan.

11 The second point, regards to Pine Barrens  
12 redemption, under town code, that our town board has  
13 utilize for analyzing this project, the Town code  
14 not require any Pine Barrens redemption at all. We  
15 note that the staff report is looking at the Pine  
16 Barrens Commission draft standards. However, we like  
17 to point out those are draft standards still under  
18 discussion and has not been officially adopted at  
19 time.

20 THE CHAIRMAN: Thank you, sir. Next,  
21 Mr. Avuritine. You have three minutes.

22 MR. AVURITINE: I am special litigation  
23 counsel to the Town of Brookhaven regarding the Sandy  
24 Hills matter, and I've been asked to come down along  
25 with Mr. Wiebelt this afternoon to address the staff

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2 comments. Just to keep it brief, from a legal  
3 perspective, there is some concern on behalf of the  
4 Town regarding the inclusion of a recommendation or  
5 condition that there be a retirement of nineteen Pine  
6 Barrens credits in connection with this particular  
7 application, where based upon application of the  
8 applicable town code provisions, there would be no  
9 Barren credits retirement required.

10 As Mr. Wiebelt just indicated to the  
11 Commission, the basis for the belief, I believe, the  
12 basis for the staff recommendation of nineteen  
13 is based upon proposed regulations from the Pine  
14 Barrens Commission which have not been adopted. From  
15 the Town's perspective, as a legal matter, they  
16 respectfully submit that such a recommendation not be  
17 made based on any proposed regulation that has not  
18 been enacted, and does not have the power of law.  
19 only law in effect at this time is that contained  
20 within the Town code, which, as Mr. Wiebelt  
21 does not require the retirement of any Pine Barrens  
22 credits as a condition.

23 The Town also believes its interpretation  
24 the land use plan should be given great deference  
25 this Commission considers such matters. Thank you.

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2 THE CHAIRMAN: Thanks for your time. Next  
3 Robert Renda.

4 MR. RENDA: That's correct. Robert Renda;  
5 I'd like to give my time to Mr. Wagner, if that is  
6 with the Commission.

7 THE CHAIRMAN: Yes. You can, under our  
8 rules, you can yield your three minutes to Mr.

9 MR. WAGNER: Good morning, Mr. Chairman,  
10 members of the Commission. My name is John Wagner.  
11 I'm an attorney with the law firm of Certilman,  
12 Adler & Hyman, LLP. I'm here representing Sandy  
13 LLC, which is one of the applicants before you today.  
14 I'm going to follow up on what you heard from the  
15 representatives. I have also had a chance to review  
16 the draft staff report posted on the Website  
17 With respect to the requirements of the proposed  
18 condition, I should, say that the Town cause a  
19 retirement of nineteen Pine Barrens credits, I'd like  
20 to point out, as noted in the staff report, that  
21 is calculated based upon quote, unquote, current  
22 on the redemption of Pine Barrens credits of the Town  
23 of Brookhaven, and refers to the existing code  
24 revisions which are proposed as noted to you.

25 Also, based upon Central Pine Barren Joint

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2 Policy Commission proposed Chapter 5 amendments to  
3 proposed land use plan, just what was told to you  
4 before, I don't believe it's appropriate for the  
5 Commission to be basing its determinations and  
6 conditions upon code cases and land use amendments  
7 are not yet adopted and are highly controversial and  
8 are subject to amendments from this point forward.  
9 have no idea what the final revisions will look like,  
10 and we shouldn't be speculating at this point and  
11 revising conditions based on the speculation.

12 The Town, in reviewing the application, was  
13 reciting in detail in the referral that was provided  
14 you, has calculated, based on its own town code, that  
15 no Pine Barren credits are required to achieve the  
16 hundred thirty-five unit density that is proposed.  
17 Calculations revealed that up to one hundred thirty-  
18 units could be provided on the site, given the Town  
19 code provisions.

20 I respectfully submit that this Commission,  
21 although it has jurisdiction under the General  
22 Municipal Law, to review inter-community and  
23 county-wide issues, does not have the jurisdiction to  
24 supercede the determinations and interpretations of  
25 local town planning organizations and staff which are

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2 charged with interpreting their own codes. I don't  
3 believe there is legal basis or jurisdiction for this  
4 board to require nineteen Pine Barrens credits to be  
5 retired.

6 I should note that this application, in  
7 another forum, was previously before the Commission  
8 there was a July 11, 2007 letter from the Commission.

9 THE CHAIRMAN: Your time expired. You have  
10 three minutes in your own recognizance.

11 MR. WAGNER: Which required that a  
12 significant number of pine credits be retired. The  
13 staff reports indicates to you that significant  
14 requirement was based upon, or derived from  
15 guidelines, specific land use policies, Page 23. I  
16 note that that cannot be true because those policies  
17 were not adopted until 2009. They were not in force  
18 2007. The letter, 2011 was not provided to the  
19 Commission, but I'm sure a copy is in your file and  
20 will see the actual basis for that significant  
21 retirement was the allegation that there was no  
22 substantial public benefit provided by the project,  
23 it also did not comply with the clearing restrictions  
24 at that time provided by the both the Town and land  
25 plan.

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2 I would like to point out too that those  
3 conditions really do not prevail today with the  
4 application before you. As you will see from the  
5 referred to you, the applicant is proposing a  
6 accessible hiking trail on the northerly end of the  
7 property, several parking spaces provided along  
8 Road which the public can park and use that trail.  
9 noted, the applicant has no obligation to provide  
10 Barrens credits to provide the density that it is  
11 seeking; however, it has, as part of this  
12 is proposing to retire three credits. It does result  
13 in ultimately in the preserving of open space in the  
14 Pine Barrens and animal habitats in the core area.

15 The last thing I note, the plan as  
16 proposed, does comply with the clearing and  
17 unfragmented clearing requirements. Over fifty-three  
18 percent of the site is proposed to be preserved as  
19 space. I submit to you also these three credits, the  
20 three credits that are being proposed by the  
21 are significant in several respects. First, as  
22 they're not required at all. It's essentially this  
23 the applicant offering this as a benefit to the  
24 community. Second, as you probably are aware, the  
25 of these credits is quite substantial, and three

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2 credits, even three credits represents a substantial  
3 financial burden to the applicant.

4 My final point is with respect to the land  
5 use plan. Mr. Wiebelt already discussed it. I will  
6 refer you specifically to Page 98 of the Middle  
7 Road Land Use Plan and at that page it actually  
8 to the new access roadway that is proposed in the  
9 to connect Middle Country Road and Rocky Point Road,  
10 which coincidentally runs across the Sandy Hill  
11 property. It says, in text, that first story retail  
12 and second story residential and office uses could be  
13 established on the roadway. In other words,  
14 is in conformance with the proposed land use plan.  
15 Thank you very much.

16 THE CHAIRMAN: Next, Mr. Amper.

17 MR. AMPER: Richard A-M-P-E-R. I'm with  
18 Long Island Pine Barrens Society. Sandy Hills is a  
19 proposal that is both flawed and exhibits poor  
20 principles. It's located in the compatible growth  
21 of the Pine Barrens. Intensifying the land use of  
22 thirty-nine point three acre parcel well beyond what  
23 currently allowed as-of-right must be justified. I  
24 need to disagree with those that say this planning  
25 commission has no authority to require public

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2 in exchange for the kind of increase in density. I  
3 will argue that under the New York State  
4 nothing of public worth can be given to an applicant  
5 a government unless there is a commensurate public  
6 benefit and I think your specification of the number  
7 credits required to be redeemed is both reasonable  
8 well thought out. Whether or not the Commission has  
9 adopted a formal plan, you have the authority to  
10 require a public benefit. It would be useful to us  
11 that were contained in the file report the specific  
12 number of credits that have to be redeemed for the  
13 incredible increase in density. A letter from the  
14 Suffolk County Water Authority in 2008 indicated that  
15 the Pine Barrens credits being requested by the  
16 applicant was an insult to the TDR program and would  
17 not result in the balance and preservation that you  
18 folks were after.

19 What are the tangible, public benefits of  
20 granting the developer such an increase above  
21 as-of-right yield. The public must accrue true  
22 benefits that go beyond mere impact fees that will  
23 result if this proposal is built.

24 The Sandy Hills parcel has been identified  
25 the Carmans River watershed Protection and Management

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2 Plan as a property that should be considered for  
3 acquisition due due to its location in the heart of  
4 groundwater contributing area. This proposal runs  
5 counter to both the philosophy and principals on  
6 the Carmans plan is developed. It goes well beyond  
7 specific zoning and requirements outlined in Section  
8 of the health code which has been severely criticized  
9 by Long Island planners. Despite Brookhaven's  
10 continued defense of it, the project is not located  
11 near downtown or transit. It does not contitute  
12 growth by any definition of it. You looked at it  
13 before. It hasn't gotten any better and we hope that  
14 you will make it clear what is and is not permissible  
15 for a project that require that kind of density.

16 THE CHAIRMAN: Tom Talbot.

17 MR. TALBOT: Tom T-A-L-B-O-T. I'm here  
18 to speak for the Sandy Hills project and representing  
19 Middle Island Civic Association of which I am  
20 president. Couple of things that I want to address.  
21 was on the working group of the folks that prepared  
22 Middle Country Road Land Use Plan between 2002-2006,  
23 the time it got adopted by the Town I wanted to clear  
24 up something that has been brought to my attention  
25 several times is that a lot of folks are under the

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2 impression that the land use plan was, in fact,  
3 something that was intended to follow in a lock step  
4 method for everything that is set in here. It's  
5 to be in compliance with all the T's crossed and I's  
6 dotted.

7 If you have a copy of the land use plan,  
8 on Page 1, the introduction, it's clearly stated that  
9 the purpose of this was a vision to guide land use  
10 in the hamlets of Coram, Middle Island, and Ridge. I  
11 wanted to clear that up. Occasionally, there may be  
12 some variance. The plan is ten years old. A lot of  
13 things have changed and to expect this thing to be  
14 step to follow would be inappropriate.

15 Second of all, I want to refer to the Page  
16 that was referred to by the previous speaker where  
17 there is definitely -- it was intended or expected to  
18 have a commercial component in the Sandy Hills  
19 development. Basically it wouldn't be any clearer.  
20 you look on Page 98, I think you will agree with me,  
21 the very last thing, I have a copy of the Carmans  
22 Watershed Protection and Management Plan. I want to  
23 say first of all Sandy Hills lies north of Middle  
24 Country Road. I'm reading from Page Number 26 in the  
25 plan. According to the CDM, which is the company

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2 did the groundwater model, the area north of Middle  
3 Country Road does not contribute base flow to the  
4 Carmans River. It became a non-player, so to speak.  
5 It keeps getting dragged back in, but it's not.

6 But the idea that it's going to be  
7 for preservation is absurd. If you ever walked on  
8 property, you will see it's been severely spoiled and  
9 damaged and disturbed. It really isn't appropriate  
10 preservation in any form. It's brought out by the  
11 scores that the Town of Brookhaven gave it.

12 THE CHAIRMAN: Thank you. Seeing no other  
13 public comments, we will close the public session.  
14 Thank you all for your thoughts and for being here.  
15 The next item is the Chair report. As all of you  
16 our goal this year is to focus on the land use issues  
17 critical to Suffolk County's future. In that regard,  
18 we are emphasizing major county wide issues such as  
19 Comprehensive Plan as well as related issues, such as  
20 housing, infrastructure financing and storm water  
21 management.

22 With regard to the Comprehensive Plan, last  
23 month this Commission voted to release Volume 1 of  
24 Comprehensive Plan. This was an important step, a  
25 that has not been taken by the County in thirty

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2 Director Lansdale and I will be presenting this draft  
3 and a sketch of the future plans for the  
4 Plan process to the Legislature EPA committee on  
5 8th. We would like to have a meeting of the  
6 Comprehensive Plan steering committee; that is  
7 Commissioner Holmes, Roberts, McAdam and Weir,  
8 probably after our next meeting to discuss Volume 2  
9 the Comprehensive Plan and our next steps.

10 With regard to the task forces, we have the  
11 solar permit streamlining. We have a drafted a  
12 to the municipalities from Nassau and Suffolk laying  
13 out the requirements of the program and LIPA  
14 LIPA will be providing fifteen thousand dollars to  
15 town and five thousand dollars to the first ten  
16 villages in the county who adopted the plan. We hope  
17 to get final sign off from Nassau County and send  
18 out in the next few weeks. Also the County is  
19 exploring piggybacking on the work for solar  
20 to apply for a new Department of Energy grant aimed  
21 helping regions streamline solar permitting and take  
22 other steps to make it easier to install solar  
23 The county will be working on that over the next few  
24 weeks and deciding whether to finalize that grant  
25 application.

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2 With regard to the East End Wind Code, we  
3 four meetings, the last one was hosted by Southold a  
4 month and a half ago or so. The staff from East  
5 Hampton and Southampton who are taking the lead in  
6 drafting the code are incorporating suggested edits  
7 we are pushing to get them done as soon as possible  
8 we don't lose momentum.

9 With regard to the Storm Water Runoff and  
10 Native Vegetation, on June 22nd, this commission  
11 Smart, Green and Clean Water Conference. I know  
12 several of you were there for that; we had over a  
13 hundred fifty people in attendance. We had seven  
14 private sector companies who are doing innovative  
15 things who came and showed their projects. Newsday  
16 a story highlighting some of those companies. County  
17 Executive Levy presented, as did officials from New  
18 York State and the EPA.

19 I want to particularly thank Secretary  
20 Esposito and Director Lansdale and the staff for  
21 work in making that happen. Just the other day we  
22 asked to send a copy of the program to the to  
23 Washington because the EPA administrator's office  
24 wanted to see what kind of program we put together.

25 With regard to native vegetation clearing

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2 standards a month or so ago, the group met to discuss  
3 clearing standards for Suffolk County and regional  
4 standards. We need to keep working on that. John  
5 and Mike Kelly were involved and Adrienne as well. I  
6 hope they can continue the dialogue on that and  
7 out what a good standard would be.

8 With regard to commercial building energy  
9 efficiency standards, Vice Chairman Kontokosta and  
10 Commissioner Finn are leading that effort. They had  
11 the first meeting a few weeks ago. And the second  
12 meeting tomorrow. Among several of the Towns to  
13 discuss creating a standard energy efficiency code  
14 commercial buildings and determine how to measure  
15 results to avoid towns going in different directions.  
16 Huntington Babylon, Islip, Southampton, Riverhead  
17 all signaled their intention to participate. We have  
18 representatives from LIPA, LIA, US Green Building  
19 Council, CDC of Long Island involved.

20 Interestingly, the head of building codes  
21 New York State, Ron Piester, heard about the work  
22 we are doing on the task force and is actually coming  
23 down from Albany tomorrow to participate in the task  
24 force meeting, and we are also going to meet with him  
25 about our solar plan to get input on that. That was

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2 exciting when folks up in Albany are recognizing that  
3 we are trying to do some good stuff here in Suffolk  
4 County.

5 With regard to economic development, we  
6 our Protect and Grow Committee. As you know, the  
7 Planning Commission made sewer financing a major  
8 priority. To that end, we co-hosted the County  
9 Executive's Sewer Summit II in October where a major  
10 theme was sewer infrastructure financing mechanisms.  
11 We then encouraged the county executive to create a  
12 group where we would focus on building Suffolk  
13 future, where we should grow, where we should  
14 and how we should pay for infrastructure. As a  
15 the county executive came up with a proposal that  
16 for the first time provide an annual source of  
17 Approximately three hundred million dollars over ten  
18 years. That is a big step for Suffolk's future. The  
19 Legislature will be voting on this proposal in early  
20 August.

21 One of the concerns is that the bill needs  
22 have specific criteria to ensure that this financing  
23 goes to the areas in the county where development is  
24 most needed, in correspondence with the Comprehensive  
25 Plan and to projects that support the values the

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2 Planning Commission and others have identified as  
3 important to Suffolk's future, such as workforce  
4 housing, transit oriented development energy  
5 buildings, public safety, etc. Director Lansdale is  
6 working to make sure that the bill includes a process  
7 for creating such criteria.

8 One of the other projects we started last  
9 year but it's on going is SUPP, the Suffolk Unified  
10 Permit Portal. We started holding quarterly steering  
11 committee meetings, Yves Michel is heading that up.  
12 It's progressing. Another project we have been  
13 on is professional certification for commercial  
14 interiors. Our idea is to follow the lead of New  
15 City and eliminate the need for building inspections  
16 for routine interior commercial alterations. This  
17 effort has the support of ABLI and others. John  
18 Racinelli of Farrell, Fritz has put together a draft  
19 plan which we have reviewed.

20 I want to particularly thank the Vice  
21 Chairman and Commissioner Finn for their efforts on  
22 that. I want to acknowledge Jennifer Casey, who is  
23 going to be heading this effort to get it to the  
24 line. Thank you for that. Speaking of our new  
25 commission members, we were looking to start a new

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2 effort on agriculture that will be headed by Carl  
3 Gabrielsen. We're working on figuring out the  
4 on that and hopefully before will have some ideas to  
5 share by our next meeting. We will some ideas to  
6 around the table.

7 On public safety, we have the draft design  
8 standards. We are still waiting on feedback from  
9 several town council members. We will meet with  
10 District Attorney Tom Spota to get his endorsement on  
11 that initiative. Brookhaven Town has indicated an  
12 early interest in perhaps piloting that. It's always  
13 good when our largest town is interested in some of  
14 work we are doing.

15 The last working group is housing. We have  
16 on the Commission some of the leading thinkers and  
17 doers when it comes to housing on Long Island, Vice  
18 Chairman Kontokosta, Commissioner Weir, and  
19 Commissioner Kelly. We talked about doing a county  
20 housing conference later this year. Now that the  
21 stormwater conference is behind us, it's time to  
22 planning the one on housing. Unfortunately, the vice  
23 chairman is sick today. Perhaps next month. Those  
24 interested can stay with me a few minutes. Maybe can  
25 schedule that call.

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2 The last items -- we have the guidelines  
3 committee we will meet after today's meeting.

4 I want to thank the staff for the excellent training  
5 provided this morning on responsibilities and ethics.  
6 We didn't get into the TDR, Pine Barren credits and  
7 wastewater credits because of a time constraint. We  
8 will try to schedule maybe an hour before the next  
9 meeting. That is the update. Any comments or  
10 questions? Seeing none, we move to the director's  
11 report. Director Lansdale.

12 DIRECTOR LANSDALE: Thank you, Mr.  
13 I just wanted to review a couple of things couple of  
14 accomplishments from last month. As I mentioned  
15 previously, I have five goals for the Planning  
16 Department. They include creating the best planning  
17 department in the country, creating relationships  
18 with the towns and villages, providing valuable  
19 research for the county and region, reusing and  
20 restoring properties to meet the future needs of the  
21 county and building the department as a resource for  
22 grants.

23 I want to touch on that information being  
24 that valuable resource for information for the county  
25 and I want to touch on some accomplishments under

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2 goal. The Chairman mentioned the Stormwater  
3 Conference. I want to thank Chrissy Einman for doing  
4 terrific job in the Planning Department and  
5 coordinating the entire conference. I would like to  
6 note the effort of the Planning Department and  
7 particularly Andy and Andrew in providing valuable  
8 research in relationship to the Village of Amityville  
9 and their sign codes. That was highlighted in  
10 Newsday's report yesterday. Thank you.

11 I wanted to highlight a couple of things  
12 thank Dan and Andy for putting together as well as  
13 Young for putting together a terrific training for  
14 members of the Planning Commission. We are also  
15 a number of research projects, including documenting  
16 projects of regional significance and housing trends  
17 and commercial vacancy rates in downtowns across the  
18 county. It's been my pleasure to work with such a  
19 talented staff.

20 THE CHAIRMAN: Thank you. Any questions  
21 the Commission at this time? If not, we will move on  
22 to the agenda. The first item is Sandy Hills.  
23 Mr. Freleng.

24 MR. FRELENG: The first regulatory agenda  
25 from the Town of Brookhaven regarding Sandy Hills,

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2 This staff report that you have before you is an  
3 addendum to the original staff report prepared in  
4 '07. The subject application is adjacent to New York  
5 State Route 25, county Road 21 and within the Central  
6 Pine Barrens.

7 This is a re-referral by Court Order there  
8 a fourth amended petition and requests town board  
9 change of zone approval from J-2 and A-1 to J-6 and  
10 This is to allow the proposed construction of a  
11 thirty-five attached multi family units and seventeen  
12 thousand three hundred square feet of commercial  
13 I'm going to be brief and try and capture the essence  
14 of the staff report. I can certainly further  
15 if any commission members would like that.

16 As indicated, back in '07 the county  
17 commission reviewed a prior referral and  
18 approved it on July 11th. Conditions imposed by the  
19 Commission were as follows: The applicant shall be  
20 directed to retire a significant number of Pine  
21 credits to achieve the requested density. Twenty  
22 percent of the proposed units shall be set aside for  
23 workforce housing purposes.

24 The applicant shall provide written  
25 correspondence from the Suffolk County Department of

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2 Public Works and New York State DOT as to the issues  
3 the proposed bypass road and access permits to the  
4 public right-of-way.

5 The applicant shall provide written  
6 correspondence from the Suffolk County Sewer Agency  
7 the Department of Health Services as to the viability  
8 of the proposed onsite sewage treatment plant.

9 Five, the applicant shall provide written  
10 correspondence from the Suffolk County water  
11 as to the potential impacts of the proposed action on  
12 the Baily Road well field.

13 The current referral differs from the prior  
14 conditionally approved referral as follows:

15 Three Pine Barrens credits are proposed to  
16 retired. Detached single family unit housing are  
17 eliminated. Triplex building units are eliminated  
18 Twenty-seven workforce housing units or twenty  
19 are proposed. The proposal is now for a hundred  
20 thirty-five units approximately one more than the  
21 referral. The commercial area increased to seventeen  
22 thousand thirty square feet from thirteen thousand  
23 square feet and issues regarding the Suffolk County  
24 department of public works, Suffolk County Department  
25 of Health Services and Suffolk County Water Authority

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2 were addressed in a 2/26/09 FEIS.

3 From the staff's perspective relevant to  
4 review of the re-referral, several issues needed to  
5 concluded. The first issue to be the status of the  
6 Middle County Road Land Use Plan for Coram, Middle  
7 Island and Ridge. As you know, an adopted  
8 comprehensive land use plan or hamlet plan by a  
9 municipality becomes part of their overall  
10 Comprehensive Plan. It was important to distinguish  
11 whether or not the plan was adopted, if indeed it  
12 what was the consistency of the referral with the  
13 Middle Country Road Land Use Plan.

14 The subject application does have certain  
15 elements that are generally consistent with the land  
16 use plan particularly related to housing. However,  
17 plan does not envision or propose the inclusion of  
18 seventeen thousand square feet of commercial space on  
19 the property. The staff derived it by looking at the  
20 map and there was no commercial space provided for at  
21 that location.

22 The third item that staff needs to review  
23 the issue on Pine Barren credits the applicant  
24 to redeem three Pine Barren credits. The Suffolk  
25 County Planning Commission conditioned its 2007

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2 approval on the retirement of a significant number of  
3 Pine Barren credits to achieve the requested density.  
4 It's apparent to staff there is an increase in  
5 to the site. What staff was trying to do was provide  
6 for the Commission a range of possible credits that  
7 could be retired on the site.

8 Why did staff do that? Number one, the  
9 subject property is in the compatible growth area of  
10 the Central Pine Barrens. Town of Brookhave code  
11 indicates that all A-1 zoned land, amongst others,  
12 is greater than minimum lot size could be a potential  
13 receiving site for Pine Barren credits. Discussion  
14 this site relative to the retirement of Pine Barren  
15 credits is warranted and relevant. So how many  
16 should be retired on the site? There is an obvious  
17 increase from the requested yield to as-of-right  
18 for approximately a hundred one or a hundred two  
19 That is one way to look at the increase of density on  
20 the property.

21 The applicant proposed three units or three  
22 Pine Barren credits to be retired on the subject  
23 property. Somewhere in the middle is another  
24 recommendation for the retirement of credits. You  
25 aware that the Central Pine Barrens Commission is

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2 holding discussions on mandatory redemption of Pine  
3 Barren credits in order to keep the Pine Barrens plan  
4 constitutionally viable. The Town of Brookhaven is  
5 discussing on a separate track the incorporation of a  
6 mandatory redemption under their MF code.

7 These are issues not being discussed behind  
8 closed doors. Staff thought it might be appropriate  
9 use that as a possible benchmark for the retirement  
10 credits on this project site to address significant  
11 number of credits that should be retired. In doing  
12 that analysis, staff did come up with a certain  
13 of credits that could probably be retired, and that  
14 nineteen. The range of possible number of credits  
15 could be redeemed by the proposed project ranged from  
16 three to nineteen to a hundred two.

17 It's up to the Commission to decide what is  
18 the significant number of credits or whether or not  
19 want to stick to your original condition. Staff  
20 recommended, after analyzing the referral, that  
21 one, the reduction or elimination of the commercial  
22 space is part of the application. Our literal  
23 interpretation of the Middle Island, Coram, Ridge  
24 did not indicate commercial space of that property  
25 being proposed. In the plan it talks about the

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2 creation of nodes and hamlet centers. The Commission  
3 doesn't work in a vacuum. It has seen other  
4 applications which talks about the increase of retail  
5 area. We think that is a consideration to see where  
6 the proposed commercial area is mapped and where it  
7 not mapped, and staff made this recommendation to  
8 eliminate this commercial space.

9 Second, the Town shall cause the retirement  
10 of nineteen Pine Barrens credits. Its just an  
11 from the staff report. Staff is trying to provide  
12 Commission a benchmark as to what a significant  
13 of credits might be. Staff is also recommending the  
14 addition to their determination of several comments.  
15 The first comment regards the implementation of the  
16 overall Coram, Middle Island, Ridge Plan particularly  
17 with regard to the transition areas If you are going  
18 to create nodes and hamlet centers, the areas in  
19 between the nodes need to be addressed to be sending  
20 sites for development rights or downzoned so you  
21 have a blur of density from one node to the other.

22 The second comment staff is recommending  
23 the Commission provide to the Town. I'm sure the  
24 is aware that subsequent application approvals would  
25 require referral to the Commission. Therefore, we

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2 reserving detailed comment to any subdivision or site  
3 plan application is that referred.

4 The third comment that staff would like to  
5 present to the commission there are forty-six parking  
6 spaces accounted for and garage space. Staff noted  
7 the past history garage space, a majority, if not all  
8 garage space over time tends to convert to storage or  
9 living space and very few are actually used for the  
10 storage of motor vehicles. We are providing that as  
11 comment.

12 Lastly, staff believes that the Commission  
13 should make the applicants and Town aware for later  
14 stages site planning and any other variances and/or  
15 subdivisions that may be required the applicant  
16 look at the guidelines on the provision of energy  
17 efficiency, universal design and public safety. That  
18 is the staff report.

19 THE CHAIRMAN: Thank you. I think we are  
20 noting in the comments for zoning change what we  
21 note down the line for site plans. As a last  
22 we typically mention that when it comes to site plan,  
23 if we mention it here we might as well note the  
24 applicant is encouraged to investigate green  
25 methodology and stormwater runoff and mention our

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2 I assume there is no objection to that.

3 This is a Brookhaven project. Commissioner  
4 Kelly.

5 COMMISSIONER KELLY: Thank you. With all  
6 respect to the department, to the applicant and to  
7 opposition, the comments that I heard and take most  
8 heart to would really come from the Town and the  
9 special litigation counsel.

10 THE CHAIRMAN: I note for the record we are  
11 not going to include in our consideration on the  
12 the items that we heard in public session.

13 COMMISSIONER KELLY: Right. Purely from a  
14 comment from the public. With that, taking special  
15 mention of it, especially from counsel. I personally  
16 would see this is more of a matter of local  
17 determination based on the history of this  
18 the varying comments from the Middle Island plan  
19 some of the comments with regard to the commercial  
20 being included or not being included.

21 So from my review of this, I would say that  
22 this is more of a matter of local determination and I  
23 would make that recommendation that we make this a  
24 matter of local determination.

25 THE CHAIRMAN: Any other thoughts? One

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2 I will say, we tend not to make local determinations  
3 bigger projects. We can do a local determination,  
4 one question I had Andy, with regard to the plan, the  
5 Middle Country Road plan and the map that you saw  
6 where the commercial cut-off is supposed to be, how  
7 close is that to that facility? I heard words about  
8 roads and this kind of thing. Someone that is not as  
9 familiar with that area.

10 MR. FRELENG: The Middle Country Road Land  
11 Use Plan pretty much targets this area as the hamlet  
12 node and this area here as the future commercial  
13 development. Depending on where this road comes in,  
14 the road comes in here and they're proposing  
15 development to the east of the road. Literally a  
16 at the map shows this area in this here is part of  
17 redevelopment node for commercial area. Does that  
18 answer your question, Mr. Chairman?

19 THE CHAIRMAN: The commercial area that  
20 talk about in the site plan, does that touch down on  
21 the road there?

22 MR. FRELENG: It touches down Route 25 and  
23 there would be a corridor going up the site.

24 THE CHAIRMAN: It's adjacent to what they  
25 talk about in the plan.

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2 MR. FRELENG: It's on the other side of the  
3 map of what is in the Coram Middle Island plan.

4 COMMISSIONER CASEY: It's pretty close to  
5 that. How far away is that?

6 MR. FRELENG: It's a matter of feet. The  
7 point is if you keep proliferating commercial strip  
8 and down the strip, is anything that you plan to have  
9 in the future going to be viable. That is what I'm  
10 saying.

11 COMMISSIONER McADAM: Andy, can you tell me  
12 when the land use plan was adopted?

13 MR. FRELENG: It was adopted in 2006.

14 COMMISSIONER McADAM: When did we first see  
15 this application the first time around?

16 MR. FRELENG: Let me back up. On April 4,  
17 2006, the applicant, Middle Country Road Land Use  
18 was adopted and we saw the application on July 11,  
19 2007.

20 COMMISSIONER McADAM: It's less than a

21 THE CHAIRMAN: It's changed since that  
22 with some configurations.

23 MR. FRELENG: The land use plan.

24 THE CHAIRMAN: The original application.

25 COMMISSIONER McADAM: Yes.

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2 THE CHAIRMAN: One of the things we have to  
3 worry about in the bigger picture is the Pine Barrens  
4 credits. We have seen now several projects where  
5 are some Pine Barrens credits, there are no Pine  
6 Barrens credits. We have heard from our staff, and I  
7 believe it's been true, that we need to make sure  
8 some Pine Barrens credits are being purchased, that  
9 effectuate the purpose of the Pine Barrens plan don't  
10 want to run afoul the taking laws as it relates to  
11 particular piece of legislation.

12 What I have trouble with is us as a  
13 commission imposing or trying to figure out what that  
14 number is on a project by project basis without there  
15 being some sort of broad brush consensus that should  
16 among the community. Andy laid out it could be one  
17 one. There are different ways of looking at this.

18 Personally, I think clearly the number is  
19 more than zero, I just don't know what it is. I  
20 it's hard to figure that out on a case by case basis.  
21 I feel that the role of this commission should be to  
22 pull the parties together and figure this out and  
23 we can have a standard that we all kind of agree on.  
24 It could be part of our guidelines. What are your  
25 thoughts?

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2 MR. FRELENG: Staff doesn't really have  
3 thought on that other than the Commission has a  
4 that increases in density should be tied to some sort  
5 of transfer of density, whether it be a TDR or one to  
6 one upzoning or downzoning or acquisition as you  
7 correctly stated. There is no immediate policy on  
8 retirement of credits other than what the Pine Barren  
9 Clearinghouse and Central Pine Barren Commission are  
10 trying to create.

11 COMMISSIONER GABRIELSEN: How did you  
12 at nineteen? You have a formula?

13 MR. FRELENG: There is a formula being  
14 discussed. Every piece of property in Suffolk County  
15 has an allowable density of flow called the  
16 density equivalent. That is derived from the Suffolk  
17 County Sanitary Code, which will tell you what your  
18 yield on the property is. That is your benchmark.  
19 Then you have what is being proposed. In this case,  
20 what is coming out of the sewage treatment plant.

21 The difference in wastewater can be  
22 calculated as-of-right and what is being proposed.  
23 Current trends in thinking is that project sponsors  
24 need to provide a range of public benefits; it could  
25 a pool or open space. If you are in the Pine

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2 one of the public benefits should be the retirement  
3 Pine Barrens credits.

4 The current trend in thinking is we need to  
5 have a number that allows for the retirement of  
6 but also allows the project sponsor to provide other  
7 required public benefits. Right now it's being talked  
8 about at fifteen. The original proposal was fifty  
9 percent, another discussion was twenty-five percent.  
10 The discussion is at fifteen percent. Staff picked  
11 that as a bench mark for the Commission's  
12 of the range of credits that could be retired.

13 Staff believes there is an obligation on  
14 project to retire credits that is in the Central Pine  
15 Barrens. It is a potential receiving site, et

16 THE CHAIRMAN: It seems to me we need to  
17 up with some kind of standard. With these projects,  
18 there are negotiations and decisions in terms of what  
19 are the public benefits. That's hard for a county  
20 planning commission to look at late in the game. It  
21 seems like we need to come up with a standard that  
22 working with others is sort of like a minimum, and if  
23 they want to give more, that's fine. If they want to  
24 do other things like a walking trail, that would be a  
25 negotiation that would have to happen with the

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2 township.

3 MR. FRELENG: Mr. Chairman, that is a  
4 negotiation that should happen on the public record.  
5 The Commission is an advisory body. The Commission  
6 will make a recommendation on a certain number of  
7 credits, the Town will deliberate that and indicate  
8 their findings indicate why a certain number of  
9 is too much or not enough and require it for  
10 themselves. It's grist for the mill. It's the role  
11 the Commission to make recommendations and for the  
12 localities to deliberate those recommendations and  
13 their findings into the record.

14 COMMISSIONER KELLY: The dialogue regarding  
15 the public benefit calculation is really just come  
16 to the forefront right now and attempting to be  
17 within the Carmans River, I guess, code I guess you  
18 could call it. With that said, an applicant who has  
19 been at this for a number of years, since he made  
20 application to impose these types of requirements  
21 they were never contemplated from the original  
22 application gets to be onerous. That coupled with  
23 fact that the cost of the Pine Barren credits with a  
24 recommendation of roughly nineteen Pine Barrens  
25 credits, the cost is roughly one point six million

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2 dollars. That coupled with the fact that that  
3 applicant has proposed sewage treatment plan on site.  
4 These are up front costs that prohibit this  
5 to move forward to fruition. This is clearly  
6 that complies with the land use plan and is supported  
7 by the civics.

8 It sounds like the Town itself is  
9 this. To put conditions on this at this late game,  
10 prohibits the application moving forward.

11 COMMISSIONER WEIR: I think it is important  
12 that Pine Barren credits be retired in the public  
13 process I think that all of us want that as part of  
14 the public benefit. Probably the best way to do this  
15 is maybe make it as a comment suggesting that the  
16 make sure some of the Pine Barren credits retired in  
17 the public process should be discussed, perhaps  
18 the Town the community and perhaps the Pine Barrens  
19 Commission, so as a comment that they make sure that  
20 they retire some --

21 THE CHAIRMAN: The proposal is that they  
22 I could see if they had done none, as a condition we  
23 could say you have to do some. One of the problems  
24 have seen over the last several years is lots of  
25 projects do not. That isn't right. That doesn't

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2 sense. I don't know if the number is nineteen or a  
3 hundred or one, but it's not zero. We have seen lots  
4 of projects where it's zero. I have a hard time  
5 up without some deep thought about what the right  
6 equation is and how do we do that in conjunction with  
7 the Pine Barrens Commission and the stakeholders, for  
8 that matter.

9 It seems to me that is a problem that needs  
10 to be solved, and we should figure out a way to help  
11 bring the parties together in our role as a regional  
12 planning commission. But I think it's hard for us to  
13 identify what the equation should be now on the fly.

14 COMMISSIONER CASEY: I agree with  
15 Commissioner Weir that we may want to consider  
16 that as a comment. I don't think we are in a  
17 right now to put a number or value on it, and I agree  
18 with the Chairman that we need to look into that  
19 further.

20 THE CHAIRMAN: Any other thoughts or  
21 comments? Commissioner Holmes.

22 COMMISSIONER HOLMES: I am wondering, and  
23 I'll ask the Chairman what relevance does this court  
24 case have that has been attached? I see that it was  
25 finally adjudicated less than three months ago and

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2 court agreed with the Pine Barrens Commission that  
3 Town failed to pass on important information to the  
4 Commission, and that the Town needed to review that.  
5 How is this playing out with our deliberations here?

6 THE CHAIRMAN: It brought me back to my law  
7 school days reading judicial opinions. The end  
8 was that the Town did take action, it was challenged.  
9 As a result of the ruling, the Town had to refer it  
10 the Commission, which they have done. I'll refer to  
11 staff to was to whether they had a complete record on  
12 this.

13 MR. FRELENG: We have a complete record.  
14 read all the environmental backup and findings as  
15 necessary.

16 THE CHAIRMAN: The reason this is here is  
17 because of the Court Order. It seems like the Town  
18 Brookhaven missed a step. Here we are taking that  
19 step.

20 COMMISSIONER FINN: If I could comment.  
21 Listening to applicants over my year on the Planning  
22 Commission, one thing to that to take note of is the  
23 time line. December 1941 we entered into World War  
24 and that war was resolved September 19, 1945. We  
25 able to go to war and resolve a war in three years

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2 eight months.

3 By looking at this data, this applicant has  
4 been here from 2006 he started his journey. We're in  
5 situation now where if you look at this particular  
6 piece of property, all the euphemisms that we use  
7 mixed use, smart growth and cluster development and  
8 open space preservation, from my perspective this  
9 applicant is hitting all those issues. As far as the  
10 Pine Barren credits, we hear words of proposed,  
11 pending, issues that are still in doubt. To use this  
12 applicant as a benchmark to determine policy I think  
13 a difficult task.

14 So, not to echo Mr. Kelly's sentiment, how  
15 they're dealing with a sewage treatment plant. These  
16 are very expensive, large up front costs borne by the  
17 developer. We are talking about a density of three  
18 point five units to the acre, which doesn't sound  
19 a tremendous over intensification of use when we talk  
20 about housing stock. I just want to make a couple of  
21 those points from my perspective.

22 THE CHAIRMAN: I would note that time is a  
23 factor and there is litigation that got involved and  
24 complicated things. If the developer had done  
25 as-of-right development, this would have gotten done

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2 much faster. People make choices; that is why  
3 here. That said, I think what I heard around the  
4 is that the Pine Barren credits is a concern.

5 Anyone in favor of keeping the figures in  
6 there about the nineteen Pine Barren credits? I  
7 a lot of we should take it out, should we keep it in?

8 COMMISSIONER HOLMES: I think perhaps if we  
9 could keep it in a modification of the language, and  
10 possibly going back to using the word "significant,"  
11 which was used before and not requiring or commenting  
12 to the Town that they should actively consider  
13 nineteen. I think it could be a little negotiable, a  
14 little more.

15 THE CHAIRMAN: If you want to do that, I  
16 think the problem where the word "significant" is  
17 who knows what that is. Given the litigious nature  
18 this particular application, I would, in any  
19 application I think we talked about around this table  
20 having our condition be very clear about what it is,  
21 think you can use a specific number. You can --  
22 apparently, there is a proposal for three. They  
23 meet that condition. If you say "at least," you say  
24 want you to at least explore more, but you meet the  
25 condition by doing three.

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2 COMMISSIONER HOLMES: Perhaps making it a  
3 comment which would make them consider and  
4 That is why I was suggesting the word "significant."  
5 Maybe that is too vague maybe we can offer a number  
6 somewhere between three and nineteen, but we want to  
7 direct the Town to actively consider retiring some  
8 Barren credits.

9 MR. YOUNG: I just have a question before  
10 that. I want to make sure I didn't misunderstand  
11 Commissioner Kelly said before. In the '07  
12 application, we recommended nineteen Pine Barren  
13 credits.

14 MR. FRELENG: In the '07 application, staff  
15 recommended the adoption of a hundred one credits.

16 MR. YOUNG: What was finally adopted?

17 MR. FRELENG: Significant number of

18 THE CHAIRMAN: I wasn't the Chair then. I  
19 probably voted in favor of that. I have to caution  
20 against using that kind of language. You can say,  
21 some, more than three, make the whole thing a comment  
22 or take the whole thing out.

23 COMMISSIONER CHARTRAND: What was the  
24 difference between the 2007 application and the one  
25 have right now?

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2 MR. FRELENG: There is only one unit  
3 difference between what was proposed then and what is  
4 proposed now. Staff didn't have the benefit of  
5 discussions on the retirement of credits. It was the  
6 difference between the number of units and what was  
7 as-of-right, and what was proposed, and the  
8 has a policy on the transfer of density when you  
9 increase density on a site. That was the  
10 recommendation of staff at the time.

11 COMMISSIONER CHARTRAND: Somebody lowered  
12 number of Pine Barrens credits tremendously when you  
13 went to nineteen.

14 MR. FRELENG: The staff report provides you  
15 with a range the three offered by the applicant, the  
16 nineteen keeping up with the current trend and what  
17 recommended last time. Staff said we will cut it  
18 the middle and said what was the current trend in  
19 thinking of nineteen.

20 THE CHAIRMAN: If I remember right, those  
21 were on the Commission at the time might remember  
22 better than me. Our concern was a hundred one, that  
23 was a big number, and how do we justify that; sort of  
24 the same question we are having now. How do you, on  
25 project for project basis, come up with a standard,

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2 my concern is we shouldn't.

3 Then the idea was we came up with some kind  
4 of compromise.

5 COMMISSIONER ROBERTS: Andy, can you talk a  
6 little bit more about what you mean by the current  
7 trend? Where does this number come from?

8 MR. FRELENG: Several years ago, the  
9 Pine Barrens Credit Clearinghouse made an observation  
10 that Pine Barren credits were not being retired for  
11 purpose of residential uses. They were being retired  
12 to the Health Department for increases in waste water  
13 flow, for expansion of restaurants, additional seats,  
14 things like that. It wasn't a residential retirement  
15 program.

16 It was about two years ago that the credit  
17 clearing house, made a proposal to the Pine Barrens  
18 Commission to mandate the retirement of Pine Barrens  
19 credits, and they picked a number.

20 COMMISSIONER ROBERTS: Was that fifteen  
21 percent?

22 MR. FRELENG: No, at the time it was fifty  
23 percent or the mandated retired credits with a  
24 or exception provision which allowed you to go down  
25 twenty-five percent. That was a recommendation from

1 Suffolk Planning Commission - 7/6/11  
2 the Pine Barrens Credit Clearinghouse to the  
3 Commission, who is the policy board.

4 The Commission has been deliberating that  
5 a number of years. It got recent legs when the Town  
6 Brookhaven underwent the Carmans River study and  
7 thought perhaps their MF code might be a vehicle they  
8 could use to mandate the retirement of credits. They  
9 formulated, in the last six months to a year, these  
10 the current trends in thinking on the retirement of  
11 Pine Barren credits related to the Central Pine  
12 Plan.

13 The Commission has two roles when it comes  
14 Pine Barrens. You help foster the implementation of  
15 the Central Pine Barrens Plan, and you have the  
16 obligation, under your own guidelines, to preserve  
17 protect Pine Barrens throughout the county. Not  
18 withstanding what goes on with the Central Pine  
19 Commission, you have your own obligation to preserve  
20 and protect the Pine Barrens.

21 THE CHAIRMAN: This goes through the Pine  
22 Barrens Commission, this application?

23 MR. FRELENG: Yes.

24 THE CHAIRMAN: The Pine Barrens Commission  
25 will weigh in on how many credits they can retire?

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2 They can put on conditions for a three or five or  
3 whatever?

4 MR. FRELENG: They can.

5 COMMISSIONER ROBERTS: I would consider  
6 possibly supporting a comment that the Town move  
7 to the current suggested trend of fifteen percent  
8 retirement, or the number of nineteen, so we put it  
9 the language of moving the discussion forward.

10 COMMISSIONER GABRIELSEN: I think as of  
11 now there is no set standard. It's hard to pluck a  
12 number out of the air. I would like to see they have  
13 offered three Pine Barren credits. We can put as a  
14 comment three or more it's pretty hard for us to  
15 establish a number.

16 THE CHAIRMAN: I'm hearing that consensus  
17 around the table. Commissioner Finn.

18 COMMISSIONER FINN: Just a quick question.  
19 Are they required to have any Pine Barren credits in  
20 order to get the Town zoning at this point? Is there  
21 number that be they're required to get? They have  
22 STP, so what is the requirement at this point?

23 MR. FRELENG: Other than the general  
24 requirement that the property, amongst other  
25 properties, is a receiving site for Pine Barren

1 Suffolk Planning Commission - 7/6/11  
2 and that the Town is indemnified by the State to  
3 implement the Pine Barrens Plan, there is no specific  
4 number of credits to be required on this particular  
5 site, according to the plan.

6 They have an obligation to look at it,  
7 analyze it and assess it, but they do not, as far as  
8 understand, have an obligation to retire credits,  
9 pursuant to this discretionary approval. They have  
10 obligation to provide public benefits, and since you  
11 are in the Pine Barrens, I would think that would be  
12 one of the public benefits you would want to discuss.

13 COMMISSIONER FINN: We talked about the  
14 public benefit and environmental benefit. The other  
15 issue is I think it is not close to the forefront is  
16 the economic benefit job creation, tax base  
17 and these are all things that come as a result of  
18 projects getting approved and moving forward.

19 Again, it's something that I think we  
20 have a weight on the scale as we look at these  
21 obligations.

22 COMMISSIONER KELLY: Did you say there was  
23 public benefit requirement under the Town Code?

24 MR. FRELENG: Under General Municipal Law,  
25 when you change the zone on a project, you are

1 Suffolk Planning Commission - 7/6/11  
2 to incorporate substantial public benefits that  
3 the deviation from the Comprehensive Plan.

4 COMMISSIONER KELLY: Nothing under the Town  
5 Code?

6 MR. FRELENG: I don't believe under the  
7 change of zone in the Town of Brookhaven Code there  
8 a requirement to retire Pine Barren credits under the  
9 application.

10 THE CHAIRMAN: Here is what I heard. I  
11 state something and we will see if anyone disagrees.  
12 Is that we should make it a comment that the Town  
13 cause the retirement of at least three Pine Barren  
14 credits. I think that is what Carl said. Barbara, I  
15 think you said something different, but I think it  
16 of captures it by saying "at least."

17 COMMISSIONER ROBERTS: Yes.

18 THE CHAIRMAN: Any objection to changing  
19 Condition Number 2 to -- the Town shall call for at  
20 least three Pine Barren credits as a comment? Seeing  
21 no objection, let's focus on the last condition that  
22 staff is recommending. I have to say I understand  
23 where the map draws the line, it's adjacent to it.  
24 personal opinion is that the Town can figure out if a  
25 hundred foot difference or not is something that is

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2 substantial or not. If they decide to make that  
3 change, they can. That is my thought.

4 COMMISSIONER CASEY: I think we also  
5 that to a comment as well so the Town if they can  
6 the determination if they want to reduce or  
7 they can. I understand staff's point, but I think  
8 so close that it's difficult for us to --

9 THE CHAIRMAN: The reason I'm making it a  
10 comment is basically we are saying we think you  
11 do it. I don't know that I would say that  
12 I just think you can consider it or get rid of it all  
13 together They can figure it out. Commissioner Kelly.

14 COMMISSIONER KELLY: I think that language  
15 that goes in the face of a municipality and civics  
16 formulated a plan, and worked hard at -- it must be  
17 four years -- they called out for a certain design of  
18 where they live. That is what they called out for.

19 THE CHAIRMAN: I think the question is  
20 that line is. It's one thing when we are talking  
21 a half a mile down the road and it's clear. When  
22 you're talking about the next parcel over, it's hard  
23 say that doesn't meet the plan.

24 COMMISSIONER KELLY: I think we had that  
25 issue at the last hearing. It was an application

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2 to the east. I don't recall what the recommendation  
3 was to that application to the east. I believe it  
4 a K Mart. I recall some discussion that significant  
5 commercial space or retail space was going to be  
6 constructed to the east or to the west of that site.

7 THE CHAIRMAN: Is this the same as what we  
8 talked about last time?

9 MR. FRELENG: The application that  
10 Commissioner Kelly is referring to was the  
11 of (inaudible). The issue before the Commission was  
12 the Coram, Middle Island, Ridge Plan specifically  
13 called for indoor and outdoor recreation on the site  
14 and not commercial, retail. The Commission  
15 and had a large discussion on commercial, retail and  
16 where it should be appropriate in the Coram, Middle  
17 Island, Ridge corridor related to the plan.

18 The node is supposed to be according to the  
19 plan at the intersection of County Road 21 and State  
20 Route 25. That is supposed to be the hamlet center.  
21 As you deviate away from that intersection, you move  
22 further away from the Middle Island node. County  
23 21 is north-south and runs along the west side of the  
24 property.

25 COMMISSIONER FINN: To that point, why are

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2 proposing elimination of the commercial component of  
3 the application?

4 MR. FRELENG: When they provided the  
5 map, the commercial space east of 25 was not  
6 The Coram, Middle Island, Ridge Plan envisioned  
7 development of that site. It envisioned a bypass  
8 that comes in and goes through the site. When that  
9 bypass road came in the map shows all the commercial  
10 development west of the bypass road, nothing east.  
11 Granted the bypass road comes in and they put in a  
12 string of commercial development here, and it's only  
13 hundred feet away from the node, but staff doesn't  
14 discretion. Staff looks at the Coram, Middle Island,  
15 Ridge Plan, we saw the map, we saw that this  
16 space is east of where they mapped it and we  
17 that to the Commission.

18 THE CHAIRMAN: That is correct. What I'm  
19 hearing around this table when it's a hundred feet or  
20 whatever it is, that is something that the Township  
21 decide whether it meets their plan according to the  
22 text, as you were saying. We shouldn't have this as  
23 condition, and I question whether we should have that  
24 as a comment.

25 COMMISSIONER WEIR: I agree with the Chair.

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2 For a hundred feet we should leave it up to the Town.  
3 I understand the staff is literal and I appreciate  
4 that. Thank you for doing a good job; you are very  
5 thorough. I agree we should remove it totally.

6 COMMISSIONER HOLMES: I think that some, I  
7 think that to totally eliminate it is maybe not good,  
8 but reduce or eliminate I think that language is good  
9 and maybe make that a comment instead of a condition,  
10 so that they consider the other property, which is  
11 commercial.

12 THE CHAIRMAN: Anyone else want to speak on  
13 that issue? Seeing none, without objection we can  
14 it out as a condition. Hold on a second. With  
15 to the proposal, Commissioner Holmes suggests that we  
16 have it as a comment. What I suggest is delete it as  
17 condition, then have a motion to add it as a comment  
18 and see what everyone thinks about that. Does that  
19 make sense, Commissioner Holmes?

20 COMMISSIONER HOLMES: That does.

21 THE CHAIRMAN: Without objection, delete  
22 Condition 1, then add a comment "reduce or eliminate  
23 commercial space" or "consider reducing or  
24 commercial space." The motion is to add as a comment  
25 the phrase "the Town should consider reducing or

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2 eliminating commercial space as part of this  
3 application." Motion by Ms. Homes. Second by Ms.  
4 Weir. All in favor of adding it as a comment, please  
5 raise you hand. (Show of hands) Four. Opposed.  
6 of hands) Six. Four to seven, so the motion fails.

7 What we have now is five comments.  
8 with five comments. Counsel reminded me. Counsel,  
9 you want to state that on the record or do you want  
10 to say it?

11 MR. YOUNG: I can say it.

12 THE CHAIRMAN: Counsel reminds me, as  
13 said earlier, in particular, if we put it as a  
14 that means they will consider it. Counsel points out  
15 that a comment doesn't have the weight of a condition  
16 in requiring them to consider it. If we were to make  
17 it a condition, you have to do at least three  
18 Then they would have it as a condition that they at  
19 least think about.

20 Putting it in as a comment, it goes in as  
21 letter. I think it's read into the record. It  
22 mean they would actually deliberate on that.

23 MR. YOUNG: What I was saying is a  
24 or modification is something that has to be addressed  
25 by the referring agency. A comment is just that;

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2 a comment. So, if you were to put, just an example,  
3 you put a number like eight as your condition, they  
4 would then have to consider that. They can override  
5 that, but it would have to be addressed.

6 THE CHAIRMAN: Any questions about that?  
7 Seeing none, anyone want to make -- Commissioner  
8 Holmes.

9 COMMISSIONER HOLMES: Then I would like to  
10 restore it as a condition with the language that we  
11 in, "the Town shall cause retirement of at least  
12 Pine Barrens credits."

13 THE CHAIRMAN: Any other discussion on

14 COMMISSIONER McADAM: How about greater  
15 three? The same language.

16 THE CHAIRMAN: You have to decide whether  
17 are going to make a motion on that. Any other  
18 comments?

19 COMMISSIONER KELLY: Again, I go back to  
20 economic development as one of the core reasonings  
21 behind any application. Burdensome negative impact  
22 the Pine Barren redemption is significant such to put  
23 great onus on an applicant. You really should  
24 reconsider that.

25 THE CHAIRMAN: Any other conversation?

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2 COMMISSIONER HOLMES: I'm a little

3 Doesn't the Town propose to --

4 THE CHAIRMAN: I believe the applicant at  
5 this time is proposing to do three.

6 COMMISSIONER HOLMES: When we are saying  
7 the Town will cause retirement of at least three.  
8 is in line with what the applicant is proposing.

9 THE CHAIRMAN: In fact, they were meeting  
10 condition. Do you want to make that motion? Right  
11 we have it as a comment. Do you want to raise it to  
12 the level of a condition?

13 COMMISSIONER HOLMES: Back to a condition.

14 COMMISSIONER McADAM: Second.

15 THE CHAIRMAN: So the motion is to change  
16 what is now a comment, "The Town shall cause the  
17 retirement of at least three Pine Barrens credits,"  
18 raise that to a condition. All in favor of raising  
19 that to a condition, please raise your hand. (Show  
20 hands) Four. Opposed. (Show of hands) Four to  
21 seven. That fails.

22 COMMISSIONER McADAM: I just want to  
23 something. Maybe -- I don't want to clarify. I just  
24 want to state an opinion. We have to deal, or we  
25 should as a commission, deal with Pine Barren

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2 At this point, we should be dealing with it as a  
3 condition. Well, one of the reasons is because the  
4 applicant has requested at least three. So it's not  
5 that we are forcing the applicant to do something  
6 he didn't plan on doing, he or she didn't plan on  
7 to begin with.

8 That is why my opinion would be for the  
9 as a condition, for the Town to accept at least three  
10 or greater. It's not hurting the Town. I'm not sure  
11 if that point is getting out.

12 COMMISSIONER HOLMES: It's not hurting the  
13 applicant.

14 THE CHAIRMAN: I appreciate that. We voted  
15 not to change, that unless there is a motion to  
16 reconsider.

17 COMMISSIONER CASEY: I have a question.  
18 Regardless of whether we put that in there, the  
19 applicant would still be able to use those credits.

20 THE CHAIRMAN: It doesn't change the  
21 application.

22 COMMISSIONER CASEY: If they wanted to put  
23 three, they can, regardless of what the Town says to  
24 them.

25 MR. FRELENG: All we know is that the

1 Suffolk Planning Commission - 7/6/11  
2 applicant is offering to redeem three credits. We  
3 don't know whether that is a solid offer with the  
4 The referral material that we have indicates that the  
5 applicant has proposed to redeem three Pine Barrens  
6 credits.

7 COMMISSIONER CASEY: It's a comment rather  
8 than a condition about the Pine Barren credits?

9 THE CHAIRMAN: It is a comment, unless is a  
10 there motion to reconsider. Is there a motion to  
11 it as a condition? We have a couple of other  
12 I made a note about the green methodologies for storm  
13 water runoff. Without objection, we will add that  
14 to the end of Comment 4. Any discussions on Comment  
15 2 or 3? Seeing none, no edits there.

16 Any other comments that anybody believes we  
17 should cover in the resolution? I'll entertain a  
18 motion to adopt the resolution for approval with five  
19 comments, the four indicated by staff, at the end of  
20 Comment Number 4 we are adding, "the applicant is  
21 encouraged to investigate green methodologies to  
22 mitigate storm water runoff."

23 And Comment Number 5, "the Town shall  
24 consider the retirement of at least three Pine Barren  
25 credits." I'll entertain a motion.

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2 COMMISSIONER HOLMES: I'll make a motion.

3 THE CHAIRMAN: Second by Commissioner Weir.

4 All in favor of approval with the five comments,

5 raise your hand. (Show of hands) Ten. Opposed.

6 of hands) One. Abstentions. None. Approval with

7 five comments. Next item is the Metro Terminals.

8 COMMISSIONER GABRIELSEN: I think I need to

9 recuse myself on this.

10 THE CHAIRMAN: The one thing I note about

11 Pine Barrens credit issue is, we see this on another

12 application in a few minutes, it's clearly something

13 that needs to be figured out. That is something that

14 would note. I would be interested in getting

15 Commission members' thoughts on how we can work with

16 the Towns, like we do on so many other things, and

17 figure this out. It's clear that the credits needs

18 be purchased. It's figuring out the number and

19 figuring out how that weighs in with other public

20 benefits is very important.

21 MR. FRELENG: This is a referral from the

22 Town of Riverhead regarding Metro Terminals of Long

23 Island, LLC. This is an addendum to the original

24 report prepared February 4th '09. Jurisdiction for

25 Commission is that the subject property is in the

1 Suffolk Planning Commission - 7/6/11  
2 Suffolk County Pine Barren zone. The property is  
3 located on Scott Avenue within the EPCAL center, the  
4 Enterprise Park at Calverton.

5 The applicants are requesting Town Planning  
6 Board site plan approval for Phase 2 of development  
7 the fuel storage facility, which includes the  
8 installation of a sixty foot by a hundred eighty-two  
9 foot containment dike around two existing three  
10 fifty thousand gallon tanks, and proposes another  
11 twelve additional tanks inside the containment dike.

12 The subject parcel is a contiguous parcel  
13 an existing fuel storage facility. The applicant  
14 proposes to extend overhead pipe rack systems from  
15 tanks on Lot 28 to tanks within the proposed dike.  
16 the subject parcel, one three hundred fifty thousand  
17 gallon tank will contain biofuel and the other diesel  
18 fuel. The twelve future tanks will contain biofuel.

19 The proposal also includes a small utility  
20 house and two small containment trays mounted  
21 underneath the train tracks. The proposed second  
22 is to allow railroad cars to refuel at the site when  
23 the reopened freight rail spur at EPCAL is complete.

24 The issues relating to the referral are  
25 similar to the prior review and include compatibility

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2 of adjacent uses, impact to area wetlands and proper  
3 storage and disposal of hazardous materials.

4 I'm going to skip through the General  
5 Municipal Law considerations. It's generally  
6 consistent with the General Municipal Law and Town of  
7 Riverhead plan. With regard to the guidelines of the  
8 Suffolk County Planning Commission, the subject  
9 application is rather unique. The application does  
10 promote infill development and addresses energy  
11 efficiency by the development of alternative energy  
12 sources. With respect to Suffolk County Planning  
13 Commission guidelines on public safety, as noted for  
14 the prior project, the location of the terminal  
15 facility and nearby planned recreation park zoning  
16 raises safety concerns. It's noted that unlike the  
17 prior referral, there is a relatively large wooded  
18 owned by the Town of Riverhead that could buffer this  
19 lot from development on the PRP lands.

20 Trucking material off site is a component.  
21 The significant transportation element is this  
22 utilization of the reconditioned freight rail spur to  
23 the site. Use of the rail spur is intended to lessen  
24 overall vehicle and truck traffic in the region.

25 The subject parcel is within a Pine Barrens

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2 zone within Suffolk County. In accordance with the  
3 Commission policy on development of sites within a  
4 Suffolk County Pine Barrens zone, a minimum of  
5 thirty-five percent of naturally occurring vegetation  
6 on the site should remain undisturbed as little as  
7 possible.

8 The site is located in a deep recharge  
9 groundwater management zone and there are freshwater  
10 wetlands on adjacent properties to the west.  
11 attention to the safe storage and disposal of  
12 material should be made. The Suffolk County  
13 of Health Services should be contacted for compliance  
14 with Article 7 and 12 of the Suffolk County Sanitary  
15 Code before any final Town approval.

16 It is the belief of the staff that the  
17 application is approvable subject to the following  
18 conditions and comments:

19 First, that under Commission policy, a  
20 minimum thirty-five percent of naturally occurring  
21 vegetation on the site shall remain undisturbed, if  
22 possible. The Suffolk County Department of Health  
23 Services shall be contacted for compliance with  
24 7 and 12 of the Suffolk County Sanitary Code before  
25 final Town of Riverhead approval.

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2 And a comment reads as development of the  
3 adjacent planned recreation park zoning district to  
4 west of the subject parcel is considered,  
5 issues with the fuel terminal location should be  
6 into account by the Town.

7 Let's take a look at the aerial a second.  
8 This is a part two of a two phase project. Phase 1  
9 up here. You may recall they proposed to add  
10 additional tanks. This is Phase 2. This is an  
11 existing facility. The dike containment area I think  
12 it's somewhere around here, I think. I'm sorry, it's  
13 somewhere over here. The Town of Riverhead has a big  
14 piece of property here, which unlike this property  
15 here, there was no buffer. Here there is a buffer.  
16 I'm trying to relay that fact to the Commission.

17 What they are trying to do is create a  
18 containment tank around existing tanks. One of them  
19 would be biofuel and twelve tanks below within the  
20 and then across to the other site. That is the staff  
21 report.

22 THE CHAIRMAN: One thing I note, I was  
23 talking with Adrienne and Constantine about this.  
24 Particularly with regard to Condition 2, the  
25 to the Department of Health. That we might want to

1 Suffolk Planning Commission - 7/6/11  
2 start thinking about, as a commission, making those  
3 comments rather than conditions, for the reason that  
4 the plan can't go forward without DOH, in this case,  
5 approving it. While certainly appropriate to remind  
6 the Town of that and we may wish, in certain  
7 to write a letter to DOH and say the Commission  
8 this is something that you should look at -- to make  
9 a condition, could probably raise issues. As we have  
10 seen in the last year, sometimes our conditions,  
11 are extremely well intentioned, have become political  
12 footballs.

13 We should be focusing on conditions -- this  
14 should be coming from the three officers -- things  
15 are regionally significant, but the sense that the  
16 project shouldn't go forward but for that. And  
17 something like DOH, which is an internal  
18 thing, we should consider as a comment rather than a  
19 condition. In some instances, we should include it  
20 a letter.

21 So I just want to make sure that some of  
22 thinking is connected with the thinking on the  
23 Commission. Any other thoughts on this particular  
24 application?

25 One question I have in general, I think our

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2 thirty-five percent standard is appropriate in terms  
3 clearing. I want you to know this property seems  
4 rather clear.

5 MR. FRELENG: Staff did indicate, if  
6 possible. It's in the staff report, but we can put  
7 that in.

8 THE CHAIRMAN: Yes. That is a very valid  
9 regional consideration we have in this particular  
10 instance. I don't know what is up there.

11 COMMISSIONER HOLMES: Mostly weeds. There  
12 a great deal of asphalt there. When Bobby Goodale  
13 chaired the planning group that was trying to make  
14 recommendations to Riverhead about acquiring the  
15 Grumman space, that was already all asphalted. There  
16 are about three thousand acres of buffer surrounding  
17 the site, which was a naval weapons testing site.  
18 created this whole forested buffer zone in case  
19 overshot the runway, there is a lot of vegetation in  
20 the area. Whether anything is on site there but  
21 I can't say.

22 THE CHAIRMAN: Can we change the condition  
23 say a minimum of thirty-five percent of the still  
24 remaining occurring vegetation, or something like

25 COMMISSIONER HOLMES: Yes, remaining.

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2 MR. FRELENG: Staff doesn't have a problem  
3 with minimum thirty-five percent of remaining  
4 occurring vegetation on the site shall remain  
5 undisturbed, if possible.

6 COMMISSIONER HOLMES: Or if feasible.

7 MR. GULIZIO: Just a suggestion, rather  
8 reinterpreting the Pine Barrens Plan, maybe the  
9 condition should read that the applicant should  
10 with the Pine Barrens standards, unless as modified  
11 the Town. I have some concerns with reinterpreting  
12 thirty-five percent.

13 MR. FRELENG: The thirty-five percent is  
14 coming from our own guidelines.

15 MR. GULIZIO: I don't mean that thirty-five  
16 percent, I mean thirty-five percent of remaining.  
17 two very different things.

18 THE CHAIRMAN: Thirty-five percent of the  
19 remaining versus thirty-five percent, looking at the  
20 site plan, I don't know that there is any percent but  
21 there might be a little bit.

22 COMMISSIONER WEIR: Is that on the EPCAL  
23 property?

24 MR. FRELENG: Yes.

25 THE CHAIRMAN: Did we drive by there on our

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2 tour? While I normally would be very supportive of  
3 thirty-five percent --

4 COMMISSIONER ROBERTS: To me it implies  
5 what's there. It's naturally occurring. It's saying  
6 what we're saying.

7 COMMISSIONER HOLMES: Dan's point is we  
8 want to mix up that vegetation with -- right? How  
9 would you word it, Dan?

10 MR. GULIZIO: Again, I would respectfully  
11 suggest that the language be simply made reference  
12 to the applicant complying with Pine Barrens  
13 requirements, unless it's modified by the Town.

14 THE CHAIRMAN: That is circular.

15 MR. GULIZIO: Yes.

16 THE CHAIRMAN: In other words, they can  
17 the condition as long as they modify.

18 COMMISSIONER HOLMES: The Town can  
19 there isn't enough vegetation there.

20 MR. GULIZIO: If you wanted to be stricter  
21 with the conditions, they shall comply with the  
22 conditions. The only thing was interpreting the  
23 remaining thirty-five percent. There is no precedent  
24 for that, and it means totally different things.

25 THE CHAIRMAN: That's correct.

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2 COMMISSIONER KELLY: This is subject to  
3 Barrens?

4 MR. FRELENG: It's not clear whether EPCAL  
5 part of the Central Pine Barrens plan or not. There  
6 has been some stuff going back and forth.

7 MR. GULIZIO: It's my understanding there  
8 been a history of litigation associated with the Pine  
9 Barrens with the area quote, unquote, within the  
10 the roughly three thousand acres. It's also my  
11 understanding that the Town has established a plan,  
12 which is consistent with Pine Barrens standards, that  
13 retains thirty-five percent of the nondisturbed  
14 vegetation on the site as a whole.

15 That doesn't mean each individual property  
16 meets the requirements. That is why I think  
17 some authority for the Town to apply its standards in  
18 this instance is reasonable under the circumstances.  
19 don't think it's applied on a site-by-site-basis;  
20 rather as a whole, as a development.

21 MR. FRELENG: Mr. Chairman, this probably  
22 simplistic, but why don't you just leave the wording  
23 it is, let the Town deliberate and make their finding  
24 if there is no vegetation on site, and let them  
25 override the Commission?

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2 THE CHAIRMAN: Was that your suggestion on  
3 that?

4 COMMISSIONER ROBERTS: I suggest you leave  
5 the wording as it is.

6 THE CHAIRMAN: That is what Andy said.

7 COMMISSIONER FINN: I would like to make a  
8 comment. Being that the property, if it was treed  
9 property, and then the fact that it's already --  
10 everything has been pretty much cleared, by the look  
11 the aerial. In addition, it's not in the Pine  
12 To apply a Pine Barrens clearing limit to a property  
13 that is not within the Pine Barrens is one thing.

14 The other issue, as we learned when we took  
15 the tour this property, is three thousand acres and  
16 deeded to the Town for the sole purpose of economic  
17 development. The Town has elected to give up half  
18 property for open space preservation. As we talk  
19 this in the backdrop of what is going on there, the  
20 property has been basically cleared. To refer to  
21 clearing limits when the property has already been  
22 cleared, I think we should remove it altogether.

23 COMMISSIONER CASEY: I agree.

24 THE CHAIRMAN: I think it's important that  
25 say that thirty-five percent. The fact that some

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2 are designated open space doesn't mean the thirty-  
3 percent should not be applied to the other parts.  
4 fact technically, because of some legalistic  
5 definitions, may not be in the Pine Barrens, that  
6 doesn't mean that we cannot say the thirty-five  
7 percent. That being said, look at the picture.

8 MR. FRELENG: I don't necessarily disagree  
9 with the Commission. I want to point out that there  
10 grass here and here. There may be trees. There is  
11 grass outside the subject property. Grassland  
12 does support migratory species, migratory birds,  
13 etcetera.

14 COMMISSIONER HOLMES: Don't forget the  
15 salamanders.

16 COMMISSIONER FINN: Can we make a motion to  
17 eliminate Condition Number 1?

18 THE CHAIRMAN: Any other conversation about  
19 this? So moved. Motion to eliminate Condition 1.  
20 there a second?

21 COMMISSIONER WEIR: Second.

22 THE CHAIRMAN: All in favor of deleting  
23 Condition Number 1, raise your hand. (Show of hands)  
24 That is four. Opposed. (Show of hands) Six. Okay.  
25 Then the question is, are there any other proposed

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2 changes? Is there a motion to make it a comment?

3 COMMISSIONER CASEY: I'll make a motion to  
4 make it a comment.

5 COMMISSIONER HOLMES: Second.

6 THE CHAIRMAN: All those in favor of making  
7 Condition Number 1 as a comment, please raise your  
8 hand. (Show of hands) Five. All those opposed to  
9 making it a comment. (Show of hands) Five. So,  
10 it stays in.

11 COMMISSIONER WEIR: Can I make a comment on  
12 the comment?

13 THE CHAIRMAN: Absolutely.

14 COMMISSIONER WEIR: As far as the fifteen  
15 hundred acres preserved inside the fence, twenty-  
16 hundred acres outside the fence have been preserved  
17 perpetuity. I was part of that when I was Chief of  
18 Staff for the Congressman. We are talking a lot of  
19 preservation in that six thousand acre parcel.

20 In the overall scheme of things, that left  
21 the Town very little to develop and some of the  
22 undevelopable parts have some environmental issues  
23 because of some of the dumping that was done. We are  
24 shrinking the possibility of this being an economic  
25 development zone. I wanted to mention that.

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2 Regionally for the area, as an economic  
3 engine for Riverhead and the East End. I don't think  
4 that --

5 COMMISSIONER HOLMES: The Navy was required  
6 to clean up that dump site before the Town would take  
7 possession of the Grumman property.

8 THE CHAIRMAN: I mentioned earlier about  
9 Condition 2 and the idea of making that into a  
10 Any thoughts on that?

11 COMMISSIONER KELLY: Can I go back to  
12 1; how does that stand now?

13 THE CHAIRMAN: It's a condition right now.  
14 Any discussion about Condition 2?

15 COMMISSIONER SCHOOLMAN: I have a question.

16 COMMISSIONER CASEY: I think there is some  
17 confusion about the first one.

18 THE CHAIRMAN: We can reconsider.

19 COMMISSIONER KELLY: I make a motion that  
20 reconsider that.

21 THE CHAIRMAN: Reconsider the vote on  
22 the condition into a comment. Is there a second?  
23 Seconded by Commissioner Weir. All those in favor of  
24 reconsidering the proposal to make Number 1 into a  
25 comment, please raise your hand. (Show of hands)

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2 Eight. Opposed. (Show of hands) Two.

3 All right. We are reconsidering and the  
4 floor is now open. Would anyone like to discuss why  
5 why not we should make Condition 1 into a comment?  
6 there is no discussion, can we make a motion?

7 COMMISSIONER CASEY: Motion.

8 COMMISSIONER KELLY: Second.

9 THE CHAIRMAN: All those in favor of making  
10 Condition 1 into a comment, please raise your hand.

11 (Show of hands) Eight. Opposed. (Show of hands)

12 Second condition, Number 2 I mentioned  
13 that in a comment. Any thoughts?

14 COMMISSIONER SCHOOLMAN: Yes. I think Article  
15 deals with containment walls on tanks. Why is it  
16 I'm just asking this out of ignorance, why wasn't  
17 condition satisfied first or before it even got this  
18 far?

19 MR. FRELENG: We don't know that they're  
20 in process with the Health Department at this time.  
21 imagine that their engineers have designed the  
22 to meet the specifications of the Health Department.  
23 We are just giving this as a follow-up to make sure  
24 they get their approvals.

25 The Chair mentioned they can't go further

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2 without the final approvals. We are giving the staff  
3 and Town a heads up.

4 COMMISSIONER SCHOOLMAN: The language, it  
5 says contact them for compliance. Should not it be a  
6 requirement? I have had so many issues myself with  
7 Article 12. It's such a black and white issue. I  
8 don't understand why that won't be -- I guess my  
9 question is why wouldn't you have said that you  
10 to make sure that Article 12 was followed and  
11 Is it possible that the paperwork never makes it to  
12 Department of Health?

13 MR. FRELENG: Perhaps we worded it a little  
14 bit carelessly. This application cannot go forward  
15 without approval from the Health Department pursuant  
16 Article 12 and Article 7. We provided it as a  
17 The Commission doesn't want to overlook issues.

18 THE CHAIRMAN: This is a good example of  
19 Just Adrienne and Constantine and myself talking  
20 this as officers, that we probably want to make these  
21 kinds of things comments rather than conditions, so  
22 wording doesn't trip something up.

23 If it's a substantial issue, this  
24 can write a letter to DOH.

25 MR. FRELENG: Following up the conversation

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2 we had this morning, we don't know when in the  
3 the review is made. If they haven't begun their  
4 yet, this would be a heads up comment to make sure  
5 they review it.

6 COMMISSIONER ROBERTS: David, I make a  
7 to make Condition 2 a comment.

8 COMMISSIONER HOLMES: Second.

9 THE CHAIRMAN: Without objection, all in  
10 favor of making Condition 2 a comment. Seeing none,  
11 we will make Condition 2 a comment. Anything else?  
12 There is a third comment which the staff recommended  
13 regarding the adjacent planned recreation park.  
14 are three comments now. Any other suggestions,  
15 discussion? Seeing none, I will entertain a motion  
16 adopt the resolution with the three comments.

17 COMMISSIONER HOLMES: Yes, as amended.

18 THE CHAIRMAN: Yes, as amended with these  
19 three comments. All in favor of adopting the  
20 resolution with these three comments, raise your  
21 (Show of hands) Ten, zero.

22 Ponds at Southampton Village.

23 MR. FRELENG: Next referral is the Ponds at  
24 Southampton Village. The property is located on the  
25 west side of Bishops Lane approximately three hundred

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2 fifty feet south of Moses Lane. Jurisdiction for the  
3 Commission is that the subject property is split by  
4 municipal boundaries.

5 The subject property is located in the Town  
6 of Southampton and Village of Southampton. The  
7 applicants are seeking Town and Village Zoning Board  
8 Appeals approval for the change of one nonconforming  
9 use to another nonconforming use, and Town and  
10 Planning Board site plan approval for the  
11 of seventy-eight unit multi-family community in  
12 fourteen buildings, a community building and  
13 amenities.

14 On site parking of a hundred eighty-six  
15 stalls is proposed, consisting of sixty-seven garage  
16 spaces, sixty-seven driveway spaces and fifty-two  
17 on-street spaces, which exceeds the municipal parking  
18 requirements by four point four nine percent. There  
19 are two ponds proposed on site, both for the purposes  
20 of storm water containment and visual appeal.  
21 waste is intended to be treated by an on site sewage  
22 treatment plant.

23 I want to give kudos to the Commission.  
24 is certainly an application that is implementing the  
25 Commission guidelines on cooperation. We have four

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2 referrals, a referral to the Village Board of Zoning  
3 Appeals, Town Board of Appeals and the Village Board  
4 for site plan and Town Board for site plan. We are  
5 processing all four at the same time.

6 With regard to the local Comprehensive Plan  
7 recommendations, staff would just like to say that  
8 application is generally consistent with general  
9 Comprehensive Plan recommendations. There are some  
10 recommendations not adopted as part of the  
11 Comprehensive Plan. Even those planning  
12 make this project generally consistent, that being  
13 elimination of noncompatible commercial uses.

14 With regard to the guidelines of the  
15 Commission, as you know, increases in density should  
16 tied to the purchase and/or transfer of development  
17 rights; that is poicy of this Commission. That is  
18 linked to the creation of open space and high density  
19 projects and avoids the creation of suburban high  
20 density sprawl. The increase in density can be  
21 visualized through the Suffolk County Sanitary Code  
22 Article 6 regulation, and I won't go through this.

23 Through the Sanitary Code is a population  
24 density equivalent, which would be the as-of-right  
25 or yield, and then there is the flow proposed by the

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2 development. The difference in the flow is the  
3 difference in density being proposed on the site.  
4 going into the discussion that we just had,  
5 policy requires some sort of offset for the increase  
6 density on the site.

7 The petitioner indicates that all  
8 would conform to the relevant energy efficiency  
9 requirements. With regard to economic development,  
10 it's the belief of the staff there is an economic  
11 development component to the proposed project.  
12 However, some long term operations and jobs will be  
13 lost when the recycling facility is terminated and  
14 there will be some short term construction jobs  
15 created.

16 No workforce housing units are proposed to  
17 on site. There are guidelines of the Commission  
18 regarding public safety measures. There is no  
19 indication in the referral material that the  
20 petitioners have considered the incorporation of  
21 safety measures into the design of the proposed  
22 project.

23 It is noted that Commission guidelines  
24 indicate that development proposals utilize green  
25 infrastructure. It is noted that man-made ponds are

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2 proposed. The applicant should be directed to the  
3 Suffolk County Planning Commission publication on  
4 managing stormwater, natural vegetation and green  
5 methodologies and the study of man-made ponds.

6 The petitioner has not set aside any units  
7 for affordable housing purposes. Rather, the  
8 has worked with the Town and would provide a  
9 contribution to the Town in the form of access to the  
10 sewage treatment plant for monetary contribuiton.  
11 the belief of the staff that approximately sixteen  
12 units should be set aside for workforce housing in  
13 accordance with the Suffolk County Planning  
14 and Department of Economic Development and Workforce  
15 Housing guidelines.

16 I should just point out that the guidelines  
17 indicate that the units could be built on site or off  
18 site. However, staff is recommending sixteen units  
19 the benchmark for all those calculations that would  
20 twenty percent of the proposed units.

21 Planning Commission has guidelines relating  
22 to the action near or on former waste disposal sites.  
23 Although the property is not a formal landfill or  
24 disposal site, there are large stockpiles of various  
25 materials, compost, concrete, asphalt, wood, gravel,

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2 sand and topsoil, construction and demolition debris  
3 and storage of various pieces of equipment.

4 Phase 1 and 2 were conducted by consultants  
5 to the applicant. It was recommended that chrysene  
6 arsenic impacts detected in the soil be handled in  
7 accordance with Suffolk County Department of Health  
8 Services. It was recommended in the DEIS that  
9 cesspools and storm drainage structures be properly  
10 closed and abandoned. As a mitigation measure, the  
11 project sponsors have offered to prepare a soil  
12 management plan. It is recommended to be prepared  
13 conducted under the oversight of the appropriate  
14 regulatory agencies.

15 A preliminary review of the proposed  
16 conceptual site plan generates some additional  
17 relating to the Commission's guidelines. There is a  
18 guideline developing near railways. There are  
19 sixty-seven off-street parking spaces proposed in  
20 garage spaces. The Commission found that garage  
21 over time tend to be unreliable. In terms of garage  
22 spaces, garages tend not to be used for cars, but  
23 converted to storage or living space.

24 Moreover, in terms of smart growth locational  
25 criteria for attached housing, that is to say within

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2 quarter to a half mile convenient walking distance to  
3 mass transit, downtowns, hamlet centers, shopping  
4 containing personal services, groceries, and health  
5 services, the subject site is not an optimal location  
6 for high density multi-family housing. A shuttle  
7 service should be established by the project sponsors  
8 to such amenities.

9 All in all, staff is recommending approval  
10 subject to the following conditions and comments:  
11 first being that twelve development rights be retired  
12 or caused to be retired by the effort of the Town of  
13 Southampton and Village of Southampton.

14 Condition 2 is that the applicant shall be  
15 directed to review the Suffolk County Commission  
16 guidelines relating to public safety and incorporate  
17 practical measures into the design of the final  
18 development plan.

19 Condition Number 3 is that the applicant be  
20 directed to consult the Suffolk County Planning  
21 Commission publication on managing stormwater runoff  
22 and green methodologies.

23 Condition Number 4 is that sixteen units be  
24 set aside for workforce units and affordable units,  
25 accordance with the Suffolk County Department of

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2 Economic Development and Workforce Housing

3 Condition Number 5, no final approval will  
4 granted to any final site plan without approval of  
5 soil management plan by the appropriate regulatory  
6 agency, and staff is recommending four comments,  
7 that are here and one that I will add.

8 First comment being that other general  
9 guidelines of the Suffolk County Planning Commission  
10 speaks to vegetating a buffer along the railroad  
11 right-of-way. The second comment relates to noting  
12 that garage spaces over time may not be a good  
13 off-street parking accommodation.

14 Number 3, in terms of typical smart growth,  
15 locational criteria for attached housing, the  
16 is not optimum and the applicant should provide a  
17 shuttle service to the site, and next comment, Number  
18 is staff, in taking a look at the site plan, felt  
19 the Commission policy relating to providing emergency  
20 and alternate access to the subject property would be  
21 warranted.

22 THE CHAIRMAN: So you're adding that?

23 MR. FRELENG: Yes, the staff would  
24 adding that now. That is the staff report.

25 THE CHAIRMAN: Thank you. This is a

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2 Southampton project. Commissioner Roberts.

3 COMMISSIONER ROBERTS: In the DEIS report,  
4 did they talk a little bit about any change in the  
5 or taxes?

6 MR. FRELENG: I don't recall that.

7 COMMISSIONER ROBERTS: For the record,  
8 has been virtually universal support for the project,  
9 which is unusual. In fact, most of the press has  
10 about the fact that there hasn't been any objections  
11 it. I think the spirit of going forward with the  
12 approval is consistent with the community.

13 Looking at two conditions, I suggest some  
14 things. First, in light of our earlier conversation  
15 transfer of development rights, I suggest Condition 1  
16 be amended that "the Town and Village consider the  
17 retirement of some development rights as part of the  
18 project."

19 As I often do, I had difficulty with the  
20 wording on the affordable housing on Number 4. I  
21 hope that we add our phrase "in lieu of payment,"  
22 instead of "on site housing," particularly since  
23 seems to be a particularly unique community benefit  
24 with an environmental hook up to the STP.

25 If you read that phrase, you will also see

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2 the DEIS that the applicant has worked with the Town  
3 and will provide a contribution in the form of access  
4 to STP or monetary contribution, and I would like to  
5 suggest that we make it clear that there has to be a  
6 monetary contribution to the housing trust. That is  
7 light of our guidelines. If there is affordable  
8 housing, there actually has to be an allocation to  
9 housing.

10 I might even suggest that we add the phrase  
11 that we would be more inclined to a payment if there  
12 was access to STP, so I would make the changes to  
13 two conditions.

14 THE CHAIRMAN: Thank you. Number 5 relates  
15 to the issues we talked about with regard to the  
16 regulatory agencies need to be looped in here. I  
17 suggest that we make that a comment. Does anyone  
18 to respond to that?

19 COMMISSIONER KELLY: Andy, does it state  
20 the application was made to the Town?

21 MR. FRELENG: I can't recall when the  
22 application was made to the Town. I can tell you  
23 it was referred to us.

24 COMMISSIONER KELLY: I go to that because  
25 requirement of workforce housing by the date was

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2 January '09.

3 COMMISSIONER WEIR: Yes.

4 MR. FRELENG: Staff did not bring in the  
5 mandatory requirement of workforce housing just  
6 referred to the policy.

7 COMMISSIONER ROBERTS: I believe it's  
8 than 2009.

9 THE CHAIRMAN: With regard to development  
10 rights, I think we need to -- I would suggest that  
11 Commission should say, reflecting back on our prior  
12 conversation about it's hard to find a number. I'm  
13 also concerned to say consider retiring them is  
14 weaker than we might want to be. Our guidelines say  
15 there has to be some tie. It doesn't say what. That  
16 is where staff is coming up with some of the formulas  
17 that Andy has been talking about.

18 I understand that the commission is  
19 uncomfortable with that. I do think saying  
20 rights should be retired which means you can satisfy  
21 with one, but every application needs to at least  
22 So one thing to consider, is simply delete the number  
23 twelve in front of the one. It's a little bit of a  
24 tweak. I welcome your comments on that.

25 COMMISSIONER ROBERTS: That's fine, David.

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2 COMMISSIONER KELLY: Like the previous  
3 application was a comment. I believe the wording  
4 Commissioner Roberts suggested, is that also a  
5 here?

6 COMMISSIONER ROBERTS: I prefer to leave it  
7 in as a condition.

8 THE CHAIRMAN: It's a different thing when  
9 the applicant actually says they're going to do three  
10 and when they say none. In that regard, they were  
11 already doing it or suggesting that they would do it.  
12 Here is there no indication. In my mind, a condition  
13 is appropriate here. I don't think it's appropriate  
14 for us to say a number because it's hard for us to  
15 figure out without a bigger regional discussion.

16 DIRECTOR LANSDALE: I want to mention for  
17 Commission's consideration, Page 23 of our guidelines  
18 do state that -- it's the third bullet -- "increases  
19 density should be tied to the purchase and/or  
20 of development rights or to a one for one density  
21 offset through upzoning of vacant privately owned  
22 land."

23 THE CHAIRMAN: If you want to make a motion  
24 to do that. I want to offer that as a motion, you  
25 obviously do that.

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2 COMMISSIONER FINN: I just go to the  
3 director's comment. You site the word "vacant" would  
4 this parcel constitute as a need for one-to-one  
5 transfer but the property is currently not vacant.

6 THE CHAIRMAN: I don't think we have a  
7 standard on that.

8 MR. GULIZIO: I think the vacant term in  
9 that guideline refers to other property than the  
10 subject property. It talks about rezoning other  
11 property to offset density, other vacantly owned  
12 property.

13 COMMISSIONER FINN: Andy, do we have any  
14 detail on the size of the STP? The reason I ask the  
15 question is because as we talk about public benefit  
16 the absence of sewers, when a developer comes in and  
17 wants to foot the bill, so to speak, in the  
18 installation of a sewage treatment plan and offer  
19 connection as the future economic parcels. I think  
20 a commission, we have to recognize and quantify that  
21 a true public benefit.

22 Whether this site is the STP has been  
23 constructed to just meet the bill of the parcel, or  
24 they anticipate building it larger to perhaps capture  
25 some future development down the line?

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2 MR. FRELENG: I don't know offhand the size  
3 of the sewage treatment plant. I imagine if they can  
4 convince the sewer agency that that should be  
5 expandable that could be sized to accommodate further  
6 growth. I was looking at the tax map to see the tax  
7 map parcel. I have to look at the tax map to see  
8 properties in the area are actually developable or  
9 vacant, or are we thinking of redeveloping single  
10 family lots to accomodate the additional waste water  
11 is water going to be pumped in from a severe  
12 away.

13 COMMISSIONER FINN: Either way tapping into  
14 an STP is an environmental benefit. If they were  
15 offering it as a public benefit, let's say a size of  
16 fifteen thousand dollars that the development is  
17 to require fifteen thousand gallons, then really  
18 they're giving snow in winter. If in fact they are  
19 going to go through the expense to have future  
20 that is the only thing.

21 We had a conversation earlier with Deputy  
22 Director Gulizio about the number and location.  
23 are things that we are going to identify and look at  
24 regionally as we go through their journey in the  
25 County.

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2 MR. FRELENG: It appears, by looking at the  
3 map, that some of the parcels are developable. Your  
4 guideline on density shifting does not take into  
5 consideration the consideration of public benefit.  
6 When you talk about retirement of credits, if you  
7 consider the sewage treatment, plant connection would  
8 override the provision of credits. All I'm saying is  
9 that is that policy.

10 COMMISSIONER FINN: Just as a fact of the  
11 STP. Just knowing there is an STP that is willing  
12 able to accept; sometimes these STP's are very  
13 difficult to get owners to allow you to tap it.

14 THE CHAIRMAN: It's unclear whether they  
15 being allowed to make an STP. It's sort of vague.  
16 there anything more definitive or anything like that,  
17 Andy?

18 MR. FRELENG: I'm afraid that is all I was  
19 able to find was the flow volumes on the STP, and  
20 they have in the application.

21 COMMISSIONER ROBERTS: Is this an area that  
22 would have sewers or they would --

23 MR. FRELENG: It's a sewer area. There  
24 not been a requirement of public benefit under the  
25 variance proceedings which goes from one

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2 use to conforming. The site plan application that  
3 would follow would not necessarily require public  
4 benefit. However, under your own guidelines or  
5 Municipal Law, public benefits are required when you  
6 increase density or intensify a use.

7 COMMISSIONER KELLY: At what point -- we  
8 discussing an application that has tremendous public  
9 support in the local community. It's obviously an  
10 eyesore and major issue locally. At what point does  
11 developer or builder get credit for revitalizing it?  
12 They want to create something positive for the  
13 community. At what point is it accounted for that  
14 requirement of these development rights, which right  
15 now they traded about eighty thousand dollars per  
16 that is nine hundred sixty thousand dollars. Coupled  
17 with the one point four five million dollars of a  
18 sewage treatment plant. All those are up front

19 Everyone around this dais really needs to  
20 consider that that two million dollar investment on  
21 a piece of property that the public wants this to be  
22 redeveloped. By a commission asserting these type of  
23 conditions, it does become cost prohibitive. What  
24 is the ramification if this does not get built  
25 of conditions like that? I think as a commission we

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2 need to consider this under this application and  
3 applications going forward as well.

4 COMMISSIONER WEIR: Are we still commenting  
5 on conditions?

6 THE CHAIRMAN: Commissioner Weir.

7 COMMISSIONER WEIR: Condition Number 5, we  
8 are discussing there other regulatory agencies that  
9 going to have the final say. Do we want to move  
10 to comments where the Town needs to deal with another  
11 agency? We are kind of going through this now. It's  
12 kind of like an exercise. A lot of these conditions  
13 can be comments.

14 THE CHAIRMAN: This one is one that I think  
15 could certainly be a comment. Any objection to  
16 this Condition Number 5 into a comment? Seeing none,  
17 we will do that. Let's go back through these. We  
18 four other conditions. There may be others you want  
19 add.

20 With regard to Number 1, I think  
21 on what Ms. Roberts said, just leave the rest as it  
22 That would allow them with one at least one  
23 right to satisfy the condition. Let's focus on that.

24 COMMISSIONER KELLY: I have a comment  
25 regarding making that a condition. This application

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2 the applicant, I don't believe, if it's not in the  
3 local town code, I don't believe that this is  
4 that was contemplated as part of this redevelopment.  
5 If you want to keep it as a condition, I could  
6 acquiesce to that requirement as a comment, I can  
7 acquiesce to that. The cost burden is too  
8 and I would not recommend keeping it as a condition.

9 COMMISSIONER HOLMES: I think we need to  
10 focus on the fact that we are being guided by our own  
11 guidelines, not about what the local Town Code says.

12 THE CHAIRMAN: Let me make a motion -- any  
13 other discussion? Let me make a motion to delete the  
14 word "twelve" on the condition. No objection. Then  
15 reads, "development rights shall be retired."

16 Commissioner, do you want to make that --  
17 your motion is to make that into to a comment?

18 COMMISSIONER KELLY: Yes.

19 THE CHAIRMAN: The motion is to make the  
20 amended Condition 1 as a comment.

21 COMMISSIONER FINN: Second.

22 THE CHAIRMAN: All in favor of changing  
23 Condition 1 to a comment? (Show of hands) Five.  
24 those opposed. (Show of hands) Six.

25 Number 2 is our typical, refers to the

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2 safety aspects. 3 is the typical reference to the  
3 stormwater runoff. Don't we usually do a universal  
4 design as well and energy efficiency and public  
5 Any objection to changing the condition in that  
6 We will add that to those.

7 Anyone want to discuss or make a change to  
8 Condition 2? Seeing none, any change to Condition 3?  
9 These are the typical ones, consult the guidebook on  
10 these issues.

11 4 is the last one we have to discuss. 5 we  
12 already made into a comment. You suggested there  
13 should be some kind of equivalent in terms of in lieu  
14 of payments.

15 COMMISSIONER ROBERTS: We had that language  
16 in our guidebook. Since there have been  
17 along that line, I think we should make it clear that  
18 we accept in lieu of payments, particularly if it  
19 be a community benefit such as to an STP.

20 THE CHAIRMAN: The issue is you want to say  
21 something consistent with Commission policy, sixteen  
22 units should be set aside for workforce housing.

23 COMMISSIONER ROBERTS: Page 38 of the  
24 guidelines, Clause 7 about in lieu payment.

25 THE CHAIRMAN: Or in the alternative, to

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2 construction of affordable housing, alternatives,  
3 be. Where the payment of a fee -- the question is  
4 whether any other public benefits should be treated  
5 like an STP. That is not in our guidelines, but we  
6 need to work on those anyway.

7 COMMISSIONER ROBERTS: In my opinion, we  
8 should consider accepting in lieu of payment if there  
9 is another community benefit, such as environmental  
10 clean up, access to historical preservation.

11 THE CHAIRMAN: One of the issues is that  
12 Township is the one that ultimately negotiates the  
13 final deal with the developer. We can say that  
14 units should be provided or some kind of equivalent.  
15 The question is, how do you word that equivalent so  
16 it's flexible enough to allow bartering, if you will,  
17 or trading off STP versus no other thing. That  
18 very difficult, from a regional perspective.

19 We can reference the guidelines. Those had  
20 been included with the referral. I would point out  
21 that the guidelines do not include community benefits  
22 beyond things just to affordable housing, such as  
23 payment to a housing trust or off site establishment  
24 other units elsewhere.

25 We have to change that a little bit in that

1 Suffolk Planning Commission - 7/6/11  
2 situation if we want.

3 COMMISSIONER ROBERTS: My biggest concern  
4 to clearly state the in lieu of as a possibility.

5 COMMISSIONER FINN: Andy, in the reference  
6 material that was provided to you, is there any  
7 if there is a payment in lieu of the percentage set  
8 aside for affordability on this site plan?

9 MR. FRELENG: The owner indicates that the  
10 applicant worked with the Town and would provide a  
11 contribution to the Town in lieu of a sewage  
12 plant. That is language from the DEIS. I don't  
13 that the applicant and Town are that far along where  
14 they actually nailed it down. That is what I have in  
15 the referral material.

16 THE CHAIRMAN: Or in lieu of alternatives,  
17 which can include monetary payment or --

18 COMMISSIONER ROBERTS: I actually think  
19 should be a monetary contribution for housing, and  
20 logic tells me we should allow that if the developer  
21 doing something else, such as hooking up to an STP or  
22 environmental clean-up, that you have to earn the  
23 to get the in lieu of payment.

24 I actually am fine with just taking the  
25 clause directly out of our guidebook so there is a

1 Suffolk Planning Commission - 7/6/11  
2 possibility of in lieu payment that is the equivalent  
3 to the sixteen units. As discussed before, there is  
4 lot we have to do in the clean-up of the guidebook to  
5 talk about how this really plays out.

6 THE CHAIRMAN: When we put it together  
7 originally, we actually made it way more flexible  
8 it was originally. We can make it sixteen units set  
9 aside for housing in accordance with the Suffolk  
10 Commission guidelines, alternatively consistent with  
11 the guidelines, development of housing elsewhere in  
12 community or payment to a housing development trust.  
13 That is right from the guidelines.

14 COMMISSIONER ROBERTS: Logical regional  
15 process would be, if the Town and Village overruled  
16 this and decided access to the STP could be  
17 that is the way potentially it would play out.

18 THE CHAIRMAN: They would override the  
19 condition and say that the STP is sufficient, if they  
20 wanted to. Let me reread what Commissioner Roberts  
21 suggesting. Why do they have the Department of  
22 Economic Development and Workforce Housing

23 MR. FRELENG: Department of Economic  
24 Development and Workforce Housing provides guidance  
25 workforce housing in terms of cost and things like

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2 that.

3 THE CHAIRMAN: Unless theirs is a duplicate  
4 of ours, that becomes a problem.

5 COMMISSIONER CASEY: Just keep our  
6 guidelines.

7 COMMISSIONER WEIR: Towns established their  
8 own three thirty and two sixteen that deals with  
9 affordable housing. I think we have to be careful  
10 overstepping. We are dealing with two municipalities  
11 here. I think it's a little difficult for us to  
12 that right now.

13 MR. FRELENG: The Commission has their  
14 guidelines and the localities can override the  
15 guidelines and say we have a program, but the  
16 Commission has a twenty percent requirement.

17 COMMISSIONER WEIR: I have no problem with  
18 the twenty percent requirement. Long Island  
19 Housing Act is ten percent. At some point they have  
20 comply. What I'm saying is the County workforce  
21 housing guidelines may be a little bit more  
22 than the Town's; I'm not sure. The Chairman is  
23 that the Suffolk County Workforce Housing, there is a  
24 whole different parameter there.

25 THE CHAIRMAN: Unless it's word for word

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2 from our guidelines, I would say there is a conflict  
3 there. For this point, I want to make it flexible.  
4 Sixteen units should be set aside for workforce  
5 in accordance with the workforce housing guidelines,  
6 in the alternative, I'm sorry, the applicant will,  
7 I will quote from the guidebook, will develop  
8 affordable housing units elsewhere within the  
9 or pay a fee to an established housing trust to use  
10 development of affordable housing units elsewhere in  
11 the community.

12 The Township would have to decide what is  
13 reasonable.

14 COMMISSIONER WEIR: Town and Village, again  
15 we have an issue because the Town may have a  
16 housing fund established and the Village may not.  
17 just creating a little bit of an issue because of the  
18 two municipalities.

19 THE CHAIRMAN: That's why it's important we  
20 don't say a specific amount or anything like that;  
21 you're right. Sixteen units will be set aside for  
22 workforce units slash affordable units consistent  
23 the affordable housing guidelines. Alternatively,  
24 applicant will develop affordable housing units  
25 elsewhere in the community or pay a fee to an

1 Suffolk Planning Commission - 7/6/11  
2 established housing trust to be used for building  
3 affordable housing units elsewhere in the community.

4 Any objection to changing the conditions,  
5 Dan?

6 MR. GULIZIO: Just a question for  
7 clarification, because it may come up. You stated in  
8 the first clause it has to be in compliance with  
9 Commission guidelines. Commission guidelines require  
10 the construction on site, unless there is compelling  
11 exceptional hardship. Does that language apply to  
12 first clause or not apply to the first clause?

13 THE CHAIRMAN: I think we are saying in  
14 situation, because of the facts raised earlier, that  
15 it's a major redevelopment of a blighted site,  
16 of some of the other amenities of it, that we feel  
17 would be appropriate in that regard.

18 COMMISSIONER ROBERTS: That is exactly the  
19 way I think.

20 THE CHAIRMAN: We want to make clear that  
21 sixteen units should be set aside in accordance with  
22 the guidelines. I guess we should say  
23 those guidelines, just be clear, right? Dan is  
24 a legal issue. Is that the rest of the guidelines  
25 raises a lot of other issues, including that it be a

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2 hardship.

3 MR. GULIZIO: It almost sounds like you  
4 establishing compelling exceptional hardship and  
5 therefore they're not going to be on site.

6 COMMISSIONER WEIR: Are we still working on  
7 this as a condition? Maybe we should make it a  
8 comment. I'm concerned because of the two  
9 municipalities and the friction it may cause.

10 Southampton Town has an established code. I don't  
11 what the Village may have and that might cause some  
12 concern. As an affordable housing person, obviously  
13 want that in there and all that kind of good stuff.

14 I think making this as a condition, it  
15 cause some problems between the two municipalities to  
16 override the condition with the twenty percent or  
17 whatever wording is in the guidelines. I'm just  
18 throwing that out there.

19 COMMISSIONER HOLMES: Aren't the Town and  
20 Village cooperating already on this?

21 MR. FRELENG: Yes, the municipalities are  
22 coordinating with each other on that.

23 COMMISSIONER HOLMES: Maybe it's a moot  
24 question.

25 COMMISSIONER WEIR: When you put a

1 Suffolk Planning Commission - 7/6/11  
2 on where both of them have to have a super majority  
3 override a condition and something that may have  
4 already been agreed on. You are throwing a wrinkle  
5 into that.

6 COMMISSIONER CASEY: I make a motion to  
7 it into a comment.

8 COMMISSIONER HOLMES: Second that.

9 COMMISSIONER CASEY: Can we adopt your  
10 language?

11 THE CHAIRMAN: Let's adopt the language.  
12 Sixteen units will be set aside for workforce housing  
13 or affordable units, in accordance with Suffolk  
14 Planning Commission guidelines. Notwithstanding  
15 guidelines -- that doesn't work.

16 COMMISSIONER HOLMES: "Notwithstanding" is  
17 not a good word. Alternatively.

18 THE CHAIRMAN: Let's get a sense of what  
19 people feel about making it a comment. Commissioner  
20 Roberts, any thoughts on making it a comment?

21 COMMISSIONER ROBERTS: As someone that has  
22 been on the Commission for a while, my very first  
23 meeting was when Bulova Watch came up in Sag Harbor  
24 that wording triggered that whole commotion and this  
25 project has not been completed. For the last six

1 Suffolk Planning Commission - 7/6/11  
2 I've been trying to get a more logical adoption of  
3 clause and how we use it.

4 If they change this to a comment today,  
5 will be the first time we have done it. I would  
6 out that it would be drastically changing a precedent  
7 from the last six years. Not that we shouldn't do  
8 The common sense of this that we know that the  
9 and Town have been negotiating, there is something in  
10 the works, that clearly the developer, Town and  
11 are all trying to satisfy the spirit of what we want  
12 do.

13 I'm totally fine with it being a comment,  
14 the other side of me would raise that it's different  
15 from what we have done in the past.

16 THE CHAIRMAN: Sixteen units shall be  
17 developed for affordable housing affordable units.  
18 the alternative, the applicant should develop  
19 affordable housing units elsewhere or pay a fee to an  
20 established housing trust.

21 All I did was take the words "in accordance  
22 with the guidelines." That would solve that issue  
23 right there.

24 COMMISSIONER ROBERTS: Okay.

25 THE CHAIRMAN: I'm going to change it.

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2 COMMISSIONER KELLY: Just a quick question,  
3 was Bulova ever built?

4 COMMISSIONER ROBERTS: No. We did not, at  
5 that time the Commission did not have a policy that  
6 allowed payment under any circumstances. This  
7 of this clause is my biggest contribution. It's  
8 Barbara Roberts' clause.

9 THE CHAIRMAN: The whole two pages is  
10 of you.

11 COMMISSIONER ROBERTS: I'm glad for the  
12 reinforcement.

13 THE CHAIRMAN: Sixteen units should be set  
14 aside for workforce slash affordable units. In the  
15 alternative, the applicant shall develop affordable  
16 housing units elsewhere or pay a fee to an  
17 housing trust to be used for development of  
18 housing units elsewhere. Period. That will, if  
19 is an in lieu of fee, that will meet that condition.  
20 If the Town decides that an STP is more worthwhile,  
21 that is where that would be. Any questions?

22 COMMISSIONER WEIR: The Town would  
23 a fee and how would they split that up between the  
24 and Village?

25 THE CHAIRMAN: Doesn't matter. It's as

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2 flexible as I think we can make it.

3 COMMISSIONER SCHOOLMAN: Does that mean  
4 Mike's concern about proposing economic conditions  
5 kill projects. If you agree that the fee is a  
6 that it would go through?

7 THE CHAIRMAN: Yes.

8 COMMISSIONER SCHOOLMAN: I'll vote for it.

9 THE CHAIRMAN: Is there any objection to  
10 changing the language? Seeing none, now it's a  
11 condition with that language changed. Is there any  
12 other motion with regard to the project? Seeing  
13 there are --

14 COMMISSIONER KELLY: Did we vote on that  
15 we making that a condition?

16 THE CHAIRMAN: Do you want to make it a  
17 motion?

18 COMMISSIONER KELLY: I make a motion for it  
19 to be a comment, not a condition.

20 THE CHAIRMAN: Commissioner Kelly is making  
21 motion to make that a comment. Is there a second?

22 COMMISSIONER SCHOOLMAN: Second.

23 THE CHAIRMAN: All these in favor of making  
24 that into a comment? (Show of hands) Four.  
25 (Show of hands) Seven. We keep it as a condition.

1 Suffolk Planning Commission - 7/6/11  
2 have gone through all the conditions.

3 We have a new Comment 4, and we moved  
4 comment -- old Condition 5 to be Comment 5. The  
5 resolution now has approval with Condition 1 modified  
6 to delete the word "twelve." Condition 2 as written.  
7 Condition 3 as written, Condition 4 I'll read.  
8 "Sixteen units should be set aside for workforce  
9 affordable housing units. In the alternative the  
10 applicant will develop affordable housing units  
11 elsewhere in the community or pay a fee to an  
12 established housing trust to be used for the  
13 development of affordable housing elsewhere in the  
14 community."

15 There five comments, three written as 1, 2  
16 and 3 as per staff's suggestion, 4 is alternative  
17 access. 5 is the old Condition 5. Any other  
18 or questions?

19 COMMISSIONER KELLY: The comment regarding  
20 the shuttle. The practical side of things, that is a  
21 cost borne by the homeowners association. While it  
22 a comment, fine, we can discuss it. The reality is,  
23 what is the reality in the marketplace, issues like  
24 this when they do arise, it's very burdensome on the  
25 front costs and more so on the sustainability for the

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2 life of this job. For the homeowners association to  
3 pay for the truck and insurance and drivers.

4 You talk about the Bulova watch factory and  
5 the fact that that still sits as an eyesore. These  
6 additional burdens over and over again will cause  
7 parcels like this to sit as a blight. I want  
8 to be aware. These economic hardships that we put  
9 while they are conditions which have to be reviewed,  
10 the guidebook they do have to be clearly looked at,  
11 I think we really need to vet these going forward.

12 THE CHAIRMAN: I appreciate that. If you  
13 wanted to consider changing the shuttle service to  
14 something like the project sponsors to consider.  
15 Commissioner Holmes?

16 COMMISSIONER HOLMES: I strongly urge that  
17 leave it up to the sponsor. That is what we have  
18 in the past. This is where we miss Vince, because he  
19 was always the first to point this out. It is far  
20 from amenities. There needs to be a shuttle  
21 transportation. You know, forming a homeowners  
22 association is a very, very long difficult process.  
23 They have to own property in common, and they have to  
24 all agree that -- a property owners association is a  
25 little easier, even that is burdensome because not

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2 everyone joins it.

3 I don't think we should mandate a  
4 association being responsible for what is clearly  
5 needed here, which is some means of transportation.

6 THE CHAIRMAN: Because we are running short  
7 on time for some people, Commissioner Kelly, do you  
8 want to make a motion to change that comment in any  
9 way?

10 COMMISSIONER KELLY: No.

11 THE CHAIRMAN: The director pointed out to  
12 Condition 2, we add the condition guidelines on  
13 safety, universal design, energy efficiency should  
14 been added to that. That was amended without  
15 objection.

16 We have a resolution for approval with, we  
17 are down to four conditions, five comments.  
18 a motion to adopt. Motion by Commissioner Roberts,  
19 second by Commissioner Holmes. All in favor, please  
20 raise your hand. (Show of hands) Seven. Opposed.  
21 (Show of hands) Four. Abstentions zero.

22 Next item on the agenda is Quigley Estates.

23 MR. AMAKAWA: The subdivision Quigley  
24 Estates, that was referred to Planning Commission by  
25 the Town of Brookhaven. The applicant seeks

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2 Town and Planning Board approval for the subdivision  
3 approximately thirty-nine point four acres on the  
4 subject parcel to create a thirty-two lot cluster  
5 subdivision for single family use.

6 The subject property is an undeveloped  
7 area located at the northeast corner of Mill Road and  
8 Granny Road in the unincorporated hamlet of Gordon  
9 Heights. The subject property falls within the  
10 jurisdiction of the Suffolk County Planning  
11 since it's within the Pine Barrens Compatible Growth  
12 Area and five hundred feet from Suffolk County water  
13 land to the north and Suffolk County open space to  
14 south.

15 According to the submitted preliminary  
16 subdivision cluster map, Lots 1 through 32 would be  
17 sited for residential development and approximately  
18 point five acre recharge acre would be sited on the  
19 southern portion of the site, and approximately six  
20 the northern portion of the site sited for open space  
21 dedicated to the Town of Brookhaven.

22 In terms of Comprehensive Plan, recently  
23 adopted 2011 Gordon Heights land use plan for the  
24 Gordon Heights Hamlet. It specifically recommends a  
25 mixed use hamlet center planned development

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2 of mixed residential and commercial uses as well as a  
3 community center and village green.

4 The environmental conditions. It's located  
5 in the hydrogeological Groundwater Management Zone 3.  
6 Also located within the Central Suffolk Special  
7 Groundwater Protection Area. It's located in the  
8 Barrens Compatible Growth Area, regulated by the  
9 Central Pine Barrens Joint Planning & Policy  
10 Commission.

11 While the site is proximate to the Overton  
12 Preserve, there are no local, state or federally  
13 regulated wetlands on site.

14 The recommendations. Staff believes that  
15 subdivision is problematic in regard to four  
16 issues. The first having to do with consistency with  
17 the Town of Brookhaven-Gordon Heights Land Use Plan  
18 adopted earlier this year. The property is included  
19 within that plan. The plan was actually reviewed by  
20 the Suffolk County Planning Commission and  
21 conditionally approved in December 2010.

22 The applicant's proposal for single family  
23 residential development on the subject property is  
24 consistent with the Gordon Heights Land Use Plan  
25 specific recommendation for the property as a

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2 neighborhood center or mixed use hamlet center  
3 development. It's based on earlier community  
4 and economic report which focused on the creation of  
5 north and south neighborhood centers within Gordon  
6 Heights.

7 The proposal is solely for single family  
8 residential units. It's important to mention that  
9 Gordon Heights Land Use Plan proposes southern  
10 neighborhood center on the subject premises, which is  
11 intended for a diversity of housing types, in  
12 to single family, two family, granny flats, above  
13 and community center and village green.

14 Another inconsistency with Gordon Heights  
15 Land Use Plan, it recommends minimum twenty percent  
16 affordable housing. There is no information in  
17 applicant's referral to indicate that affordable  
18 housing would be provided. Staff believes it would  
19 important to point that out. The Commission  
20 encourage different housing types, distributed across  
21 communities, including low and moderate income  
22 minimum ten percent should be set aside as affordable  
23 units for as-of-right applications.

24 To sum it up, the applicant should  
25 with the Town to ensure that current and future

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2 development proposals would address such housing  
3 diversity and affordability and their overall  
4 consistency with the Gordon Heights Land Use Plan  
5 recommendations.

6 Moving onto the second identified issue,  
7 neighborhood connectivity. The proposed subdivision  
8 plan features internal roadway consisting of two  
9 cul-de-sacs which do not connect to the surrounding  
10 community through existing roadways. The Gordon  
11 Heights Land Use Plan highlights the need to create  
12 pedestrian and vehicular connections between the  
13 residential areas to the north and east and to help  
14 merge proposed new neighborhood centers into the  
15 existing community. The Commission's transportation  
16 policy guidelines also emphasizes smart growth  
17 principals and good planning practice, which  
18 multiple pedestrian and vehicular connections between  
19 developments, which reduces trip lengths, facilitates  
20 emergency access and equitably distributes traffic  
21 moving among multiple roadways.

22 Further, it should be noted that the  
23 subdivision only has one access point. In accordance  
24 with Commission guidelines, a secondary emergency  
25 access should be provided.

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2 Another comment would be a common access  
3 easement. A common access easement should be created  
4 to prevent future landowner disputes over use of the  
5 roadways. Because of all the connectivity issues,  
6 recommended that the applicant address these issues  
7 accordance with the Gordon Heights Land Use Plan  
8 recommendations for safe and efficient pedestrian and  
9 vehicular connections within the community and  
10 specifically include an emergency vehicle access

11 Moving on to the third issue of concern has  
12 to do with compliance with the Suffolk County Pine  
13 Barrens Compatibility Growth Plan. The proposed  
14 subdivision plan proposes approximately sixteen point  
15 two acres out of the thirty-nine point four of the  
16 subject property, or approximately thirty-two point  
17 four would be landscaped. The Commission's policy  
18 guidelines for the Pine Barrens specifically  
19 discourages establishment of turf and fertilizer  
20 dependent vegetation, and the Commission may  
21 if it exceeds fifty percent on each lot of vegetation  
22 requiring fertilization. With that in mind, the  
23 applicant should take appropriate measures to ensure  
24 compliance with that guidelines.

25 The storm water management is the fourth

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2 issue. Proposed subdivision plan would cause a  
3 disturbance of approximately twenty-one point one  
4 of land. The Commission policy guideline highlights  
5 New York states pollutant Discharge Elimination  
6 program's permit requirement to develop and implement  
7 SWPPP program for managing stormwater runoff on  
8 construction sites of one acre or larger, which this  
9 site is well above that. The applicant should  
10 therefore be directed to comply with all SPDES  
11 requirements.

12 To tack onto this issue of stormwater  
13 management lastly, the applicant should be directed  
14 the Commission's Managing Stormwater Natural  
15 to explore and implement bio-retention basins,  
16 bio-swales, rain gardens and this would be as  
17 alternatives to the one point five acre recharge  
18 along Granny Road.

19 In light of the four identified issues,  
20 consistency with the Town of Brookhaven adopted plan,  
21 also known as the Gordon Heights Land Use Plan and  
22 second being the connectivity issue, and third is the  
23 fertilizer dependent vegetation, and the fourth issue  
24 of stormwater management, staff recommends  
25 for this application. That would complete the staff

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2 report.

3 THE CHAIRMAN: I note while there are a  
4 couple of reasons for disapproval the one that is  
5 glaring was the fact that the land use plan we  
6 three months ago and the Town adopted two months ago  
7 and is inconsistent. This area was to be the  
8 of their southern development area it flies in the  
9 face of the plan and actually kind of obliterates one  
10 of the key components of the plan.

11 One of our main jobs is to validate and  
12 vindicate Comprehensive Plans. It's hard not to  
13 it's not a current plan. It's a Brookhaven project.  
14 Commissioner Kelly.

15 COMMISSIONER KELLY: Mr. Chairman, you  
16 couldn't have said it any better. I agree with the  
17 comments regarding the land use plan and I agree with  
18 Andy's report.

19 THE CHAIRMAN: Any other comments or  
20 on the application?

21 COMMISSIONER FINN: I agree with the  
22 comment. But I do want to make a comment. This is  
23 probably one of the most economically depressed areas  
24 in Suffolk County. The fact that we are considering  
25 application or reviewing an application that is going

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2 to containing the vibrancy of this area, this  
3 intersection, I used to play golf up at Spring Lake  
4 right up the block. For twenty years I've been  
5 by this site. It looks as if they did a re-skin on  
6 convenience store on the corner, but as we know, the  
7 way areas change in economic development is bringing  
8 people of means into an economic area. It may fly in  
9 the face of what the land use plan of Gordon Heights  
10 has recommended.

11 As we complete these studies in Suffolk  
12 County, I think there should be some encouragement  
13 municipalities on the rezone plan, but follow-up on  
14 rezone. I'm aware there is a chance we will  
15 the application, but what does it speak to the future  
16 of Gordon Heights? Once this is done, I think it  
17 should be not just a one part process. It has to be  
18 multi-part process.

19 They have taken the initiative to create a  
20 vision and how does that become reality.

21 THE CHAIRMAN: Excellent point. We have  
22 time and time again, particularly in Brookhaven,  
23 plans, sometimes they're adopted. Sometimes they're  
24 sort of accepted. I don't know that anyone knows  
25 that means and sort of informed their vision of the

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2 future, and often don't do the zoning required to  
3 that happen. If they want to do a PDD there, put the  
4 zone there. You have someone that owns the land and  
5 wants to do something with it. Put into legislation  
6 your vision.

7 COMMISSIONER FINN: Not to pick on the Town  
8 but the Town does have another vision of the  
9 hub. They are in fact doing that. They are taking  
10 their vision and rezoning. As all these studies, as  
11 have seen, I think it's good to review them. In the  
12 future, maybe we will make a comment or condition  
13 we will place upon it that we accept the land use  
14 but we want to see a zoning overlay that achieves the  
15 successful implementation of a land use plan.

16 THE CHAIRMAN: Particularly with respect to  
17 core aspects of the plan. Any other thoughts or  
18 comments? Seeing none, I will take a motion to adopt  
19 the resolution of the staff.

20 COMMISSIONER KELLY: Motion.

21 COMMISSIONER FINN: Second.

22 THE CHAIRMAN: Please raise your hand.  
23 of hands) Ten to zero.

24 Last item is coastal erosion.

25 MR. GULIZIO: The Village is recommending

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2 some changes to the Coastal Erosion Management Code  
3 which establishes certain standards and restrictions  
4 for redevelopment in the coastal zone because those  
5 impacts are regionally significant. We thought it  
6 prudent to bring it to your attention. We point out  
7 that variances for development within the coastal  
8 are prohibited by code except when there is no  
9 site available.

10 We thought that was important to bring to  
11 your attention with a recommendation that staff  
12 consider a local determination letter and guidelines  
13 effectuate action of the plan.

14 THE CHAIRMAN: Do we need to take any  
15 on that?

16 MR. GULIZIO: That was just for  
17 informational purposes. You don't need a resolution.

18 THE CHAIRMAN: I'd like to have right now  
19 those involved with the housing conference.

20 COMMISSIONER McADAM: I had another  
21 I wanted to ask our attorney if he would possibly  
22 research public benefit. After today's sessions with  
23 public benefit, I wasn't sure what the impact is on  
24 Planning Commission, what the impact is on the Towns  
25 and Villages and where the public benefit has to lie.

1 Suffolk Planning Commission - 7/6/11

2 I could say, having worked at the County, I  
3 kind of understood what the public benefit had to be  
4 the County level, but when we act as a Planning  
5 Commission and send it back to a Village or Town,  
6 is their responsibility regarding public benefit and  
7 whether there is any overarching law, not Town law,  
8 other law, State law, which requires each and every  
9 level of government to at least honor public benefit.

10 COMMISSIONER KELLY: With all due respect  
11 Tom, Tom could probably cover the legal component of  
12 it, the definition of policy.

13 THE CHAIRMAN: In other words, how other  
14 places do it; what is being done. I'm sure Director  
15 Lansdale can help us.

16 DIRECTOR LANSDALE: It's an important  
17 that we need to do a lot of research on, and I would  
18 more than happy to do that research.

19 THE CHAIRMAN: We have to amend the  
20 guidelines as well, so it's a timely issue.

21 COMMISSIONER HOLMES: Just add, I see in  
22 coastal erosion thing, I just want to let the  
23 commission know that the Town of Shelter Island is  
24 extending the moratorium on the Ram Island Causeway  
25 regulations that are being proposed, and we are

1 Suffolk Planning Commission - 7/6/11  
2 extending it to the end of December and doing some  
3 proactive work and getting more data.

4 THE CHAIRMAN: We approved it. When did  
5 go through?

6 COMMISSIONER HOLMES: It was through July  
7 11th, I think. So they're renewing it as of July  
8 They're setting a hearing to renew it and have to  
9 extend to December 31st.

10 THE CHAIRMAN: Will that be referred to us  
11 next month? I would assume so.

12 MR. FRELENG: Should be referred.

13 COMMISSIONER HOLMES: The extension should  
14 referred.

15 THE CHAIRMAN: It's new legislation.

16 COMMISSIONER HOLMES: I will let them know.

17 COMMISSIONER FINN: Are we getting a legal  
18 interpretation of the public benefit?

19 THE CHAIRMAN: Not on the fly. Right after  
20 this meeting, we are going to discuss housing for a  
21 minutes just to schedule a conference call to plan  
22 housing conference for six months out from now. In  
23 guidelines meeting we can talk about how much time we  
24 have. Holmes, Kelly Finn and Weir.

25 Entertain a motion to adjourn.

1 Suffolk Planning Commission - 7/6/11  
2 Motion by Commissioner Chartrand, second by  
3 Commissioner Holmes. All in favor?

4 COMMISSIONER HOLMES: I meant to ask the  
5 Director, I know there was discussion about having  
6 staff summarize our minutes, and not have a verbatim  
7 record. Was there a resolution, was there a decision  
8 on that?

9 DIRECTOR LANSDALE: Thank you for raising  
10 that issue. We are actively looking into that

11 COMMISSIONER HOLMES: Thank you.

12 (Time noted: 3:15 p.m.)

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CERTIFICATION

STATE OF NEW YORK)  
 )  
COUNTY OF SUFFOLK)

ss:

I, JUDI GALLOP, a Notary Public in and for  
the State of New York, do hereby certify:

THAT this is a true and accurate record of  
the meeting held by the Suffolk County Planning  
Commission on July 6, 2011, as reported by me  
transcribed by me.

IN WITNESS WHEREOF, I have hereunto set my  
hand this 18th day of July, 2011.

*Judi Gallop*  
\_\_\_\_\_  
JUDI GALLOP

FIVE STAR REPORTING , INC.

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