

CENTRAL PINE BARRENS COMMISSION

COUNTY OF SUFFOLK: STATE OF NEW YORK

-----X  
In the Matter of the Application of  
FKK, INC.

For a Hardship Exemption, Pursuant to  
Environmental Conservation Law Article 57

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Public Hearing

Southaven County Park  
Victory Avenue  
Yaphank, New York 11980  
December 19, 2018  
3:00 p.m.

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

John Milazzo, ESQ.  
Daniel P. McCormick  
Julie Hargrave  
Ed Romaine  
Janet Long  
Andrew Frelong  
Carrie Gallagher, Chair  
Laura Jens-Smith  
Kyle Collins  
Kevin Papasian  
James Egan  
Eugene DeNicola  
Richard Amper



## PUBLIC HEARING

MS. GALLAGHER: Notice of Public Hearing, Pursuant to the New York State Environmental Conservation Law Article 57-0121(10) and the Central Pine Barrens Comprehensive Land Use Plan. Notice is hereby given that the Central Pine Barrens Joint Planning and Policy Commission will hold a public hearing on Wednesday, December 19, 2018, on the matter of a Core Preservation Area Extraordinary Hardship Waiver.

The name of the project is FKK Inc. Core Preservation Area Hardship Waiver Application.

Okay, so, you may start.

MS. HARGRAVE: This is the site of a gas station in Calverton, in the Town of Brookhaven, on the north side of the LIE. At Exit 71, if you are on the south side. You can't go north where this exit exists, but this is on the corner of the north service road going onto the LIE at Nugent Drive, Edwards Avenue, where they merge.

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parking for other vehicles and some landscaping. Most of the site is significantly disturbed. There are a few pitch pine trees and cedars in the rear of a property and a mote area, buffer area, to the fence, which delineates their property line.

MR. ROMAIN: Essentially this property has not been changed since it was built in '73?

MS. HARGRAVE: Right, that is my understanding.

And, over their fence, on the other side of the fence is the estate land, and this property is like a triangle shape, it has two road frontages, one on Edwards and one on the north service road.

So, again, just to go over their proposal, this is the convenience store, the existing convenience store, and this is the area of the gas pumps, and the project proposes to move the convenience store a little further east

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So, you are probably familiar with this site and it contains a gas station and an existing convenience store. This was built in 1973. The convenience store was developed or there was a service station converted to a convenience store in 2000.

Again, this is in the Core Preservation Area. It is near the border of the Core, but you will see in the study area map, a little further to the north, north of the Peconic River is the compatible growth area, but this is not the Core Preservation Area, and because the applicant proposes to expand the convenience store and redevelop the site, this is development activity and they submitted a hardship.

To go over some of the site structures, it is a one acre site and there is a 1,500 square foot convenience store, and a gas station. There is a canopy and multiple floor product dispensers. There is some

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on the site and further in the rear, and then develop more of a larger area, bay area for gas dispensers, on the east side of the site.

MR. ROMAIN: Is the number of gas dispensers changing?

MS. HARGRAVE: It is increasing to six, from four.

MR. FRELONG: Are the tanks being relocated, the underground tanks?

MS. HARGRAVE: Well, there are existing underground tanks. That was one question we had. The new tanks would be developed in accordance with existing current Health Department regulations for lining and storage, but we maybe have to clarify with, the engineer is here, with whether the existing tanks will be replaced and stored in a way that is up to current standards.

There will be more parking on the site as well, and most of this buffer area, will be disturbed, some trees

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will be removed, but again that is a mote grass area with trees and the canopy.

So, just to go over some of the other conditions of the site, it says we received a response from the Historic Preservation Office and there is no concern for historic or cultural resources on this site. The project may require a DEC permit for the Wild and Scenic Recreational Rivers permit since it's in the jurisdiction of that zone.

MR. FRELONG: Does that mean it's within a mile, half mile, do we know what the buffer is?

MS. HARGRAVE: It's completely within that boundary. It's very close to the river.

MR. ROMANE: It's very close to the river.

MS. HARGRAVE: You can see --

MR. ROMANE: There is the gas station, there is Mill Road, and then

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go through the exhibits and then the applicant will speak.

The Staff Report is Exhibit A.

You can see the site in Exhibit B in an aerial, it's almost at the corner of South River Road and to the north is the Peconic River.

Exhibit C contains pictures of the site, it's an existing operating gas station and convenience store. There was a fire in the convenience store, electrical fire earlier this year, but that is reopened and continuing to operate, and you will see some of the existing vegetation that remains on the site and the rear fence boundary.

The existing survey is in Exhibit D, you can see the placement of the gas station and convenience store, and the convenience store is going from about 1,500 square feet to almost double the size, to 2,950 square feet is the proposal.

The site plan is in Exhibit E,

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there is the river. That is essentially the configuration of the land.

MR. FRELONG: I know where the site was, I was just looking for a distance for the record.

MS. HARGRAVE: I don't have the exact distance from the river, from the surface water of the river, but it is within the boundaries, I know that, and you are aware of that too.

MR. DENICOLA: Well, we know the river runs on the other side of Mill Road and Mill Road is just slightly to the east.

MR. MILAZZO: Why don't you introduce yourself, for the record.

MR. DENICOLA: Oh, I'm sorry.

Eugene DeNicola, D-E-N-I-C-O-L-A, 200 Rail Road Avenue, Sayville, New York.

(Whereupon Mr. DeNicola was sworn in.)

MS. HARGRAVE: I am just going to

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showing the proposed canopy, and gas pumps, and the convenience store, and additional parking.

Exhibit F is just a record that we were able to obtain from a previous spill that occurred on the site but that is closed.

Exhibit G is a Study Area Map of the site, so you can see other land uses in the area, again to the north is the Peconic River, and then just north of that on River Road is the boundary line of the compatible growth area and the Core, so, it wraps up and around Canoe Lake by Old Calverton Links Golf Course, and comes back down to River Road. Then, to the south of this site is a significant area of open space in the Core Preservation Area, with the exception of the condominium development at Calverton Hills and some single-family residential lots that are developed along South River Road.

MR. ROMANE: Also known as Mill.

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MS. HARGRAVE: That's right, and also on River Road north of Peconic.

Exhibit H is the Applicant's Petition, and we will speak to that.

The applicant has explained in their petition essentially that they are trying to upgrade, and update, and create a better flow of access through this site, and that is their reasoning for this proposed expansion.

MR. COLLINS: I just have a quick question on your summary and discussion of Item 4 of the Staff Report, it talks about Covenants and Restrictions that are on there, how were those obtained? Were they private, between the Town of Brookhaven on a previous approval, and how is that relevant to what the commission is looking at?

MS. HARGRAVE: It was just something that was in the record on the site about the no sale of chilled alcoholic beverages, and that was the only covenant.

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MR. COLLINS: Do we know how that was obtained, was that obtained through some previous site plan approval or was that a private covenant between a previous seller or something?

MS. HARGRAVE: The service station was converted to a convenience store in 2000 and a CO was issued then, so, the covenants were filed in '99, I think it came out of that site plan approval, but I have the covenants and I can check to see who they were written to, I think they were to the Town from the owner at that time. There is a new owner now, the new owner, we have the deed from the new owner who purchased this site for \$2.5 million dollars.

MR. COLLINS: The sale of chilled alcohol is not some standard we need to take a look at under the hardship?

MS. HARGRAVE: No, no. It just came up in their deed and we always look at the deed and covenants or easements on the site.

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MS. JENS-SMITH: It may be because it enters right onto the expressway.

MR. ROMAINE: I can't fathom why the town would have done that 18 years ago, but that is probably the reason, that it is close to a major arterial highway and they don't want people buying beer and driving right onto the expressway, because once you do that, you can even get back on Edwards Avenue driving south, because it's a divided street at that point, or you get on the expressway going west, so.

MS. HARGRAVE: We just found that the site is 537 feet to the surface water of the river, so, just so you know.

MS. GALLAGHER: Any other questions for Julie before we have the applicant?

(No responses given.)

MR. MILAZZO: We have marked as our commission's exhibit that one report and it includes Staff A through H, and we gave a copy of that to Mr. DeNicola?

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MS. HARGRAVE: I did.

MR. DENICOLA: Good afternoon, let me introduce myself again, Eugene DeNicola, 200 Rail Road Avenue, Sayville, New York 11782, for the applicant.

To address the covenants with regard to alcoholic beverages, the Town of Brookhaven used to impose a restriction on the sale of alcoholic beverages, either by singles, or by chilled, or what have you. In two cases against the Town of Brookhaven, that was over turned. The New York State Alcoholic Beverage Control Board has superseding jurisdiction and the Town cannot control the sale of alcoholic beverages.

MR. ROMAINE: So, that covenant is null and void?

MR. DENICOLA: Yes. We don't have to worry about it. Hess versus the Town of Brookhaven and there was another case that I believe Dave Sloane

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1 handled, Exxon versus the Town of  
2 Brookhaven, and in both instances the  
3 Town was determined to supersede the  
4 jurisdiction and the restriction was  
5 determined to be null and void.

6 I have submitted a detailed  
7 petition, which is part of the package  
8 that Ms. Hargrave submitted with her  
9 package, perhaps the commission has  
10 read the petition.

11 MS. GALLAGHER: Exhibit H.

12 MR. DENICOLA: I am going to try to  
13 address the issues that pertain to the  
14 environmental conservation law and just  
15 try to emphasize the fact that the  
16 application being made by the applicant  
17 is in fact appropriate and should be  
18 approved by this board.

19 To my left is a site plan that is  
20 proposed by the applicant. The green  
21 would be the area that would be  
22 maintained. There is no natural area  
23 on the site. There is no Pine Barrens  
24 forest, there is no surface water on  
25

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1 site has existed in it's currents  
2 location, shape, and dimensions since  
3 at least 1973. The applicant's  
4 proposal will not change the size,  
5 shape, and dimensions of the subject  
6 parcel, nor expand beyond it's current  
7 size, shape, and dimension. So, this  
8 is the site, we are not going into any  
9 other Pine Barrens forest or any of the  
10 Pine Barrens habitat whatsoever.

11 The subject site use was issued a  
12 Certificate of Occupancy for a  
13 one-story gas filling station in May of  
14 1973. In May of 2000, a Certificate of  
15 Occupancy was issued to convert the  
16 repair bays to a convenience store. In  
17 June of 2014, following Super Storm  
18 Sandy, it received a certificate of  
19 compliance for installation of a  
20 transfer switch for emergency use as a  
21 generator site, so that gasoline could  
22 be sold at this site, should the  
23 electricity go out, as it did after  
24 Super Storm Sandy, which we all are  
25

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1 the site. This is a disturbed site and  
2 has been in the same condition since at  
3 least 1973 when a two bay gas lane  
4 filling station with an office --

5 MR. ROMAINE: I believe it was a  
6 Texaco.

7 MR. DENICOLA: I don't remember the  
8 brand, but I know it was a two bay  
9 repair station that was converted in  
10 2000 to a convenience store, which is a  
11 positive, I don't have to go into the  
12 history of gas lane filling stations  
13 and repair bays, because the repair  
14 bays in gas stations do not exist  
15 anymore. My dad had three, so, I kind  
16 of know the history of what happened to  
17 that.

18 In any event, if I may, the  
19 proposed redevelopment of the site is  
20 merely an updating and modernization of  
21 a 45 year old site that was originally  
22 occupied as an auto repair shop, prior  
23 to conversion to a convenience mart  
24 accessory to the fueling station. The  
25

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1 very familiar with.

2 The conversion to the convenience  
3 mart was a positive factor in the Core  
4 Preservation area, as it eliminated the  
5 need for oils, anti-freeze, waste oil  
6 disposal, brake fluids, and similar  
7 substances in open use for repair and  
8 maintenance of vehicles.

9 The applicant's proposal is simply  
10 a readaptation of uses existing on the  
11 site and which predated the Pine  
12 Barrens Legislation by some 20 years.

13 Any expansion of the structures are  
14 strictly limited to the existing site  
15 and it's substantially the same  
16 location as the existing structures and  
17 improvements.

18 The proposed increase in the size  
19 of the convenience store, the canopy,  
20 and the number of dispensers is to  
21 accommodate the increasing traffic,  
22 which has naturally occurred over the  
23 past 45 years. As the commission may  
24 know, and as I am sure Supervisor  
25

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Romaine knows, this type of use does not generate traffic, it simply picks up pass by traffic that is already existing on the roadway. The redevelopment, as proposed will permit vehicle operators to more efficiently access the fuel dispensers, fuel their vehicles, and exit the site without cueing or waiting for an open fuel dispenser.

The engineer will discuss an issue that was raised in the report of why you are changing the site, an engineer will discuss that issue with the commission.

The proposed redesign, and redevelopment of the site, and the improvements proposed will occur, as I indicated, on the subject site only, which again has no Pine Barrens ecosystem, therefore, there will be no disturbance of the Pine Barrens forest or habitat in any respects. There is a fence along the westerly portion of the

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property separating the site from the Pine Barrens. As indicated, if you go around the corner, I will call it no more than 500 feet, is the Peconic River.

MR. ROMAINE: Can I ask a question?

MR. DENICOLA: Yes.

MR. ROMAINE: The original convenience store that the Town approved back in 2000, about 1,500 square feet?

MR. DENICOLA: Yes, a little over, correct.

MR. ROMAINE: They are now looking to expand it to 2,900 and change?

MR. DENICOLA: 2,950 square feet, and this site is open 24 hours a day, seven days a week.

MR. ROMAINE: I got that. The only question I had is, are you going to be burning Pine Barrens credits if this is approved?

MR. DENICOLA: I think we have to.

MR. ROMAINE: I want to get ahead,

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because I know you have to come to us.

MR. DENICOLA: Yes, our next step would be the Town of Brookhaven, provided the commission approves our proposal, but yes, we will be requiring Pine Barrens credits because the store will be in excess of 1,500 square feet and anything in excess of 1,500 square feet requires Pine Barrens. I think it's one half credit for every 750 square feet in excess of 1,500 square feet with a maximum of 3,000 square feet.

MR. FRELONG: Quick question.

The change of use that was done 18 years ago, did this board or commission make a determination on that change of use?

MR. DENICOLA: I did not represent the owner at that time. I do not know.

MR. COLLINS: Do we know that, John?

MS. HARGRAVE: No, no.

Just so you know, this is the deed

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and it talks about the special exception that the Town granted, but no, we don't have anything in the file. I can check, but we don't have that decision or there was no decision.

MR. ROMAINE: They didn't change the foot print?

MS. HARGRAVE: No, no. It was just a conversion, but still, it didn't come to a decision.

MS. JENS-SMITH: It started out as two gas bays or four gas bays?

MR. DENICOLA: Are you talking about the bays or the pumps?

MS. JENS-SMITH: The pumps.

MR. DENICOLA: Four dispensers.

MS. JENS-SMITH: That's what it always was back in '73?

MR. DENICOLA: That's, to the best of my knowledge, that is what it always was. It was four dispensers and a two bay station.

MS. JENS-SMITH: I thought you had said two bay station.

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MR. DENICOLA: No. The bays where they repaired cars was an office and two bays.

MR. COLLINS: Did that change in use require determination from this board whether that was development or not?

MR. MILAZZO: Did they change it under town codes, as change of use?

MS. HARGRAVE: It was a special exception.

MR. MILAZZO: We would have to research it.

MR. DENICOLA: Well, it was approved by the Town of Brookhaven and a certificate of occupancy was issued.

So, I indicated that there would be no disturbance of the Pine Barrens forest or the Pine Barrens habitat by this project. As I indicated, the subject site has no surface water and the proposed improvements will have no adverse effect or impact on the Pine Barrens habitat or forest, whatsoever.

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to it's location. Although in the Core area, it's location in the intersection of two heavily traveled roadways, as I mentioned the intersection of County Route 24, also known as Edwards Avenue, and the north service road of the Long Island Expressway, as I indicated, which is also the entrance to the westbound lanes of the expressway, also known as Interstate 495. Each roadway carries thousands of vehicles per day, so this is really not a pristine area that we are speaking about, in terms of the site and the road system upon which it fronts. The uses have operated on the site for 45 years with no adverse affect or impact to the Pine Barrens. The proposed improvements will be consistent, not only with the current, but long-term integrity of the Pine Barrens ecosystem.

MR. COLLINS: Just one correction on your last statement, the gas station use existed for 45 years, but the

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The proposed redevelopment is limited to the site and, as such, will not cause or encourage any development beyond the subject site, as proposed by the site plan. This is a site that is singular and alone, if you will, at the intersection of two major roadways, County Road 24 and the service road of the Long Island Expressway, Interstate 495, which is also the access, the service road is the access, a ramp if you will, to the westbound lanes of the expressway, and both of those roads carry thousands of cars per day. If you spend some time there, there are tractor trailers, trucks, vehicles, traffic is constant. Within the site, the redevelopment will occur in an orderly efficient manner. The proposal is compact on the site.

Now, obsolescence of the existing structure should be considered by the commission, to permit the applicant to redevelop the site, which is unique, as

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convenience store use did not.

MR. DENICOLA: My apologies. You're right.

The gasoline filling station has been there for 45 years from 1973 to 2000. They did repairs in the site, which is for 27 years, and for the last 18 years it has been a convenience store.

Thank you, sir.

The site is located at the entrance service road to the Long Island Expressway and it serves a public need and benefit, it provides gasoline and food at that access point.

Now, it is a site in a rural area with no other gasoline filling station for a substantial distance in all directions. I rode yesterday, I drove north, south, east, and west. I am certainly not as familiar with the area as the supervisor is, but the first gas station that I was able to find, going up Edwards Avenue, would be at Route 25

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just east slightly east of Edwards Avenue --

MR. ROMAIN: They built that multi one.

MR. DENICOLA: -- is a Bolla gas station with, I don't know how many --

MR. ROMAIN: Edwards Avenue going south, it's the circle. The Riverhead circle, the Southampton/Riverhead circle.

MR. DENICOLA: That's toward Riverhead, but up toward Route 25, and then the other way there is a Hess station.

MR. ROMAIN: Plus there is one going west on the expressway, you would have to get off at 70 and there is a Mobil gas station there on the south side.

MR. DENICOLA: Yes, so, there is really not that much in the area for the residents, and there are residences in the area. I know I went along River Road --

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provide gasoline for the health and safety of the public at this critical and unique location, and I think we have to admit that it is at a critical and unique location on two highly and heavily traveled roads.

The addition of a new underground fuel storage tank, the applicant is proposing, right now there is 28,000 gallons of fuel available and I think we are proposing another 10.

Is that correct?

MS. GALLAGHER: Is this both gasoline and diesel?

MS. JENS-SMITH: It says multiple.

MS. HARGRAVE: I'm sorry, I think existing is 28,000 and you are adding another 10.

MR. MILAZZO: So, 38,000?

MR. PAPASIAN: It would be 38,000 total.

The Suffolk County Department of Health allows up to 40,000. You need a variance over 40,000.

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MR. ROMAIN: Calverton Hills has 250 plus condos there.

MR. DENICOLA: And, this is a public benefit, to have this station at this location, without having any adverse affect on the Pine Barrens.

MR. MILAZZO: Are you proposing, are you seeking relief under the hardship standard for a compelling public need, when you say public benefit several times?

MR. DENICOLA: Yes, this is part of a compelling public need, because there is no other service like it for a substantial distance in all directions, and it is at the entrance to the service road, and there is a transfer station in the event that we have another serious storm event. It has been fitted with a transfer switch for emergency use of a generator. That was done, as I indicated, in 2014, so, in the event of another serious storm event, this location will be able to

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MR. DENICOLA: Now, the increase in fuel storage capacity will, one, ensure supplies of fuel. Two, reduce gasoline tank and truck deliveries to the site. The underground fuel storage tanks will meet all requirements of the Suffolk County Department of Health for storage of gasoline. The underground fuel storage tanks are double wall fiber glass. In between the inner wall, and the engineer may address this in more detail, and the outer wall, there is a sensor, which monitors any leak that may occur from the inner wall. The sensor immediately signals an alarm to which there is an immediate response. All piping under ground is double wall as well. All underground fuel storage tanks are strictly monitored to avoid any underground water contamination. To the best of my knowledge, there has been no known failure of a double wall fiberglass underground fuel storage tank in Suffolk County.

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MS. GALLAGHER: Well, not that had it's system working correctly, just to be very clear.

MR. DENICOLA: We are talking about the tank itself failing. I am unaware of any that has occurred, and I have represented several gasoline companies. That is why I said to the best of my knowledge, and as much as the fuel storage tanks are under ground there is no danger of fire, since there is no oxygen, and the fuel tanks are securely sealed.

With regard to the dispenser pumps, they are located under the canopy, in which the fire suppression system is located. In the event of a fire at the dispenser pumps, sodium bicarbonate will be sprayed on all dispensers and the dispenser pumps are automatically shut down. There will be no increase in the danger of fire if the waiver is well requested by this commission. The waiver granted in the instant case will

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not be inconsistent with the purposes and intent of the Environmental Conservation Law.

Even though we are preserving the Pain Barrens, this is at the intersection of two major roadways, entering an interstate highway and has been in existence for 45 years, it is not affecting the Pine Barrens at all and yet is serving the people in this area where this is no similar service and I dare say that there will be no other gas stations permitted in this area in the distant future.

MR. MILAZZO: I'm sorry, Mr. DeNicola, when you say area, we spend a lot of time talking about 537 --

MR. DENICOLA: No, we are talking a lot more than 500, Mr. Milazzo.

MR. MILAZZO: So, what is area in your statement?

Does that include the gas station on Edwards and 25, is that in the area?

MR. DENICOLA: Up to that, sure,

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sure. I drove all the way up Edwards, there is nothing. I drove all the way south passed the condominiums, there is nothing. I drove on River Road or Mill Road, there is nothing. I drove on Mill Road, there is nothing. I drove the other way up to the, it used to be a motel, it's in Riverhead, it's not in Brookhaven, so, yes it's a very large area, miles.

The applicant's request is the minimum relief necessary for a modern facility to accommodate the demand to properly serve the public and it's need for fuel and food availability, just in summary.

Then, I am going to have my engineer speak to why we are redesigning the site for it's ingress, egress, etc. The site is unique in that it's located at the intersection of two heavily traveled roadways, Route 24 and Interstate 25. The granting of the waiver will not be detrimental to

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other properties in the area. This is the only site that is being developed, and nothing else can be affected.

There will be absolutely no adverse effect or impact to the Pine Barrens forest or habitat. There will be no disturbance of expansion into the Pine Barrens forest, nor any impairment of the resources of the Core Preservation area. The site has no Pine Barrens growth, habitat, or service water. To grand the permit is in the public interest for gasoline supply availability and food in a rural location of the entrance to Interstate 495. The new structures will meet new building codes, which I think will be an important factor and a new sanitary system will benefit the ecology as well. The applicant is obviously going to install a new sanitary system to meet current Suffolk County Department of Health requirements.

The site is open 24 hours a day,

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seven days a week. Now, most of the stations in the area close at 10:00. The Bolla station I was referring to earlier closes at 10:00.

Now, I was told that there is a ferry that comes to Orient from Connecticut and it comes after 10:00 at night, and there is absolutely no service station open from Orient to this site. My client tells me that when people are going wherever they are going, they come in to the site to use the bathroom, to buy food, to fill up their cars with gasoline, so, it is a critical use at a critical location and I thank the commission for their attention.

I just would like to ask Mr. Papasian here to give your name, address, and profession.

(Whereupon Mr. Papasian was sworn in.)

MR. PAPASIAN: Here is my card (handing).

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ADA requirements. A lot of things it's also about, which Mr. DeNicola indicated, is that we don't want to have delivery trucks coming all of the time. That is the reason mainly for the building getting bigger.

Now, the location of the building, why are we moving the building? If you look at the pamphlet, I think you guys have the survey, on the survey it shows the current building and the current islands. They are kind of crunched together right next to each other, kind of in the middle of the site, right about here (indicating).

MS. HARGRAVE: It's in D.

MR. PAPASIAN: And, the issue you have, it's human nature, and if you all get gas, it happens, you park your car at the pump and you go inside, and the problem with the current layout is that it happens all the time. We have four cars parked at those pumps, there is no through lane, and it backs everything

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Hello, everyone. My name is Kevin Papasian and I am a Professional Engineer with B. Thayer and Associates.

Leading off with what we were discussing, the one big question is why are we rebuilding this site the way we are, and we are making the building a little bigger inside, and the one thing about a gas station is that we don't have the ability to go up. We can't have a second story. It's the only retail where our point of sale is outside. It's the only retail out there that has the point of sale being outside. That being said, we have to do something to modernize the facility. Dealing the Town of Brookhaven in the past, we have experience with, we know that Brookhaven's big thing is 3,000 square feet and you don't ever want to go beyond that, and this site we don't really want to go much bigger than that anyway. So, that's why we are making the building bigger, we also will meet

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up, especially going on the North Road, all the breweries opening up, all the tastings, they are everywhere. It's now not just fall, it's all year round. So, especially peak hour in the afternoon, this new layout will make it so cars can park here in the travel through lane, so we won't have that cueing issue, and that is why we have it set up like it is, because we have parking in front, so people can use the parking spaces, as opposed to not using the parking spaces. Currently, right now, how the site is set up, parking that is there is not really beneficial to the people. The building is here, pumps are here, parking is all the way back here. People are not going to go backwards into the one-way road. That is the reason why we have to re-design the layout. It really makes sense this way and it works. If you see most newer gas stations, they are set up where the pumps are there and there is

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parking in front, because you have to make people want to park, because people are lazy, they just don't do it. That is one of the reasons why, it's a human nature kind of ergonomics thing, to make things as simple as possible for people. There is no traffic cop out there, you have to keep things as easy as possible to prevent cueing.

We are going to maintain the existing curb cuts the way they are. As Mr. Romaine mentioned, it is a divided highway on Edwards Avenue, and this is obviously one-way, so the big concern of traffic is people making left turns, but we don't have that problem here, there is no left turn to be had, so we don't have that problem.

We will also upgrade the sanitary system to Suffolk County Health Department requirements, put in a grease trap and antiseptic tank. Right now it's just a regular cesspool, which is probably about however old the site

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will be monitoring on each dispenser, on each pipe, and into each interstitial space in the tank, which are the two layers of fiberglass. It means that if anything changes in any way or form, the whole system shuts down, so, that is what we would be putting here. We have it now and we will have it in the future up to the latest standards. We are up to date to I think probably the most current standards, so we still meet the current standards, but it's like getting a new car, standards are new. All of that stuff will be upgraded and new.

With regard to location, the one thing that is key, if anyone gets gas, no body gets up and gets gas, you do it as a convenience. This is the next station going eastbound on the LIE, on the LIE going eastbound is the one just built, the Bolla on the LIE. There is no other gas station where you get off the road and it's right on the corner

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is, 50 years old, so has to be upgraded.

The tanks, and there is a question about that, the existing tanks are double wall fiberglass. They meet Suffolk County Department of Health standards and they will be maintained where they are. We are adding one additional tank and that would be a 10,000 gallon tank. It will be situated in the same general area as the current tanks that will remain.

When we do redo this facility, the intent will be to upgrade, not only the existing tanks, the tanks will remain, the current tank, but we will upgrade all of the equipment on it, the piping on it. One of the things Suffolk County does, you can look into it yourself, Suffolk County has one of the strictest tank law in the country. Not only does it have to be double wall fiberglass tanks, but there will be double wall fiberglass piping, there

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there. This is the only gas station for about 20 miles until the next one going eastbound, that you would run into when you get off the LIE -- westbound, excuse me.

There is 20 miles roughly. It could be 16 miles, 24 miles. I don't know, but it is basically Exit 64 to this exit until you see the next gas station going westbound on the LIE, so, there is a need regarding that.

There have been other approvals, for a Hess at Sills Road, they never built it, and it never will be built, the permits expired on Sills Road on the northeast corner. I don't know what the status is of that right now, but I know it is --

MR. ROMAINE: Not going forward.

MR. PAPASIAN: I don't know. Permits expired, so, they would have to go back to the Town of Brookhaven and get all new approvals, so, I mean this site does have a need and I think

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Mr. DeNicola mentioned about the other locations, which are all pretty far away, so there is a need for it. Traffic is increasing, as we know, and it is everywhere. Right or wrong?

So, this right here will improve definitely the ergonomics of the site, how it flows, which will also modernize the whole facility with a better esthetic look to it.

We have this, a building look that Town of Brookhaven has approved in the past, with a nice rooftop on it, and when it's all said and done, it will look like this (indicating).

MS. JENS-SMITH: There is no seating going in the convenience store, correct?

MR. PAPASIAN: There is no seating and no food preparation. That is required by the Town of Brookhaven, you can't do that.

The Town of Brookhaven requirements for special permit for a gas station is

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for compelling public need, pursuant to the law?

MR. DENICOLA: I have read the ordinance, as best as you can comply with that ordinance, which is virtually impossible to comply with.

MR. FRELONG: One more line of though then, the existing tanks, I am interested in the underground infrastructure.

The existing underground tanks on site, they were put in in '73?

MR. PAPASIAN: No.

The tanks were put in, I don't know the exact year, I probably have the registration that will say it, but I assume they were put in around the year 2000.

MR. FRELONG: So, the condition of the tanks?

MR. PAPASIAN: Well, the tanks are required to be tank tested every year. It would be to Suffolk County Department of Health standards. It

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probably Zone J5, so, it is in the correct zoning for a gas station and convenience store.

Overall, this site would definitely be an improvement upon what is there now.

Any questions or concerns?

MR. FRELONG: I have a question.

Just for the record, you are familiar, Mr. DeNicola, with ECL570121?

MR. DENICOLA: Well, somewhat, yes.

MR. FRELONG: And, for the record, I did see it in your petition, but for the record, you are applying for this hardship under compelling public need?

MR. DENICOLA: Well, I think there is a compelling public need for this station, because there is no other provision for gasoline within a substantial area, and it is at a very unique location, as I indicated, at 24 and the LIE entrance.

MR. FRELONG: Just for the record, you are familiar with the requirements

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meets it every time.

Tanks usually have, and Suffolk County does not enforce it, but Nassau County requires that tanks stay within the warranty of the tanks. Tanks come with a 30 year old warranty and those tanks are still within that warranty.

MR. FRELONG: Steel tanks?

MR. PAPASIAN: Yes, double wall fiberglass.

MR. FRELONG: You are not being compelled by the Health Department to replace your tanks?

MR. PAPASIAN: No. As long as they keep passing the tightness tests and requirements of the county, they are in compliance.

MR. FRELONG: The sanitary system, you will be upgrading the sanitary system on the site?

MR. PAPASIAN: On the site, we will be putting in the typical Suffolk County Health Department requirements for a commercial facility. No matter

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how you look at it, we will be putting in basically a thousand gallon antiseptic, thousand gallon grease trap, and then putting in a --

MR. FRELONG: Have you had any conversations with the Health Department?

MR. PAPASIAN: Not on this site yet, but I have done hundreds of them.

MR. FRELONG: Are you familiar with the trend with the Health Department in Counties to upgrade sanitary systems to more modern systems?

MR. PAPASIAN: Yes. Well, this will be modernized.

MR. FRELONG: And, you are not being compelled by the Health Department to do anything --

MR. PAPASIAN: Right now, by itself, no.

MR. FRELONG: Okay. Thank you.

MR. COLLINS: Just to follow-up on that, Health Department, have they or you considered an IA system, an

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didn't have approved system for commercial use.

MR. COLLINS: Absolutely. I sit on the subcommittee.

MR. PAPASIAN: I will follow-up on that.

When we get to that bridge, we will discuss with the Town what the best mode of action is to put in a system that meets their requirements and also fulfills the needs of the store's requirements.

Right now, how the code works, we are putting in a system that let's say a McDonald's would be putting in, and the flow is never going to get to that, but we put it in anyway because that is what is required. It needs to meet the minimum. The minimum grease trap is a thousand. The minimum antiseptic tank is a thousand gallons. The flow of this is nowhere near that, but that is what we put in currently on basically all gasoline convenience stores.

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Alternative Innovated System?

MR. PAPASIAN: Right now, we have not.

The process of how we do this is, I am going to go through your board, then we go to Brookhaven, and we have discussions with the County at that point, so, because we know it's going to become an Exxon, and our client is not Exxon, so we need to make sure we do it step by step.

MS. GALLAGHER: There is also no approved commercial systems.

MR. ROMAINE: I don't believe the Health Department has requirements for new construction in residential or commercial.

MS. GALLAGHER: Well, they would encourage us.

MR. ROMAINE: Encourage or require are two different requirements.

MS. GALLAGHER: Do they have an approved commercial system because the last conversations we had, they still

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MS. GALLAGHER: Well, you don't have food preparation or sit down, so.

MR. PAPASIAN: It's all, bathroom's use are minimal.

MR. MCCORMIICK: Question, can you elaborate on your rational concerning why you cannot put a second story convenience area in that building?

MR. PAPASIAN: How many convenience stores will have a second story? Should you put an elevator in, the ADA, it's just not realistic for a convenience store.

If you go into a retail, like an Old Navy or something, it's a big building, it has elevators, it's a total different entity.

The amount of time people spend in this building is less than four minutes, they go in, get out. They are getting their coffee, their kit kat, they are, leaving. It's not about going into different levels and stuff. It's not meant to be that way, so it

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doesn't work. It's all about speed.

Think about it, you go get your gas, if you can't get into the site quick, you don't go there. Except for this site, there are not gas stations everywhere. We are in a unique spot where there is not much out there, but a second story would not make sense. Especially considering the existing building is so old, if you are familiar with these types of buildings, especially that there were originally bay stations, there are no foundations. There is basically nothing on them. I have done a lot of these and I know when a lot of applicants try rebuilding these bay stations into convenience stores, they think that they are saving money by using the existing structure and then they realize they have to basically rip the entire structure out and put new footings everywhere, so, it's really not feasible from a structural standpoint or from an actual

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retail standpoint, and that is the reason why you don't put up a second story.

MR. MCCORMIICK: Are you saying it's not a question of being physically possible, you are saying it's not practical?

MR. PAPASIAN: It's not practical, but in this case it's not physically either because the existing building is an old bay station. It's a cinder block building. The codes it was built by were met at the time.

MR. MCCORMIICK: Are you representing it could not handle a load bearing aspect of a second story?

MR. PAPASIAN: Not with -- for the amount of money that it would cost you to do that, it would not be cost effective.

MR. MCCORMIICK: For the accuracy of the record, are you aware that there are two gas stations at Exit 70 westbound, just south of the bridge?

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MR. PAPASIAN: There are, but they are not the traffic flow, that is not westbound.

MR. ROMAINE: The Mobil and 711.

MR. PAPASIAN: Yes, but they are not --

MR. ROMAINE: He mentioned westbound. If you go westbound on the expressway, you don't hit another gas station until Route 112. That is the new Mobil Bolla station that they just built.

MR. PAPASIAN: If you are coming from the City, a lot of people go to the wineries and stuff, they do that, from way out west, Nassau County, they usually are driving on the LIE to get gas, they are looking for a sign or something they can see from the exit ramp where they can get off and right back on, it isn't until you get to Route 112. If they know about going 111 South another mile, yeah, you will always find something off the beaten

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path, but we are not talking about ease and the traffic flow where you are going.

MR. AMPER: Are we taking testimony from the public?

MS. GALLAGHER: It is a public hearing.

(Whereupon Mr. Amper was sworn in.)

MR. AMPER: My name is Richard Amper. I am Executive Director of the Long Island Pine Barrens Society located at 547 East Main Street in Riverhead.

I just heard 45 minutes of the best reason in the world to expand this and to accommodate people who need gas in that location, and it just sounds like a wonderful thing, but Mr. Frelong has sort of narrowed this down, and I hope we will hear from Ms. Hargrave or Counsel on this, but this is a Pine Barrens act. There is a special law that is supposed to protect this and there are rules and regulations that

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govern what constitutes the qualifications for hardship, they have public health, restoring preservation, it's enumerated and laid out in 102110 and 10B and they say, and this is what I have not heard anything in the whole presentation, so, how does this conform of the compelling public need requirement?

I don't care whether it's a wonderful store or a great gas station, it made the mistake of being in the Core Preservation Area and this is how we deal with Core Preservation hardships, so, I hope before there is a final decision on this, and in the future I think staff should say this does or doesn't conform to this, or the argument is that this is important to public health and safety, or whatever it is, but that was missing. We had a great long discussion about whether it was a good project in the right place at the right time, but if it does not

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meet the law's requirement for compelling public need, they can't have it. It's sad, and there will be too fewer gas pumps in the area, and all kinds of bad things would happen, but it would be worse if we granted a compelling public need that doesn't meet the requirements of the law.

MS. GALLAGHER: Do you want to be sworn in Mr. Egan?

MR. EGAN: Yes, I do.

(Whereupon Mr. Egan was sworn in.)

MR. EGAN: My name is James Egan. I have two homes, one is 77 Hollow Road in Stony Brook, and 114 Willis Avenue in Port Jefferson.

I have never met the applicant. I don't know him. I have never been to the gas station.

I had an issue, I was vacationing.

MR. MILAZZO: You speak fast. She is writing down what you're saying. That's all. Just go slow for her.

MR. EGAN: I was vacationing in the

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middle of the winter and I needed aspirin for my son. His temperature was 106 degrees, and I went to, I was staying at a nice place, winter rates, it was beautiful. I had to drive 10-miles to a gas station to get what I needed in the snow. That is a compelling public need, if I have ever seen one.

I realize their expansion is a question of why expand. Now, if you look at the Pine Barrens act, it's supposed to preserve the Core of the Pine Barrens. Well, it's preserved, that property is there. I don't see any reason why somebody can't take something and make a better product for the community. That is a public compelling need.

If you look at your other decisions, JC&JC Land, they have a sand mine in the middle of the Core -- what is the name of it, Mr. Milazzo?

MS. GALLAGHER: Westhampton

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Properties.

MR. EGAN: That went to the second department, and they did it under hardship, and they excavated to three feet of our ground water, and there would be no impact on the environment, and they had an existing use, and they were allowed to expand it to the three feet of our ground water, and you are going to tell me that every crane, every bulldozer they operate is not going to drop one drop of oil? There is nothing to protect the environment.

The second department said that that was not a self created hardship. They have an existing system, an existing building, they are looking to improve it. They are looking to give the community what the community wants, otherwise, they would be out of business.

The law is to protect the birds, the trees, the ground water, clearing, this man is not clearing anything.

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This man is feeding his family and taking care of the community that keeps coming to him, because he is paying his taxes, his insurance, he wants to make a better product.

Mr. Amper, you are going too far. Okay.

MR. AMPER: Not I, the State of New York.

MR. EGAN: Another one, if you look at the three hardships you gave Edward Tuccio (phonetic). He is in the middle of the Core, in the middle of the Pitch Pine, you gave him three hardships, not one, under compelling public need for mini-storage. Your issue was the tanks underground. Was he going to store anything that is noxious that is going to leak into the environment, and he said no, and he lived up to that, and he showed engineering, and they are doing the same thing. They didn't ask me to talk. I am afraid I am hurting their application because you people

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never invite me to Christmas. I didn't get an invitation this year or last year.

Thank you very much.

MS. GALLAGHER: Christmas? We have cake, cookies, and coffee.

MR. EGAN: You did offer me a cookie. You have always been very nice.

I agree with the application. The law is written to protect the environment. I don't see these people hurting the environment.

That lady back there smiled to me and said, hey, we are going to need Pine Barren credits, we would be happy to talk to you.

They are doing exactly what you want, they are using Pine Barren credits, they are building a product, they are giving the public what they need.

Mr. Milazzo, you care so much about the integrity of the law, I know you

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do, but here is the thing, you ignore precedent. It's not going to set a precedent, you ignore them, and you have these fickle judges in the State Supreme Court. I am dying to get to Federal Court. It's nothing personal.

MR. MILAZZO: I don't think it is.

MR. EGAN: The Federal Court judges offer life. These State Supreme Judges, number one, Judge Rouse (phonetic) made a decision against me, he is a highway superintendent, he does not know the law.

Best of luck to you, you deserve your application. Have a good day.

MR. DENICOLA: Thank you, sir.

MS. GALLAGHER: Would anybody else like to make any public comments?

MR. DENICOLA: If I may?

With regard to the standards, I believe, now I did not read my petition into the record, I assume it's a part of the record, and I assume the commission has read it. My petition

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covers a great deal of ground more than my comments.

MS. GALLAGHER: It's included in the record, as an exhibit.

MR. DENICOLA: The granting of the permit by this commission will not be materially detrimental to other property or improvements in the area in which the subject property is located. It will not increase the danger of fire, endanger public safety, or result in substantial impairment of resources of the Core Preservation Area. It will not.

The waiver will not be inconsistent with the purposes, objectives, or the general spirit intent of this article, meaning, the Environmental Conservation Law.

This service station has been there for 45 years. It is being updated, improved to the current codes and to meet the current demands of the increase in population and traffic.

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Stand at that corner and tell me that you would not know that you are in the Core Preservation Area of the Pine Barrens, that much I can assure Mr. Amper.

The waiver is the minimum relief necessary to relieve the extraordinary hardship. You need something to serve the public. You have to have a service station. That was a station with the pumps in front, if you recall, the bay station and the pumps in front, it is no longer designed for that purpose. The traffic has increased 100 fold since 1973 and maybe more, maybe a thousand fold.

I believe those are your standards --

MR. MILAZZO: Mr. DeNicola, you read the Section C part of the hardship, so, there is Section A, "the property has no beneficial use, if it's used for it's present purpose, and it's lack of beneficial use results from A,

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little bunny rabbit running around.

Thank you very much.

MS. GALLAGHER: Mr. Amper, you have additional comments to make?

MR. AMPER: This is the Core Preservation Area of the Pine Barrens Act. It's a little more than 50,000 acres, and it's land that was never intended to be developed at all.

MR. DENICOLA: But, people are there.

MR. AMPER: I like people as much as the next guy. I am merely saying that the people, the people of the State of New York, set aside a particular area where these rules don't apply, because of the need to protect the Pine Barrens and the land beneath them, so, we established very specific rules to say in order to break the rule that says no building in the Pine Barrens, you need to show certain things that constitute compelling public need, and the law says exactly

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B, and C or 1, 2, and 3."

So, that is also part of the criteria, and I think what you were hearing from Mr. Frelong is, did you address those as well?

Like you said, it is in your petition. I am just making sure you have everything on the record that you want and you are addressing the commission.

I am just a traffic cop, telling people to slow down.

MR. DENICOLA: I addressed it in my petition and I am hoping the commission has --

MR. MILAZZO: They have it.

MR. DENICOLA: -- and I am saying this respectfully, common sense for what we are asking.

We are not adversely affecting the Pine Barrens, no matter what Mr. Amper says. I understand he would like to lock us in on a technicality to stop anything, except a tree growing and a

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what that is, and I am sorry for you, individually, or for your project, but it does not conform to that which allows this commission to grant permission for development in the Core. We don't develop in the Core.

We got close to 3 million people and an enormous body of land and it is just 50 acres that we don't build on and, unless you can show, according to that law, that this meets the requirement for an exception, and it's okay for a gas station and convenience store where nothing was intended to be built, they can't, not that they wont, that they can't approve it, and shouldn't.

MR. EGAN: I would like to respond.

I have previously been sworn in. The applicant is not applying for Pine Barren credits. That is Mr. Milazzo stating that you have a extraordinary hardship. The only application you have before the Pine Barrens is an

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extraordinary hardship. There are no other applications, so, everybody has to jump through a hoop where there is kind of a definition.

If this man's gas station were to burn to the ground, as houses have burned to the ground, or been torn down in the Core, if you had a thousand square foot house, on Shultz Street alone (phonetic), right across from the Greek church, it is literally on a tigered salamander breeding ground, the house was torn down, it was 1,200 square feet, under non-development piece, they had a previous home there, they now have a 5,000 square foot home, that is non-development, under extraordinary hardship.

This man is improving an existing service, which there is a demand. He can show cars, volume, not 100 an hour, 200 an hour, therefore, he needs increased deliveries of fuel.

If you are increasing your delivery

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of fuel, you have a big tanker coming up and down the highway. I would rather see that tanker once a month because he is filling tanks, instead of twice a month, that protects the public.

As far as no beneficial use, that is ridiculous, that is for a hardship when you have raw land and you say you want to build a house, I bought it, I inherited it, it has no beneficial use because you can't make tomatoes on it, you can't have chickens on it. If I can't build a single-family home, which you have allowed on Howells Road, that was the argument, okay, he had no beneficial use and he was selling it to a contract vendee.

This man wants to take a use, wants to expand an existing use, that existed and has not a certificate of non-conforming use, he has a CO, which meets zoning. All he is doing, he was in the Core before the Core existed,

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and if you want to talk about how the Core was designed, Mr. Amper, it was with you and Mr. Breslin who sat down because Mr. Breslin won in court initially, and do you know how you decided on what was going to be in the Core and what was going to be in the compatible growth, was based on mutual agreement, not that one area was anymore significant or sensitive than the other. So, the people in the compatible growth got all of their rights if the met zoning. This man needs zoning. He is in the Core, so he has to jump through a hoop, which he has, which has no real definition, and he is in no way detrimental to this Core.

MR. FRELONG: I think Mr. Egan should direct his comments to the commission.

MR. MILAZZO: Traffic cop.

MR. EGAN: This man has met his extraordinary hardship. He is asking

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to expand existing use.

MS. JENS-SMITH: Can I ask, what year did the applicant buy the property?

MR. DENICOLA: Several years ago. It's in the petition. I don't have it in front of me.

He paid \$2.5 million dollars for it.

MS. JENS-SMITH: He bought it after it was in the Core Preservation?

MR. MILAZZO: Post-Pine Barrens Act.

MR. DENICOLA: Yes, he knew it was a Core Preservation Area. We are not denying that.

What our position is, is that we do serve a very important public service. If you don't have a gas station and it's 2:00 in the morning, and you have to get somewhere, this is a very critical use. Try running out of gas in this area, it's a rural area, forgive me if you live there, there is

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nothing here.

MS. JENS-SMITH: I do live there, and you do make arrangements for that, because you know the hours of things, and that is part of the beauty of living there.

MR. MILAZZO: One at a time.

MR. DENICOLA: When you have an emergency or if you are driving, do you ever forget to put gas in your car?

MS. JENS-SMITH: When you live in a rural area, you prepare.

MR. ROMAINE: I think we have made a complete record, so.

MR. DENICOLA: Thank you.

I believe the applicant has established, I don't want to say a right, but his conditions for a grant by this commission.

This is, to me, this is not a hard case to understand, based on the situation of the site. It is not hurting this Pine Barrens in any shape, manner, or form, and it is serving a

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stations on the North Road coming back, there are none that are open at 10:00, even on Route 25.

You live out east, east of Riverhead, there is nothing open that late at night.

MS. JENS-SMITH: There is. Valero.

MR. PAPASIAN: Okay, so, one, but most people won't come this way because if you know you can't get off the LIE to get here.

MR. ROMAINE: The ferry route is they are taking the North Road from the ferry and then shooting down to the Expressway.

MR. MILAZZO: Is there a feasible alternative for a person to get fuel coming off the ferry?

MS. JENS-SMITH: Yes.

MR. PAPASIAN: What do you mean?

MR. MILAZZO: If they are coming off the ferry.

MR. PAPASIAN: That late at night,

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serious public purpose. You are reducing tanker truck deliveries, reducing box trucks, and the way it's laid out, you have cars that can move in and out much more easily, no cues, no back ups, and this station is designed for current vehicle maneuvering.

I don't want to take up anymore of your time. Thank you so much for your time.

MR. ROMAINE: Thank you for presenting your case.

MS. GALLAGHER: Are there any questions for the applicants or his representatives?

MS. JENS-SMITH: I would like to note, you know, they keep stating that there are no other gas stations open at all, but I believe there are.

MR. PAPASIAN: If you take the North Road, which most people do from the ferry, because it takes 25 minutes with the lights, there are no gas

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they would have to know. If they are from the area, like Laura mentioned, you know where to go, but we are not talking about that. We are talking about the North Fork, people coming from Nassau County, the City, late at night, going to the wineries or the breweries, or Greenport, they don't know anything. They just know they are on a road looking for a gas station.

MR. COLLINS: I just wanted to point out, and it should be addressed, and I am not sure prior to this hearing, is about the change of the use that happened in 2000, and if so, that did need some determination and probably should be included as part of this record, and as part of the application.

MR. ROMAINE: It's hard to go back and try to undo what should have been done then legally.

MR. COLLINS: But, just from getting an approval from one

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municipality regulatory agency, does not eliminate the need to get whatever necessary approvals that are from another agency.

MR. ROMAINE: I don't disagree, but I am sure there is a statute of limitations somewhere.

MR. COLLINS: I would disagree with that.

MR. MILAZZO: I would suggest you close the hearing today and then have them address it.

MS. GALLAGHER: Keep the record open.

MR. MILAZZO: The commission may need a showing on the hardship that would have been required to change the use in post-Pine Barrens Act.

MR. DENICOLA: I don't know if I would consent to that, Mr. Milazzo, quite frankly, because 18 years have gone by and there is a waiver provision, there are latches, and other things that I would not have my client

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MR. EGAN: One more thing.

MS. GALLAGHER: Mr. Egan, just to remind you, address the commission, not Mr. Amper.

MR. EGAN: I have documentation I would like to submit that Mr. Breslin's property, which is on, right next to -- what is that -- American Physiology Society --

MR. ROMAINE: William Floyd Parkway.

MR. EGAN: They made a deal. Mr. Breslin made a deal, the developers made a deal, and they sold the public out. He got his 2,000 acres. I would like to submit that into this record, and every one else in the Core, matter of fact, he got A1 zoning for his property for A5 and this commission created documentation that said it wasn't. I would like to submit that to this record.

This commission selectively chooses who gets approved and who does not get

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re-apply on that.

MR. MILAZZO: So, that is your position and it is on the record.

MR. DENICOLA: Thank you. That's correct.

MR. ROMAINE: Should we make a motion to close the public hearing?

MS. GALLAGHER: Let me just, are there any other, I see there may be additional public comments and I don't want to cut off public comments at a public hearing.

MR. AMPER: Just for the record, since we all promised to speak the truth, Mr. Breslin had nothing, whatsoever, to do with the design of the Pine Barrens Core Area map and disagreed with its final result.

There was no conspiracy with the developers to do favors for friends. It was done by a scientist, an environmentalist, and approved by the New York State Legislature, and I would like to keep playing by the rules.

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approved, based on who you know. I don't know anyone.

It's untrue. Mr. Breslin was, and I have all the newspaper articles, Mr. Breslin said let's sit down and make a deal, and Mr. Amper was part of it.

It's untrue, Mr. Amper.

Thank you very much.

MR. ROMAINE: I will resubmit my motion to close this public hearing.

MS. GALLAGHER: And, to keep this record open for 30 days.

MR. FRELONG: Second.

MR. MILAZZO: When is the decision deadline, Julie?

MS. HARGRAVE: February 22nd.

MS. GALLAGHER: Keep it open until January 22nd.

MR. MILAZZO: Yes, but, also Mr. DeNicola, when this application was received, the commission's February meeting would have been within the 120 days, and then the commission moved the February meeting because of a holiday,

## PUBLIC HEARING

it's President's week, so the commission will need an extension of the February meeting to make a decision.

Would your client consent to that extension? It's one week.

MR. DENICOLA: Yes, we will consent to it.

MR. MILAZZO: The record will stay open for 30 days.

Mr. Egan you have 30 days for you to submit your documents, and then the commission reserves the right to just respond to those, so, we would do those responses in two weeks, and that would put us at the beginning of February, which would all be in time for the February meeting, and we will give you a copy of everything that we have.

MS. HARGRAVE: Can I just correct a technicality in the staff report.

There was a question about Pine Barrens credits and the Town's code requirement to redeem Pine Barrens

## PUBLIC HEARING

need a vote on that.

MR. COLLINS: Second.

MS. GALLAGHER: All in favor? (Chorus of ayes.)

MS. GALLAGHER: Any opposed? (No verbal responses.)

MS. GALLAGHER: Any abstentions? (No verbal responses.)

MS. GALLAGHER: Public hearing is closed.

(TIME NOTED: 4:40 P.M.)

{Upon reviewing of the audio, the verbiage contained in the transcript is correct and is an accurate record of the hearing.}

## PUBLIC HEARING

credits in a convenience store application, there is one issue here with this site being in the Core, it's a sending area, not a receiving area, so it's been the practice at a minimum to not land Pine Barrens credits in the Core, so, on other cases we have seen maybe land has been acquired in lieu of buying Pine Barrens credits where they are not supposed to be landed.

MR. ROMAINE: That is a question that you should put into my chief of staff, I am sure she will make a wise decision.

MR. MILAZZO: The commission has not allowed Pine Barrens credits to be received in the Core, which would be an issue if you were trying to from 15 to a 2,950 because you would need those credits to get there, so, that is an issue.

MR. ROMAINE: We have a motion to close the public hearing and to keep the record open for 30 days, so, we

## CERTIFICATE

I, ALEXA PELLIZZI, a Shorthand Reporter and Notary Public of the State of New York, do hereby certify:

THAT the foregoing is a true and accurate transcript of my stenographic notes.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of December, 2018.

\_\_\_\_\_  
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