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CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

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In the Matter of the
Public Hearing on the
Pine Barrens Credit Letter of
Interpretation appeal of John Andersen,
SCTM#200-511-1-15 and 200-511-16

-----X

Brookhaven Town Offices
3233 Route 112
Medford, New York

February 16, 2000
3:00 p.m.

P U B L I C H E A R I N G

ACCURATE COURT REPORTING
6 Frances Lane
Port Jefferson, New York 11777
631-331-3753

A P P E A R A N C E S :

GEORGE PROIOS
Chairman
County of Suffolk

RAY COWAN
State of New York
Representing the Governor's Office

RAYMOND CORWIN, Executive Director Central Pine
Barrens Joint Planning and Policy
Commission

DORIS ROTH, ESQ.
General Counsel for the Commission

MARTIN E. SHEA
Chief Environmental Analyst

WILLIAM SPITZ,
State of New York

JOEY MAC LELLAN
Executive Assistant

ANNETTE EADERESTO, ESQ.
Town Attorney, representing Felix Grucci

A L S O P R E S E N T :

MARK H. RIZZO
Environmental Analyst

DONNA PLUNKETT
Staff to Commission

LORRAINE TREZZA

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MR. PROIOS: I would like to call this public hearing to order. My name is George Proios, acting chairman, acting on behalf of Robert Gaffney who is the Chairman of the Commission.

I will let the other commission representatives introduce themselves.

MR. SHEA: Marty Shea representing Supervisor Vincent Cannuscio, Town of Southampton.

MR. MAC LELLEAN: Joey MacLellan, representing the Supervisor of the Town of Riverhead, Robert Kozakiewicz.

MR. COWAN: Ray Cowan, representing Governor Pataki.

MS. EADERESTO: Annette Eaderesto, representing Supervisor Felix Grucci, of the Town of Brookhaven.

THE CHAIRMAN: We have three public hearings today. I will begin with the first one which is a continuation of a hearing that was initially started on January 5th.

I will read, for the record, the public notice regarding that particular

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application:

"Please take notice that a hearing on the Letter of Interpretation appeals of John Andersen have been scheduled for January 5, 2000 at 3:00 p.m. at the Riverhead Town Hall, which is located at 220 Howell Avenue, Riverhead, New York. Said appeals are made pursuant to Section 6.7.3.3 of the Central Pine Barrens Comprehensive Land Use Plan (the Plan). The Central Pine Barrens Joint Planning and Policy Commission will be holding the appeals hearing pursuant to Section 6.7.3.4 of the Plan. The appellant was allocated 0.10 Pine Barrens Credits in a Letter of Interpretation dated October 25, 1999 for Suffolk County Tax Map Parcel #200-511-1-15. The appellant was allocated 1.00 Pine Barrens Credits in a Letter of Interpretation dated October 25, 1999 for Suffolk County Tax Map Parcel #200-511-1-16. The parcels are located to the south of the Long Island

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2 Expressway Interstate 495 and to the
3 northeast of County Road 111. Suffolk
4 County Tax Map Parcel #200-511-1-16 has
5 frontage on County Road 111. Any
6 persons who wish to comment on the
7 appeal are invited to attend the
8 hearing. If you should have any
9 questions, please contact the Commission
10 office at 516-563-0385."

11 Subsequent to this we received a
12 letter requesting a postponement due to
13 illness and we are reconvening this hearing to
14 day on February 16.

15 I will ask staff if they have any
16 comments or exhibits to enter into the record
17 at this point.

18 MR. RIZZO: Yes, I do.

19 I would like to mark as exhibits,
20 on behalf of the Commission. The first item
21 I would like to mark is the actual appeal
22 letter by Mr. Anderson. Mark that as Exhibit
23 1.

24 (WHEREUPON, the above-referred to
25 document, letter November 18, 1999, was

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marked as Commission's Exhibit 1, as of this date.)

MR. RIZZO: That's just the letter from Mr. Anderson requesting the appeal.

The second item is the actual letters of interpretation, both dating October 25, 1999.

(WHEREUPON, the above-referred to document, Letter of Interpretation, dated October 25, 1999, was marked as Commission's Exhibit 2, for identification, as of this date.)

(WHEREUPON, the above-referred to document, Letter of Interpretation, dated October 25, 199, was marked as Commission's Exhibit 3, as of this date.)

MR. RIZZO: I just want to note on the parcels that lot number 16 received one full credit and lot number 15 received a tenth of a credit.

The next item I have is the actual staff report that was used to compile the letter of interpretation.

(WHEREUPON, the above-referred to

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document, staff report, was marked as
Commission's Exhibit 4, for identification, as
of this date.)

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MR. RIZZO: That just notes the
general location of the parcel, acreage zoning
and other substantial characterization of the
parcels.

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The next exhibit is the actual
Suffolk County Tax map. It's Brookhaven Town,
Section 511.

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You will notice that the two
parcels are highlighted in orange highlighter
and the location of the parcels.

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(WHEREUPON, the above-referred to
document, map, was marked as Commission's
Exhibit 5 for identification, as of this
date.)

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MR. RIZZO: The next two items
that I will mark as separate exhibits are the
maps produced with Art View 3.1. It's a
geographic information systems computer
program.

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The first maps will show the
parcels and their general location on County

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Route 111, and the second map shows an air photo from the Suffolk County Enhanced 911 project taken in 1996 with the tax parcels overlaid.

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The subject parcels are in yellow outline.

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(WHEREUPON, the above-referred to document, map SCTM #S 200-511-511, was marked as Commission's Exhibit 6, as of this date.)

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(WHEREUPON, the above-referred to document, aerial map, was marked as Commission's Exhibit 7, for identification, as of this date.)

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MR. RIZZO: That's all the exhibits I have.

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Does anybody have any questions?

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THE CHAIRMAN: Did you want to address Mr. Anderson's letter?

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MR. RIZZO: Mr. Anderson is here to address his letter.

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THE CHAIRMAN: would you like to make a presentation to the Commission as to why you think your allocations are incorrect and what it should be?

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2 J O H N A N D E R S E N, appearing as a witness
3 herein, residing at 23 Andersen Court,
4 Westerly, Rhode Island 02891, having been
5 duly sworn by a Notary Public of the State of
6 New York, upon being examined, testified as
7 follows:

8 MR. ANDERSEN: Basically I'm here
9 because I don't understand how you people have
10 arrived at the credits. I do front a road
11 which is totally accessible to my property,
12 and I own two pieces of property and one
13 parcel which is the smaller of the two gets
14 one full credit and the other parcel which is
15 larger I got a tenth of a credit. I'm not
16 out in the boonies with the property. I'm
17 very close to this road and I feel as if I
18 didn't get justified for the credit. That's
19 basically all I have to say. I don't know
20 what else to say.

21 THE CHAIRMAN: According to our
22 map, one parcel is close to Route 111. The
23 other one is actually behind it.

24 MR. RIZZO: Fronts on 111. the
25 other parcel, -- parcel 15 fronts 111.

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THE CHAIRMAN: So that is the first parcel to allow access to the second parcel since it's owned by the same property owner?

MR. COWAN: Let me ask you: What's the frontage of your parcel that fronts on the highway; do you know offhand?

MR. ANDERSEN: It's ten lots, 200 feet.

MR. COWAN: 200 feet?

MR. ANDERSEN: Yes. And there's a parcel in the back.

MS. ROTH: Ray, I think this map has the frontage on it.

MR. COWAN: I couldn't read it.

MS. ROTH: I can read it. It's there.

MR. COWAN: Bill told me it's 198.

MS. ROTH: That's one.

MR. CORWIN: The one behind it is 226.

MR. COWAN: Mr. Andersen, have you, for instance, talked with anyone in the Town of Brookhaven, for instance, all things

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2 being equal, that you would have been granted
3 the ability to access the second lot through
4 the first lot with a legal roadway of some
5 kind through an easement or something like
6 that?

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MR. ANDERSEN: I figured that
8 being they were back to back you couldn't do
9 that automatically.

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MR. COWAN: I don't know that
11 that's the case.

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MR. ANDERSEN: I don't know that
13 either. I'm pretty stupid when it comes to
14 this stuff.

15

MR. COWAN: How long have you
16 owned this property?

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MR. ANDERSEN: Forever.

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MR. COWAN: Forever?

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MR. ANDERSEN: My grandfather
20 owned it before me, back in the '20's.

21

MR. CORWIN: That's pre-2000.

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MR. COWAN: I think -- it seems
23 to me that the question would turn on whether
24 or not you would be allowed to access the
25 second lot from the first lot. That's

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something we need to get on the record here.

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I'm not sure if we can do it today or we can

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do it at a later date.

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MS. EADERESTO: You would be

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required to go to the zoning board of appeals

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for that and that would be as a right. It

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would be a flag lot. It's off of County Road

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111 so that would be scrutinized very closely

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by our planning department and if this wasn't

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in the Pine Barrens, probably the preferred

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method of development would be to develop a

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road that abuts the property to the north and

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then allow a flag of a major county road. But

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it would be an as of right. It couldn't be an

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administrative approval. It would have to be

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a grant by the zoning board of appeals.

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MR. SPITZ: They're not single and

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separate either at this point because they're

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in the same name.

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MS. EADERESTO: Is it in the same

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name?

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MR. ANDERSEN: yes.

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MS. EADERESTO: Yes, that would

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also be --

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MR. SPITZ: They don't meet

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zoning.

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MS. EADERESTO: Right it would be

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A-5 in this area.

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MR. SPITZ: They may have

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merged --

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MS. EADERESTO: They merged,

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that's correct.

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MR. SPITZ: For development

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purposes they need to be subdivided.

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MS. EADERESTO: Again, that would

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be the zoning board of appeals.

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THE CHAIRMAN: Did you follow that

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discussion?

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MR. ANDERSEN: I followed it, I

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don't know what it means.

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THE CHAIRMAN: In other words,

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there's a process that your grandfather or

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father could have done to keep these parcels

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single and separate but if they're not, when

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they change the zone, if you don't retain them

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single and separate it becomes one lot.

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MR. ANDERSEN: Okay. How can I

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get one tenth of a credit on the larger lot?

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THE CHAIRMAN: Because there's no legal access to that property right now. You would have had to go before the zoning board of appeals and if they grant you that ability, then clearinghouse could have taken that into consideration when issuing you your credit allocation. But the absence of that, it looks like it's just another parcel that doesn't have road front access or if you combine it into one lot, it still doesn't meet the current zoning and you've got one credit actually. You would have gotten slightly less.

MR. ANDERSEN: One point one. And that's as far as I can go?

THE CHAIRMAN: Unless you want to go to the process of getting the zoning board of appeals approval for road access to the second lot, which you could probably talk to John Girandola in the Planning Department to see -- to get his advice as to if there's a problem or something.

MR. ANDERSEN: Isn't that fighting City Hall though?

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THE CHAIRMAN: Well, talk to him first before you go through the whole process. He will advise you what the likelihood of success would be in doing something like that. I mean you might stop by and talk to him first.

MR. ANDERSEN: I never have good luck at this stuff.

MR. COWAN: Doris, if Mr. Andersen wanted to pursue that and it took him months or longer, how does he preserve his right to this hearing?

MS. ROTH: I think the expiration of your decision dead line occurs between the last hearing date when it was postponed and until today. Since he requested an adjournment today, it is the decision dead line.

If you want to pursue the other route of getting some kind of ruling from the zoning board, you will need to grant this commission an extension of their dead line.

If you're going to go to the zoning board, you want to keep this decision

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2 open. You could ask for that. I'm sure they
3 would give you that and they would rule on
4 it --

5 MR. ANDERSEN: The problem with
6 me is that I'm not close by. I have to take
7 the ferry across. I'm putting more time in it
8 than probably I will get out of it.
9 So I guess I just have to accept what I got.
10 I don't feel good about it, to be honest with
11 you. I was going to use that money in my
12 retirement and now I'm retired and I'm not
13 getting what I thought I should get, but
14 that's the way life is.

15 THE CHAIRMAN: You don't lose
16 anything by just asking for an extension of
17 the time period. You can always go down and
18 talk to planning. That's nothing lost --

19 MR. ANDERSEN: Do you really think
20 I got a shot at getting something?

21 THE CHAIRMAN: I don't know.

22 MS. EADERESTO: I think it would
23 be difficult. It's going to be a tough
24 application and if you're far away, it's going
25 to cost you money to come back and forth.

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It's going to be expensive just to get the maps and fees together to do this. But we can't say what the zoning board of appeals will do.

MR. ANDERSEN: I guess I better just let it ride.

MR. OLSEN: Before he gives his rights away...

MS. ROTH: Please state your name.

MR. OLSEN: Walter Olsen, I have some comments that I would like to make for the record.

If you'd like to swear me in that's fine, but I don't intend to lie to you.

Unfortunately, this goes back to the lady that addressed you in the beginning of this meeting, and it goes back to the fact that you are dealing with people who in many cases do not live close by. Mr. Andersen has a problem that he lives a long ways a way. He is not familiar with the workings of your particular local government. He's unable to follow that process and purse that process and I think it's a sad state of affairs that this

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is where people find themselves because some are less astute when it comes to these matters than others.

Just as his grandfather and his father before him did not have the foresight to keep these lots in single and separate ownership and protect themselves from being put into a situation like this, and I think that particularly on parcels like this where it's so close to the road, that it isn't back in the boonies, so to speak, a mile from the road as Mr. Amper would tell you in many cases and would have no value.

I don't think these two parcels represent that. I think these are two parcels that all things being equal, in the past would have been very easily sold as separate parcels. They're very close to utilities and to public access, and I think that to send Mr. Andersen away from here with only one credit on one parcel and a tenth of a credit on the second parcel, I think is a misguided thing to do. I think that the minimum he should have is a credit for each parcel, taken into

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2 consideration the fact that they are that
3 close to the road, very valuable property, and
4 I think that you should just continue the
5 service that you do to the public. If you
6 continue to give these tiny allocations to
7 parcels of this sort, and I think
8 unfortunately -- and I'm not accusing you of
9 this -- but I just think that this is a
10 typical case of government taking advantage of
11 the entangled process that it takes for a
12 person like Mr. Andersen to weed his way
13 through this in order to realize the best
14 value that he can get out of his property.

15 The government is fully aware of
16 the fact that it is an impossibility for him
17 and I think that you could change everybody's
18 image of government if you were to turn around
19 at this point and show a little more
20 sensitivity for that and understand the
21 specifics that they point to this particular
22 property and redo the allocation and give him
23 I would say a minimum of a credit for each of
24 those parcels. I don't think that that's one
25 bit out of the way. It may be out of the way

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if those parcels were way back miles from the road or something like that. I don't think that applies to this case.

I would really urge you to increase that allocation. Thank you very much.

THE CHAIRMAN: Thank you.

Anyone else wishing to address the commission?

MR. COWAN: I think that there are a couple of things I would like to say.

First, I think it's irrelevant whether or not Mr. Andersen is in front of the Commission. He would have the same difficulty in developing this lot if it were only the Town of Brookhaven you were in front of, never mind being in front of this Commission. You would have the same exact problem, notwithstanding that I for one am uncomfortable making a decision today on this issue because I think we have other decisions that we may have made in the past that I would like to take a look at before we decide on this particular one. But in order for us to

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2 do that, we would need your permission for an
3 extension of 30 days or something like that
4 which would not be to your disadvantage, so
5 you should probably do that for us.

6 I don't know how the rest of you
7 feel about that.

8 MR. MAC LELLAN: I would agree.
9 I'm a new member in the group. I hear what
10 Mr. Olsen is saying and I think that all of us
11 have a problem, but it's my understanding
12 there are regulations we have to follow that
13 were established when legislature put us in
14 this position to do this kind of stuff. So
15 again if you would allow us an extension.

16 MR. COWAN: Thirty days; is that
17 agreeable?

18 MR. ANDERSEN: Yes, I'm leaving
19 for 30 days. I'm spending some of the money
20 I'm getting from my Pine Barrens credit. I'll
21 be down in Florida for a month.

22 MR. COWAN: Good for you.

23 Do you want to make it two
24 meetings?

25 MS. ROTH: We're tied to a day of

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2 the meeting.

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4 MR. COWAN: What's the meeting
after the next one, Ray?

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6 MR. CORWIN: the one after March
8th.

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8 MR. COWAN: That would be March
29th.

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10 MR. CORWIN: We're not going to
expect him to come back?

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MR. COWAN: No.

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13 MS. ROTH: You don't have to come
back.

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15 MR. COWAN: Would you grant us
permission for an extension to the close of

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business on the 29th of March, 2000?

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MR. ANDERSEN: Definitely.

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19 MR. COWAN: The witness is
indicating yes.

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21 THE CHAIRMAN: With that I will
close this portion of the public hearing and I

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will keep our commentary period open until

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March 29th.

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25 MS. ROTH: I think the whole
hearing --

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THE CHAIRMAN: The whole hearing
will remain open until March 29th, 2000.

(WHEREUPON, this hearing was
concluded.)

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I N D E X

WITNESS

PAGE

John Andersen

8

* * *

E X H I B I T S

Commission's

Description

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Letter dated 11/18/99

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Letter of Interpretation
10/28/99

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Letter of Interpretation
10/28/99

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Staff report

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Map

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Map

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Aerial map

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C E R T I F I C A T E

I, LORRAINE D. BERARDI, certify that the foregoing transcript of the proceedings in the Central Pine Barrens Hearing, County of Suffolk, was prepared by me and is a true and accurate record of the proceedings, to the best of my ability.



LORRAINE D. BERARDI

Dated: February 29, 2000