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In the Matter Of:

JOSEPH F. GAZZA CORE PRESERVATION AREA

HARDSHIP WAIVER APPLICATION

CENTRAL PINE BARRENS

PLANNING & POLICY

COMMISSION

PUBLIC HEARING

September 16th, 2020

RECEIVED

SEP 29 2020

Central Pine Barrens Joint
Planning & Policy Commission

CENTRAL PINE BARRENS

PLANNING & POLICY

COMMISSION

VIA ZOOM VIDEO CONFERENCE

September 16, 2020

3:00 p.m.

1
2 A P P E A R A N C E S:3 CARRIE MEEK GALLAGHER, Chairwoman
4 EDWARD P. ROMAINE, Member, Supervisor
5 JAY H. SCHNEIDERMAN, Member, Supervisor
6 YVETTE AGUIAR, Member, Supervisor
7 JOHN PAVACIC, Executive Director
8 JOHN MILAZZO, ESQ., Legal Counsel
9 JULIE HARGRAVE, Principal Environmental

10 Planner

11 DORIAN DALE, County of Suffolk

12
13 A L S O P R E S E N T:14
15 JOSEPH FREDRICK GAZZA, Applicant
16 RICHARD AMPER
17 SALVATORE CIAMPO

18

19

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21

22

23

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25

1
2 (Whereupon, this portion of the
3 proceedings began at 3:00 p.m., after
4 which the following transpired.)

5 CHAIRWOMAN GALLAGHER: The
6
7 Commission members are Carrie Meek
8 Gallagher for the State of New York,
9 Jay Schneiderman for the Town of
10 Southampton, Ed Romaine for the Town
11 of Brookhaven, Yvette Aguiar for the
12 Town of Riverhead and Dorian Dale for
13 the County of Suffolk.

13 MS. PINES: I just want to say
14 -- this is Emily Pines -- Ed has a
15 little emergency, so I will be sitting
16 in as his delegate until he returns.

17 MS. HARGRAVE: Should I briefly
18 go through the staff report and then
19 the applicant is present and would
20 like to make a brief presentation
21 also.

22 Again, this is almost 59 acres
23 in the Core Preservation Area in
24 Manorville. The site is two
25 noncontiguous parcels separated by the

1
2 Long Island Expressway, both are in
3 the Core Preservation Area. The
4 northern parcel has frontage on Mill
5 Road and the southern parcel has only
6 the highway road frontage. The site
7 is entirely wooded with Pine Barren
8 vegetation and habitat.

9 The applicant purchased the
10 property last year in 2019 with the
11 intention to sell the property for
12 Open Space Acquisition to a public
13 agency. And we've been informed that
14 the Town Of Brookhaven and the County
15 are in the process of this potential
16 acquisition, but the applicant is
17 proceeding with this application at
18 this time, so we are processing it
19 accordingly.

20 The applicant has stated he owns
21 over 13 Pine Barren credits, so he
22 does not seek to obtain Pine Barrens
23 credits on this property. He has no
24 use for them as he has expressed in
25 this application.

1
2 Currently, the applicant has
3 submitted this application and he
4 proposed to develop the property with
5 a 12-lot subdivision. A cluster
6 subdivision with 46 acres of open
7 space and the alternative proposal is
8 to develop five acres with a
9 single-family residence for a horse
10 loving family, which he has expressed
11 in the application.

12 The applicant would seek to
13 obtain Pine Barren credits on the
14 remainder of the property in the case
15 of the alternative proposal. There is
16 an overlap condition that exists on
17 the southern -- on the portion of the
18 southerly parcel on the project site
19 that would need to be resolved before
20 Pine Barren credits could be issued on
21 that portion. The overlap portion is
22 on 10.93 acres and if that was
23 resolved it would generate 1.75
24 credits. The rest of the property
25 would generate 10 Pine Barren credits.

1
2 The Commission has the packet.

3 And in the packet there is a
4 subdivision map as an exhibit. I'll
5 go through the exhibits. And the
6 applicant has also received the staff
7 report with exhibits.

8 There is a map to regulate fresh
9 water as well as habitat into the west
10 side of the site. That site is also
11 habitat for New York State listed
12 endangered species, the Wetland
13 Endangered Species Regulations, that
14 would apply in this case. And the
15 applicant would need to obtain permits
16 pursuant to those regulations and
17 submit hereto any regulatory permits
18 to protect the species and their
19 habitat. There's also the Federal and
20 the State list of threatened species
21 on the property.

22 The subdivision is situated --
23 I'm sorry -- go to the study area
24 description, there is a subdivision to
25 the west side of the property and

1
2 other lots that are developed on the
3 Primrose Path north of the property.
4 There's a study area map in the staff
5 report as an exhibit. Those are the
6 developed plan uses around the site,
7 but other than that area, there's
8 approximately 500 acres of preserved
9 land surrounding the site within a
10 half mile radius of the project site.

11 The project site and the areas
12 in the five acre resident zoning
13 district, there are seven parcels in
14 the study area that are developed in
15 accordance with the residential
16 exemption list provision in the
17 Pine Barrens Act. The applicant
18 proposes a private well for water
19 supply to serve the property. And the
20 project as mentioned is -- the
21 subdivision project is a Type 1 Action
22 pursuant to 617.4(b)(10). It's an
23 unlisted action that exceeds 25
24 percent of any threshold in that
25 section, and is essentially contiguous

1
2 to public owned or operated park land
3 and designated open space. The 12-lot
4 subdivision with the 13 lots of open
5 space meets the 25 percent threshold.

6 And 617.4 (b) (5) (II), regarding
7 50 units not connected to public
8 water, the Town Code also has its own
9 Type 1 list. And it serves to meet
10 that as well since it is in two
11 officially designated Critical
12 Environmental Areas; the Central
13 Suffolk Pine Barrens and the Central
14 Suffolk Special Groundwater Protection
15 Area.

16 The alternative proposal to
17 develop the single-family residence is
18 a Type II Action pursuant to SEQRA.

19 But it also requires a Core
20 Preservation Area Hardship. It is not
21 on -- the parcel is not on the road
22 for an exemption list.

23 And as far as permits, the
24 project would need DEC permits with
25 the health department approvals. The

1
2 Town Of Brookhaven permits, including
3 Tree Clearing, Stormwater, Well,
4 Subdivision and Building permits. The
5 project does not provide information
6 on conformance with the Long Island
7 Workforce Housing Act that may require
8 at least one more lot or payment in
9 lieu of or a reduction in it to avoid
10 conformance with that Act.

11 And in 2019, the applicant
12 applied for a Letter of Interpretation
13 or Pine Barrens credits and again the
14 total number of credits divide the
15 property to 9.45 credits not including
16 the overlap portion.

17 There are prior decisions on
18 similar matters in the Commission's
19 record including two approvals for
20 Core Hardship for subdivision
21 approximately of this size in 1994 and
22 1995. And on one Core Hardship,
23 another applicant was withdrawn and
24 another one was disapproved in 1994.

25 There are SEQRA documents in the

1
2 package that were on the regular
3 meeting that haven't been addressed
4 yet. And I wanted to point out that
5 the -- there was a written comment
6 submitted to the Commission on this
7 application. And, I apologize, I got
8 back to the person who requested or
9 submitted comments. Marisa was her
10 name. She was a resident in the
11 adjacent subdivision. And I'm not
12 sure if she's present today to speak,
13 but we did get a comment from her that
14 she was opposed to the project.

15 MR. PAVACIC: We also have the
16 applicant.

17 MS. HARGRAVE: Oh, yes. And
18 just to complete my Staff Report,
19 there are items at the end of the
20 Staff Report including the SEQRA
21 determination and reviewing the
22 applicant's responses to the Hardship
23 criteria and a conformance with the
24 Workforce Housing requirements.

25 And, again, the applicant is

1
2 present to make a presentation.

3 Do you have any questions so
4 far?

5 CHAIRWOMAN GALLAGHER: Thanks,
6 Julie.

7 John, are you going to continue
8 to move things along?

9 MR. PAVACIC: Next would be the
10 applicant, Joseph Gazza.

11 MR. GAZZA: May I start?

12 CHAIRWOMAN GALLAGHER: Yes.

13 MR. GAZZA: My name is Joseph
14 Fredrick Gazza.

15 I reside at 5 Ogden Lane in
16 Quogue.

17 I'm the owner of the property
18 that's before you today. That's
19 approximately 70 acres.

20 I appreciate the opportunity to
21 address the Commission. I wish I
22 could have done it in person, but
23 maybe that will happen in the future.

24 I'd like to thank John Pavacic
25 and Ms. Hargrave for doing an

1
2 excellent job in telling my whole
3 case. You don't leave me very much to
4 say, but I can give you a little
5 background on my acquisition, why I
6 bought it. And it will just take a
7 few moments and just to give you a
8 little heads up.

9 The property as was stated, 70
10 acres, and it's cut in half by the
11 expressway between the Exit 70 and 71.
12 It has all wooded lands all around it,
13 mostly owned by either the State or
14 the County. And there's just a little
15 development to the west side, called
16 the Doe Run development, and a little
17 development to the north. But
18 everything else in this whole area is
19 municipally preserved lands.

20 This is a map that shows -- the
21 dark shaded land is either all the
22 County or the State, but there's even
23 more parcels now. And the two little
24 pink parcels, those are my combined 70
25 acres of land. There's 33 and a half

I bought this land about a year
and a half ago from Ms. Hendricks, and
I located the land because
Ms. Hendricks stopped paying real
estate taxes on the land. Which is
sort of a sign for a real estate guy
like myself, that when you see
something along those lines -- I
reached out and talk to her attorneys.

14 I found out that Hendricks owned
15 this land since 1953. She owned the
16 land for 67 years. She was holding it
17 as a long-term investment, her family,
18 but never found a buyer. And the last
19 27 years -- that's how long the
20 Pine Barrens Act has been in place --
21 she had hardly any inquiry from
22 potential purchases. She continued to
23 hold on, she continued to pay the
24 exorbitant real estate taxes. This
25 year alone it's about \$27,000 a year.

1
2 And it drained Ms. Hendricks. It
3 drained her financially, it ruined the
4 later part of her life. And I come
5 along and I bought it from her. A
6 little over \$400,000 I have invested
7 in this property. I don't think that
8 she even recouped all the taxes that
9 she spent in the 67 years that
10 government taxed her on this property.
11 But I looked at it as a challenging
12 property. I knew that it was
13 potential for acquisition by
14 municipality; maybe the County, maybe
15 the State.

16 I also -- I'm a dealer in Pine
17 Barren and the Town of Southampton
18 development rights and credits. Two
19 years ago -- a year and a half ago, I
20 thought that the credit market was
21 going to go up, but apparently the
22 credit market is floundering right
23 now.

24 Also, the credit market in the
25 Town Of Brookhaven -- I am now

1 competing with the Town -- with the
2 Pine Barrens Commission because you're
3 -- the Commission itself is now
4 selling credits. And you have had two
5 auctions where you're establishing
6 threshold prices, which is changing
7 the whole market on the credit
8 business. And I can't compete with
9 government. I've learned that a long
10 time ago. Government has that upper
11 hand when it comes to any development
12 project; any cellphone towers or
13 selling land or selling credits. I
14 can't compete with government. And
15 now under the credit program, I'm
16 competing with government.

18 So I thought that maybe some
19 agency would step up and buy my
20 property. I have appealed. And as I
21 was told earlier by Ms. Hargraves, no
22 one has the money right now. It's
23 unfortunate, but politicians have
24 spent the money on other things that
25 should have been allocated for

1 acquisitions of these important
2 properties. And I recognize that it's
3 important property for acquisition,
4 but that's out of my reach. And with
5 no money available from -- I wrote to
6 every agency, I called every agency.
7
8 I'm -- I'm pushed into the corner, so
9 to speak. And that's why I am
10 appearing before this Commission and
11 going through this Extraordinary
12 Hardship application. I don't know
13 what else to do at this point.

If -- if government is not going to purchase my property -- I have to have some use -- some -- some use for this property. You can say that I have the Pine Barren credits -- I can get the credits -- but I have a whole pile of credits already. I have 14 Pine Barren credits, some of them go back 10 years. Okay. I have 16 Town of Southampton credits, some of those go back 15 years. There's not a big market for credits. I'm an investor

1
2 and I took a chance on credits, but
3 it's not working out that well.

4 I think the best thing that
5 could happen to me is if I was given
6 just some small use for my property.
7 I know that asking for a 12-lot
8 subdivision is a lot. I recognize
9 that. I recognize that when we were
10 -- I met with the Commission about
11 publishing this hearing -- I was --
12 when the application was declared a
13 Type 1 Action. I know what Type 1
14 Action means. I mean -- that means
15 it's a significant impact, it means an
16 Impact Statement. It's a trap for a
17 developer, an investor.

18 To get out of a Type 1, it's not
19 easy. And I don't know if I have even
20 been successful no matter how hard I
21 tried. I'd be up against all the
22 people who don't want to see this
23 develop. And, you know, what could I
24 do? They have all the cards. So I
25 step back and I said -- even though

the development is something that would be permitted under Brookhaven zoning -- and I said, I'll cluster it. I'll bring all the lots up close to the road, I'll protect the area along the sides to the expressway, I'll allow the land to be -- my land -- to be connected to the Town, the County land to the west and the State land to the east to bring a connection about. I thought I would do all the right things that a cluster is supposed to do. But reading the reports, nobody even likes the cluster.

1
2 So I stepped back and I said,
3 "What can I possibly do to get just a
4 little reward from my \$405,000 in the
5 year and a half of my life that I
6 spent on this land?"

7 It's beautiful land, it's all
8 wooded. The wetlands are on the
9 subdivision next to it. I don't think
10 there's any wetlands on this property.
11 My surveyor said there was no wetlands
12 on the property. It doesn't show on
13 my survey maps.

14 But I need something. I need a
15 little bit of use. If there's not
16 going to be money to buy it, you got
17 to give me something. And I felt that
18 if I asked for a one single-family
19 dwelling -- and the idea came to me
20 because I received information from
21 the Long Island Horse Farm
22 Association, the realtors, and they
23 promote real estate for people who
24 have horses, who want a residence with
25 a little corral and the ability to

1
2 ride their horses around. And I am in
3 communication with a woman in West
4 Hampton -- Janice -- and Janice has
5 been working with me and she said, "I
6 think I could find you a buyer for
7 your property if you could have a
8 house, with a barn and a ring where
9 they could ride the horses." And she
10 said, "We can do this on just a couple
11 of acres of property." And she said,
12 "I think I can find you a buyer."

13 So if I could recoup my
14 investment -- and I've been working
15 with the horse people, we came up with
16 a plan. Of course, we know that this
17 was the 12-lot cluster plan, which I
18 know no one likes. Okay. So we came
19 up with an alternate plan -- look,
20 Julie hasn't presented this to you
21 yet. I only gave it to her this
22 morning because we have been working
23 on it.

24 But what we've done is we have
25 taken a five acre lot out of the 70

1
2 acres and we -- I presented a house, a
3 -- I don't know if you can see this or
4 not -- it's just cutting out five
5 acres from the 70 and putting a horse
6 barn, corral and a home. And I did
7 two different layouts. And if you can
8 see, they front up onto Mill Road and
9 they're right next to the development
10 next door. So I'm pushing all the --
11 the development of the 70 acres up to
12 the north westerly five acre corner.
13 And if I could just get that, I could
14 get something from this land. Unless
15 government is going to come up with
16 some money -- I have to have
17 something.

18 Now, I've also -- I have been
19 struggling with the assessors in the
20 Town Of Brookhaven. I asked for tax
21 relief on the property. I said,
22 "\$27,000 a year, every year is
23 absurd." They said, "File a
24 grievance. Do a petition."

25 I filed a grievance, did my

1
2 petition, got the decision. No
3 change. I went back, I argued with
4 them orally -- like, you can't see
5 them anymore -- they said, "We are
6 valuing the property as a five acre
7 residential zone property." I said,
8 "It's in the Pine Barren Core. I
9 can't develop it." They says, "Well,
10 we don't know that." I gave them a
11 copy of the code. I said, "The code
12 says that it has to be preserved."

13 It's supposed to be for aquifer
14 protection, the land is supposed to
15 remain in its natural state. I can't
16 cut down one tree. If I cut down one
17 tree, it's considered development, and
18 development is prohibited in the Core.
19 I showed them the law. I showed them
20 Article 57. They said, "Nope. We are
21 not buying it." I said, "What do you
22 want me to do?" They said, "Bring us
23 something from the Pine Barrens that
24 you can't use your property. Bring us
25 a letter. Bring us something."

1
2 I reached out first to
3 John Milazzo, your counsel, he said,
4 "I don't think that the Commission is
5 going to give you anything, but that's
6 just my opinion." He says, "I'm
7 certainly not giving you anything."

8 I don't know if the Commission
9 is going to give me anything. I don't
10 know if the Commission would even
11 consider giving me anything. It's --
12 it was so sad for me to see
13 Mrs. Hendricks, who had to pay taxes
14 her whole life for Pine Barren Core
15 and nobody stepped up to help her.
16 She had two attorneys. They didn't
17 understand the Pine Barrens, the
18 rules, the regulations. They were in
19 Manhattan. The taxation just drained
20 all the money from this woman. How
21 can the Town and the Pine Barrens
22 Commission, the State -- you know this
23 is Core land -- how can you tax it as
24 buildable residential lots or acreage?
25 Whatever the zoning was -- something

1
2 five -- it's just unconscionable.

3 And now, I'm in the same
4 position as Hendricks. I paid the
5 \$27,000 this year. So I'm in the
6 Hendricks trap. I own land that is in
7 the Core, I can't use it, I can't
8 develop it.

9 I am appearing before you as an
10 Extraordinary Hardship. The test for
11 the Extraordinary Hardship -- can I
12 prove that there is no other use?
13 Your regulations show that. It says,
14 no use. Your regulations say, no
15 disruption of vegetation. How can you
16 do something with land if you can't
17 cut down one tree? I mean, you can
18 preserve it for drinking water, but
19 that's not any use for me. That's a
20 use for the public. And a use for the
21 public has to be compensated by the
22 public. And that's not happening.
23 And I'm in a tight spot. I'm backed
24 into the corner, I'm stuck with the
25 taxes. I own the land and I'm

1
2 appealing for some use.

3 That's basically my
4 presentation. I hope that we can come
5 to some type of -- some type of an
6 agreement that I can use something so
7 I don't fall into the Hendricks trap.

8 And I'll spend 67 -- well, I can't
9 spend 67 years of my life because I am
10 already 70 years old -- but how long
11 should this continue? How long should
12 the Pine Barrens Commission allow
13 taxation with no use and acquisition?

14 Was 67 years enough time for
15 Mrs. Hendricks? And how many years
16 for Joe Gazza? It's just -- it has to
17 stop.

18 Thank you for your time this
19 afternoon. If you have any questions,
20 I'm here to answer them as best I can.

21 MR. ROMAINE: I have some
22 questions.

23 MR. GAZZA: Certainly,
24 Mr. Romaine.

25 MR. ROMAINE: Did you file a

1
2 Small Claims Assessment Review
3 petition with your assessment?

4 MR. GAZZA: I did.

5 MR. ROMAINE: You did.

6 Who hears those cases? Not the
7 assessor.

8 MR. GAZZA: Not the assessor.

9 There's a Board.

10 MR. ROMAINE: No. Wrong again.
11 Who hears the Small Claims Assessment
12 Review petition?

13 MR. GAZZA: I filed a grievance
14 petition.

15 MR. ROMAINE: Right. And once
16 you file a grievance and it's denied,
17 then you can file a Small Claims
18 Review petition.

19 MR. GAZZA: I did not do that.

20 MR. ROMAINE: So look, that is
21 common knowledge.

22 MR. GAZZA: Well, my
23 discussion --

24 MR. ROMAINE: (Interjecting) --
25 do you know where they are filed, sir?

1
2 MR. GAZZA: I imagine with the
3 County Clerk.

4 MR. ROMAINE: Thank you. Do you
5 know what I did for 16 years?

6 MR. GAZZA: Review petitions.

7 MR. ROMAINE: No. I was the
8 County Clerk.

9 MR. GAZZA: It was just a guess.

10 MR. ROMAINE: Okay. So you
11 failed to file through the procedure
12 that so many people -- tens of
13 thousands of people every year file a
14 Small Claims Review petition.

15 Do you know the chances of
16 success on a small claims review
17 petition?

18 MR. GAZZA: I do not.

19 MR. ROMAINE: Almost 80 percent
20 plus get the reduction they are asking
21 for -- or at least some reduction. So
22 you failed to do that.

23 MR. GAZZA: Okay.

24 MR. ROMAINE: About the
25 politicians spending money, that they

1
2 are out of money, we are voting to
3 purchase your land tomorrow. We are
4 in a deal with the County. We are
5 coming up with our money tomorrow
6 night at our Town Board meeting.

7 Did you know that, sir?

8 MR. GAZZA: I did not know that.

9 MR. ROMAINE: My strong
10 suggestion is to speak to our County
11 attorney. You paid \$400,000 for this.
12 I happen to know -- I'm not discussing
13 it with you, that's the County's major
14 partner -- you will be considerably
15 made more than whole. So I'll just
16 point out those facts to you.

17 However, if you want to proceed,
18 I am happy to let you proceed and file
19 SEQRA that is so necessary for this
20 process.

21 MR. GAZZA: The application for
22 a single-family dwelling would be a
23 Type II, and the necessity for a --
24 the SEQRA review would be much less.
25 In the event that the purchase does

1
2 not materialize -- then I have been
3 waiting for over a year for a purchase
4 to materialize -- and it hasn't
5 happened. No one has made me a
6 written offer.

7 Might I continue with that
8 application, Mr. Romaine?

9 MR. MILAZZO: Hi, Joe. It's
10 John Milazzo. How are you?

11 First, I want to know how you
12 have three hands when you are holding
13 up the documents for the record.

14 Has your application been
15 revised? Has your application been
16 revised? Are you seeking only one
17 house or are you still seeking the 12?

18 MR. GAZZA: No. No. I asked for
19 12 and then the alternative. I asked
20 for a single-family dwelling with a
21 barn for a horse family as an
22 alternative if the Commission has
23 found that there was no chance at all
24 for the 12-lot division.

25 MR. MILAZZO: Okay. Joe, so

1
2 under SEQRA, that sounds as an
3 alternative. So the pos dec[sic]
4 would be granted on the 12-lot
5 subdivision. One of the things under
6 the pos dec that we can consider as an
7 alternative would be a single-family
8 house.

9 MR. GAZZA: Okay. That's fine.

10 MR. MILAZZO: I will withdraw
11 your application for the reason it
12 being for the 12, then you can argue
13 about your Type II.

14 But right now before the
15 Commission is a 12-lot subdivision
16 with an alternative of one lot. So
17 this SEQRA which is proposed is
18 suggested by staff as being a pos dec.
19 It would stay and there hasn't been
20 action on that yet, just to clarify
21 that with the Supervisor.

22 So it's still a 12-lot
23 subdivision that's still a Type 1
24 Action. We have the research of why
25 it is a Type 1 Action.

1
2 So if you're going to maintain
3 that 12-lot application, it's subject
4 to Type 1. And probably -- I think
5 your recommendation -- I think is for
6 the pos dec. The Commission would do
7 that at the end of the hearing.

8 We have some questions with
9 respect to the Hardship. Under the
10 law, the statute requires a certain
11 showing, and Grace is going to go
12 through those now. And we -- so if
13 you can just answer these questions,
14 which you know.

15 MS. REVELLO: So you already
16 addressed about the beneficial use of
17 the land, but if you can just list for
18 the record the three elements
19 underneath that. So that's 57-0121,
20 Section 10(a), and there's a I, II, II
21 under that.

22 MR. GAZZA: Okay.

23 MS. REVELLO: So -- do not apply
24 or affect other property in the
25 immediate vicinity --

1
2 MR. GAZZA: I'm looking at the
3 121, 10(a). It says:

4 Subject property does not have
5 any beneficial use except for water
6 shed protection.

7 Is there a dispute about that?
8 Or what else is the use?

9 MR. MILAZZO: But, Joe, you have
10 to show the standards, right? So the
11 text on the law is you have to show it
12 under those three elements, which
13 Grace just read to you.

14 (Whereupon, there was inaudible,
15 indecipherable cross-talk among the
16 parties present.)

17 MR. GAZZA: I expressed that if
18 development constitutes removing even
19 one tree -- it's very difficult to
20 develop a piece of property if you
21 can't remove any vegetation.

22 Therefore, it's use is for watershed
23 protection and there's no development
24 under the Core, the rules allowed;
25 that would be the first one.

1
2 The second one, is that all
3 property in this immediate vicinity is
4 either developed with homes or in
5 public ownership for preservation.
6 Julie Hargraves stated that in her
7 report. She said that it's all
8 municipally owned by the County and
9 State all around the property with the
10 exception of the two little
11 developments, the Doe Run to the west
12 and the Primrose Path to the north.
13 All the other vacant lands are gone.
14 They are municipally owned or they are
15 built on. So I isolated a piece of
16 property that should be acquired by
17 government or it should be able to be
18 used for something.
19 Number -- I did not cause the
20 Pine Barrens Core to be -- take this
21 parcel into it. I had nothing to do
22 with that. I have only owned the land
23 a year and a half. Okay. It's also
24 -- it's a single and separate parcel.
25 I don't own any contiguous property, I

1
2 don't own anything else in Brookhaven.
3 This is just an isolated track 70
4 acres that I purchased. It's a single
5 and separate parcel. I have no -- no
6 idea of what use municipal acquisition
7 does not occur other than a
8 single-family dwelling. Since the
9 division is going to be withdrawn for
10 12-lot because I know that that is a
11 Type 1 and I'm not going to fight --
12 I'm not going to do an Impact
13 Statement. I'm not going to be able
14 to prove to the satisfaction of the
15 environmental people that I'm going to
16 overcome their hurdles on a positive
17 dec with type of a development.

18 MR. SCHNEIDERMAN: Can I ask a
19 question?

20 MR. MILAZZO: I'm sorry,
21 Supervisor. There is a third element.
22 An action or inaction of the
23 applicant. Including transfer on --
24 it's a year and half since you created
25 this Hardship?

1
2 MR. GAZZA: Well, my action was
3 in purchasing the property and in
4 attempting to sell the property to
5 government agencies. What action -- I
6 didn't develop it, I didn't cut down a
7 tree. I have only paid for surveys
8 and drawings and applications and
9 advertising. That's -- and pay the
10 taxes. That's all I have done.

11 MR. ROMAINE: Can I ask a
12 question?

13 MR. GAZZA: Certainly.

14 MR. ROMAINE: How much did you
15 pay per acre when you purchased this
16 property?

17 MR. GAZZA: I'll tell you in one
18 second.

19 MR. ROMAINE: Approximately.

20 MR. GAZZA: We have ten -- well,
21 11 acres have bad title on the south
22 end -- so we are going to call it 50
23 -- 59 acres.

24 MR. ROMAINE: Can you sell that
25 11 acres if it has bad title?

1
2 MR. GAZZA: No, I can't sell it.

3 No one will buy a property with a bad
4 title. I have offered it to the
5 County for free.

6 MR. ROMAINE: You did? Why
7 didn't you make that offer to the
8 Town? I'll be happy to look into that
9 for you if you're interested.

10 MR. MILAZZO: Supervisor, the
11 Town is going to consider a resolution
12 tomorrow to make an offer, so you may
13 want to refuse yourself as the County
14 is giving dependency of an offer that
15 we are hearing may come out.

16 MR. ROMAINE: May come out.
17 Thank you.

18 And from this point, I'm going
19 to leave this meeting until this
20 hearing is over because I believe that
21 we may be working with our partner,
22 the County, on this parcel and I don't
23 want to say anything further.

24 Thank you.
25 MR. MILAZZO: Thank you,

1
2 Mr. Romaine.

3 MR. ROMAINE: Let that stand as
4 my recusal for the rest of this public
5 hearing. Thank you.

6 I'll come back when you are
7 finished.

8 MR. MILAZZO: We'll bring the
9 Supervisor back in.

10 So in considering this
11 application, the Commission does not
12 weigh to be or consider the potential
13 of the County or a Town acquisition.
14 It's judged on its merits.

15 So, Mr. Gazza, I will ask a
16 question.

17 Are you revising your
18 application to be just one lot or is
19 it 12 still? I'm just hung up on
20 that, I need to know.

21 MR. GAZZA: I will be revising
22 it to seek one five acre lot
23 conforming to Brookhaven zoning.

24 MR. MILAZZO: Thank you for that
25 clarification.

4 MR. SCHNEIDERMAN: I guess my
5 first question will piggyback on that,
6 Joe.

7 So I'm assuming that you are
8 going to retain a certain amount of
9 Pine Barren credits for the remainder
10 of the property since you're just
11 going for the one horse farm and then
12 there would be some balance of Pine
13 Barrens credits, correct?

14 MR. GAZZA: That's correct,
15 Supervisor.

16 MR. SCHNEIDERMAN: So your whole
17 argument for a Hardship -- this is
18 kind of unusual for this Commission --
19 is that you cannot -- you cannot get
20 value out of the Pine Barren credits.

21 It seems like you preferred to
22 sell the property to a municipal
23 entity, be it the Town or the County
24 or the State or whoever it might be.
25 But there are no purchasers, and you

1
2 are saying there's somewhat of a
3 collapse in the Pine Barrens credit
4 market where you're not able to sell
5 those credits out on the open market,
6 correct?

7 MR. GAZZA: Somewhat. Let's
8 start with the Town -- the Pine
9 Barrens Commission marketing their own
10 credits. I believe that you have ten
11 or 20 credits that you have been
12 conducting an auction on over the last
13 year on two occasions; is that
14 correct? Is there someone from the
15 Pine Barrens that can confirm that?

16 MR. MILAZZO: I will provide
17 that answer for the record, but I
18 don't believe that is true though.

19 MR. GAZZA: Was there an auction
20 of Pine Barren credits conducted by
21 the Pine Barrens Commission?

22 MR. MILAZZO: The Clearinghouse
23 owns 10.19 credits in Brookhaven.
24 They have not offered those for sale
25 in the last year to my knowledge.

1
2 But, again, that's a -- Jerry Tverdyy
3 will get us an answer and we'll add it
4 to the record.

5 MR. GAZZA: Well, I believe
6 there was an auction with no bidders.

7 (Whereupon, there was inaudible,
8 indecipherable cross-talk among the
9 parties present.)

10 MR. SCHNEIDERMAN: So it's sort
11 of an unusual argument that the
12 Pine Barrens credits are not
13 sellable -- not that sellable.

14 MR. GAZZA: Not that sellable.

15 MR. SCHNEIDERMAN: Not that
16 sellable. So what can you sell a Pine
17 Barrens credit for these days?

18 Because that's kind of a critical
19 component of the original Central Pine
20 Barrens Law, is the value is based on
21 these credits? And I thought -- and,
22 Joe[sic]Milazzo, maybe -- correct me
23 if I'm wrong -- I thought there was
24 some affirmative obligation of the
25 State or from municipalities to

1
2 acquire these credits.

3 MR. MILAZZO: First off, it's
4 John.

5 And then with respect to the
6 affirmative obligations, the
7 Clearinghouse has a blanket offer to
8 buy credits which is much lower as a
9 base (inaudible) so they have not been
10 seeking to purchase credits in
11 Brookhaven recently.

12 Mr. Gazza bought this property
13 knowing that the Core, dwelling and
14 what its uses were. So I would
15 suggest that we focus the hearing on
16 his presentation of the elements of
17 his Hardship.

18 MR. SCHNEIDERMAN: So, John,
19 there is no automatic purchase of
20 credits should a seller say, "I want
21 out"; that doesn't exist?

22 MR. MILAZZO: The Clearinghouse
23 hasn't offered to buy credits at
24 values that are lower than what the
25 market transactions are. We can

1
2 supplement the record with the most
3 recent transactions in Brookhaven.
4 They are in the order of \$80,000 or
5 more. Mr. Gazza would get 13 or so
6 Pine Barren credits at \$80,000 --
7 someone that is smarter than me can do
8 that math -- it's more than what he
9 paid for in orders of magnitude
10 greater than what he paid for the
11 property.

12 What he is purporting to
13 represent is he hasn't found a buyer,
14 but that may be because he hasn't
15 found a buyer at his price. And I
16 know Joe buys and sells credits all
17 the time. He may be asking too much
18 or he may not be. I don't know.

19 MR. SCHNEIDERMAN: Do you
20 understand that for us Commissioners
21 in terms of determining Hardship --
22 this is the central argument here --
23 is the Hardship the inability to sell
24 credits? So to get some testimony as
25 to the value of these credits, it's

1
2 sounds like they are worth in excess
3 of what Mr. Gazza paid. I'm not
4 seeing -- I am not seeing the
5 Hardship.

6 So, Joe, I'm going to need some
7 more clarification there. It also
8 sounded from the Supervisor of
9 Brookhaven that you have a willing
10 municipal buyer. In which case, I
11 would say let's not even go back and
12 forth. Let's not continue to argue
13 this. Let's just adjourn it pending
14 the outcome of municipal acquisition.
15 If that goes nowhere, then we can go
16 back and make the argument. But we
17 heard testimony of whether we should
18 or shouldn't have, and that there's a
19 pending offer coming your way.

20 MR. GAZZA: I agree 100 percent,
21 Mr. Supervisor. I would welcome a
22 pending offer. I would also welcome
23 an offer from the Pine Barrens
24 Commission, at \$80,000, I am prepared
25 to sell the credits now.

1
2 So if Mr. Milazzo has a
3 checkbook there and someone from the
4 Pine Barrens wants to sign it, I'm
5 coming right over with the application
6 and I'll sign it up.

7 MR. SCHNEIDERMAN: I'm not quite
8 sure that that's what Mr. Milazzo was
9 saying.

10 John, do you want to clarify?

11 MR. MILAZZO: Joe knows that
12 wasn't the -- we are going on the
13 recent transactions, Joe.

14 MR. GAZZA: You know, there are
15 some transactions, Mr. Supervisor --
16 as we both know -- that some have been
17 Town credits that are far greater than
18 \$80,000. But what has to be
19 explained, is that if I sell a credit
20 -- let's say I sell a credit for
21 \$100,000, okay? And I have sold a
22 credit -- a Town credit for 100,000.
23 The buyer does not want to buy a piece
24 of paper. A credit. They don't want
25 that. What the buyer wants is his

1
2 project to be approved and the credit
3 is necessary to get the project
4 approved.

5 So the buyer comes to me and
6 says, "Joe, I have a project and I
7 need to get an approval from the
8 Health Department or from the Town. I
9 understand that if I use credits, I
10 can get that approval." I say, "Yes,
11 that's true." And he says, "Well, you
12 get me an approval and I'll buy the
13 credit from you."

14 Then I spend six months, a year,
15 a year and a half going through
16 processes with applications with
17 Dave Wilcox for clearing use for
18 different uses. Hearings, paying
19 fees, surveys to fight to get the
20 person to be able to get what he wants
21 to use with the credit. So what
22 people don't understand, I'm spending
23 a year of my life as an attorney
24 fighting for somebody to sell one of
25 these credits, so I make a sale.

1
2 People are not just coming to the door
3 and knocking on my door and saying,
4 "Joe, here's \$80,000. Can you give
5 the credit?" It doesn't happen that
6 way. That's --

7 MR. SCHNEIDERMAN:

8 (Interjecting) -- they want the
9 application. They don't want the
10 piece of paper. They want the
11 application of the credit.

12 MR. GAZZA: They want their
13 application approved.

14 MR. SCHNEIDERMAN: I understand.

15 MR. GAZZA: That's what they
16 want. And that the credit can get
17 them there sometimes -- not all the
18 time -- but sometimes.

19 MR. SCHNEIDERMAN: I understand
20 there's --

21 MR. GAZZA: (Interjecting) --
22 They don't hire me, they are hiring
23 another attorney to do it.

24 MR. SCHNEIDERMAN: There is also
25 quite a distinction between the Town

1
2 credits -- even Pine Barren credits
3 from Town to Town and their
4 applicability -- you know, depending
5 upon school district, hydrological
6 zone or all kinds of what can transfer
7 where. It's a complicated business.

8 So I don't know the value obviously of
9 the credits you have in the Town Of
10 Brookhaven in that particular area,
11 but I'm sure that it could be
12 established by the Pine Barrens
13 Commission.

14 But it seems that rather than
15 going through that exercise -- though
16 it might be the best outcome for you
17 economically -- I think we ought to --
18 what is prudent is to wait and then
19 see what happens with the Town Of
20 Brookhaven. It sounds like you need
21 to amend your request to drop -- if
22 you're going to stay with the Pine
23 Barrens Commission -- is to drop down
24 to a single-family home, so that your
25 SEQRA is a Type II. Otherwise, you're

1
2 going to be spending a long time on
3 your Environmental Impact Statement
4 Study. So you would need to make that
5 change, too.

6 But I think to enter in good
7 faith and negotiations with the Town
8 is the best short-term plan for you.

9 MR. GAZZA: We are in agreement.
10 No argument, Mr. Supervisor. No
11 argument.

12 MS. AGUIAR: Okay. Move on.

13 MR. SCHNEIDERMAN: John, do we
14 have to entertain other -- it's a
15 public hearing -- do we have to
16 continue with allowing other members
17 of the public to weigh in here?

18 MR. MILAZZO: Yes.

19 MR. DALE: I have a question
20 before we start going on with the
21 public, if that's okay? And that is
22 really an answer that was sought about
23 20 minutes ago.

24 Mr. Gazza, you expressed that
25 the 70 acres had 11 acres that had bad

1
2 title to it, but you were going to
3 provide a per acre breakdown of the
4 remaining 59 in terms of what it cost
5 you per acre.

6 Do you have that number for us?

7 MR. GAZZA: \$6,830.51.

8 MR. DALE: - Thank you.

9 MR. GAZZA: Plus a year and a
10 half of my time as an attorney.

11 MR. DALE: Oh, that's like
12 \$1,000 an hour, right?

13 MR. GAZZA: No. No. \$450 an
14 hour.

15 You are dating yourself.

16 A lot of time goes into my work.
17 And I only maybe bought three or four
18 pieces in the last year of my life.

19 This is one of them.

20 So when I devote my life towards
21 persuing these real estate adventures
22 -- and not all of them work out. So
23 it's -- other attorneys that do
24 litigation and make all kinds of money
25 -- this is what I do. This is my

1
2 specialty. I track people down, I
3 follow delinquent taxes, I follow
4 people who have not been able to use
5 their property, who have given up
6 because their attorneys have given up.
7 And I take the risk. I part with the
8 \$405,000 of my money. I roll the
9 dice. And there's a risk involved.
10 And that is something that a lot of
11 people can talk about, but unless you
12 experience that yourself, it's hard to
13 understand it.

14 And the \$26,000 a year taxes,
15 that hits home. Hits home right
16 around Christmas time when those bills
17 come in.

18 MR. SCHNEIDERMAN: The problem
19 with that argument on one hand, Joe, I
20 can say that it's a self-imposed
21 Hardship. That you knew what you were
22 getting into. You were taking a risk.

23 I have always thought that
24 Pine Barrens credits, there was a
25 backstop on evaluation. That they

1
2 couldn't go to zero, that they had to
3 have a certain amount of value, that
4 some entity would step in.

5 I get concerned if these credits
6 don't have value. I was a little bit
7 concerned when the County was changing
8 the regulations that might devalue
9 these credits from the Health
10 Department's perspective.

11 So I think it's important that
12 these credits retain value. I don't
13 want to say anything more on the
14 record about that, but --

15 So you're making an argument
16 that almost goes against you by saying
17 you took a gamble. You took a real
18 estate gamble. It shouldn't have been
19 that speculative because the
20 Pine Barrens credit is ought to have
21 value. They fluctuate, but there
22 should be value there.

23 MR. GAZZA: I agree with you.
24 There's got to be value. But the
25 expected value and the work that has

1
2 to go into making them valuable, that
3 is the key factor here. I never knew
4 that the Pine Barrens Commission
5 itself would buy credits from me. I
6 never knew that. No one ever told me
7 that. I have been arguing for a year
8 with the Commission over this case.

9 No one ever stepped up and said, "Hey,
10 Joe, we will write you a check for the
11 credits." I never knew that. I knew
12 they were trying to sell credits, but
13 I never knew they were buying them.

14 MR. SCHNEIDERMAN: I think,
15 unless other Commission members have
16 other questions is that we get to the
17 public and then I would say we adjourn
18 pending good faith negotiations with
19 the Town of Brookhaven. Hopefully,
20 that will make this matter move.

21 But that's just my opinion.

22 MR. GAZZA: Thank you.

23 MS. AUGIAR: Jay, I agree with
24 you.

25 CHAIRWOMAN GALLAGHER: Is there

1
2 anyone from the public?

3 MR. MILAZZO: There's one public
4 comment from Richard Amper.

5 John, can you read it in?

6 MR. PAVACIC: I thought he was
7 going to speak.

8 MR. MILAZZO: Rich, are you
9 there?

10 MR. AMPER: I am.

11 MR. MILAZZO: Okay. So we can
12 swear him in please.

13 (Whereupon, there was inaudible,
14 indecipherable cross-talk among the
15 parties present.)

16 MR. AMPER: Well, this is
17 clearly a self created Hardship, and
18 admitted Hardship.

19 He says he rolled the dice.
20 This is a guy who is a wheeler-dealer
21 in real estate for years. And a year
22 and a half ago, he went and bought
23 property that he knew couldn't be
24 developed, and now he's coming to you
25 to bitch his pitch about it.

1
2 Now, we are lucky if somebody
3 wants to buy it. That's just good
4 luck. But it's not the responsibility
5 of you people who are trying to
6 protect the environment. He knew this
7 land was not developable, he bought it
8 anyway. And now he is complaining
9 because he can't get rid of it.

10 That's not our business. I'm very
11 much in favor of protection, but I'm
12 not prepared to support somebody who
13 takes a risk. An absolutely
14 incredible risk. Admits that that's
15 what he does for a living and then
16 expects the people in this Commission
17 to come and make him whole. That's
18 not the way it worked before, and we
19 shouldn't make it work that way now.

20 MS. AUGIAR: Thank you, Rich,
21 for your comment.

22 MR. SCHNEIDERMAN: Are there any
23 other public comments?

24 MR. PAVACIC: Anybody else who
25 wishes to make any public comments,

1
2 raise your hand in the chat room.

3 Anybody else? Going once -- oh,
4 Salvatore Ciampo.

5 MR. CIAMPO: I had just asked
6 what the backstops government dollar
7 value for credits were? Because we in
8 the Scouts have been selling these
9 credits for a good long period of time
10 and we are not aware that we can get
11 rid of them to the government. We
12 would be inclined to think about doing
13 that. But can anyone tell me that
14 dollar value? I had asked it in the
15 chat, I didn't get a response. I had
16 asked it a second time, and I didn't
17 get a response. So now I am asking it
18 for the record.

19 MR. MILAZZO: The Central Pine
20 Barrens Clearinghouse made an offer --
21 it has an outstanding offer to
22 purchase the credits. We will get the
23 numbers and we will supplement them
24 for the record. I don't know them off
25 the top of my head.

1
2 They are based on a 1995
3 evaluation. It was done earlier in
4 the program, so we'll get that
5 information.

6 MR. CIAMPO: Can we request it
7 be sent to either
8 Chris Kosher (phonetic) or myself? I
9 mean, putting it in the record won't
10 get that information to us, right?

11 MR. MILAZZO: It will get out to
12 you. No problem. Yes, that's fine.

13 MR. SCHNEIDERMAN: Any other
14 public comment?

15 MS. HARGRAVE: If there's no
16 other person who would like to speak,
17 I would just want to add again, that
18 the Commission did receive an e-mail
19 from a woman named Marissa Barisi, who
20 said, "We recently have been informed
21 by neighbors that if there are plans
22 to build a development behind our home
23 at 15 Doe Run in Manorville, that
24 myself, my husband at Doe Run are
25 opposed to the building of development

1
2 and would like to be heard."

3 I sent her the application. I'm
4 not sure if she would like to self
5 comment.

6 So if the Commission is going to
7 have an open written comment period,
8 that might be helpful for few days, so
9 people who aren't aware of this
10 hearing or -- I did inform her that
11 there was a hearing today -- but allow
12 people to submit written comments
13 maybe for five days until next
14 Wednesday. If you wish.

15 Then the deadline is early
16 November, so really the -- unless you
17 had a special meeting -- the deadline
18 would be due at the next meeting,
19 October 21st.

20 MR. SCHNEIDERMAN: I would like
21 to just leave it all open. Just
22 adjourn it entirely to the
23 October 21st meeting, with the hope
24 that there's a resolution to this
25 matter by then between the Town,

1
2 County and Mr. Gazza.

3 MS. HARGRAVES: Mr. Gazza, are
4 you willing to give Commission any
5 kind of an extension or are you --

6 MR. GAZZA: Yes. But not
7 October 21st. I have to be in Florida
8 to vote.

9 How about November?

10 MR. SCHNEIDERMAN: You have to
11 give us the extension on the decision
12 as well.

13 MS. HARGRAVE: Yeah. To the
14 November meeting -- the November
15 meeting is the --

16 MR. SCHNEIDERMAN: The 18th.
17 MR. GAZZA: The 18th would be
18 good.

19 MS. HARGRAVES: November 18th.

20 MR. PAVACIC: Wednesday,
21 November 18th meeting.

22 So, Mr. Gazza, are you granting
23 an extension of time for the decision
24 to the Commission to November 18th
25 meeting?

1
2 MR. GAZZA: That is correct,
3
4 Mr. Pavacic.

5 MR. PAVACIC: Okay. Thank you.

6 MS. HARGRAVE: And the public
7 comment period open until --

8 MR. SCHNEIDERMAN: I'd leave it
9 entirely open so that we can get
10 people on public comment on the
11 18th of November as well.

12 MR. MILAZZO: So procedurally,
13 you may want to have your public
14 comment period on the next Commission
15 meeting in October, and then you could
16 close. We are not going to have
17 another hearing, it will just be the
18 record portion. Then after, you would
19 be able to consider all of the
20 comments received in October at your
21 November meeting, which is the
22 decision deadline.

23 Otherwise, you find yourself
24 having -- receiving public comment on
25 the day of your decision which is
 always a problematic situation.

1

2 MS. AUGIAR: Makes sense.

3 MR. SCHNEIDERMAN: Mr. Gazza,
4 won't be here for the October hearing.

5 MR. PAVACIC: There's another
6 question from Salvatore.

7 MR. CIAMPO: I just wonder if we
8 could get a definitive answer. I
9 don't think I have heard if the
10 Pine Barrens Commission was selling
11 credits in competition with those who
12 are holding credits. I have never
13 heard that, but we didn't get a
14 definite no or yes on that I think.

15 MR. MILAZZO: The Commission is
16 not actively selling credits from
17 Riverhead as of today. The Commission
18 is not actively selling credits in
19 Southampton today. The Commission is
20 not -- I don't believe the Commission
21 is actively selling credits in
22 Brookhaven. We will confirm the
23 Brookhaven piece.

24 MR. CIAMPO: I apologize. Let
25 me clarify the question.

1
2 Is not currently and never has
3 been? Or have they been at any given
4 time?

5 MR. MILAZZO: This is a public
6 hearing, so you can put that on the
7 record. The Commission is not
8 actively selling them today.

9 (Whereupon, there was inaudible,
10 indecipherable cross-talk among the
11 parties present.)

12 MR. CIAMPO: The question is,
13 have they ever been?

14 MR. MILAZZO: This is a public
15 hearing. If you want to put that on
16 the record, your question is noted for
17 the record.

18 They are not actively selling
19 them. I don't know if we sold them --
20 I have to go -- it's 25 years. They
21 are selling to Riverhead -- they don't
22 own any Riverhead credits. They don't
23 own any Southampton credits. The
24 Commission only owns ten credits in
25 Brookhaven. Jerry Tverdyy can confirm

1
2 all of those understandings. We will
3 get it into the record for the record.

4 MR. CIAMPO: Thank you.

5 That's sort of what I thought,
6 but I wanted to get it more clear.

7 Thank you very much.

8 MR. MILAZZO: And, again, we
9 will make sure that's right, so it's
10 subject to verification and
11 confirmation.

12 So with respect to the hearing,
13 I recommend that you close the public
14 hearing portion. You keep the record
15 open until October, then you have your
16 decision in November; is that okay?

17 MR. GAZZA: That's fine.

18 MR. SCHNEIDERMAN: I'm not sure
19 about that because it sounds like
20 Mr. Gazza is about to change it and
21 make it a single-family home as his
22 application and not a 12-lot
23 subdivision. And that seems to be a
24 material change and I just state that
25 we ought to allow public comment

1
2 besides his written comment on that.
3 But --

4 (Whereupon, there was inaudible,
5 indecipherable cross-talk among the
6 parties present.)

7 MR. MILAZZO: Then your decision
8 might be in December. You just
9 shouldn't have your decision align
10 with the day of your closing of the
11 hearing. That's all.

12 MR. SCHNEIDERMAN: Again, I'm
13 hoping this is all mute very quickly
14 if Brookhaven Town and Mr. Gazza come
15 to terms.

16 So -- but, Joe, are you okay
17 with giving a decision deadline in
18 December?

19 MR. GAZZA: November would be
20 better for me, I'm going to be on
21 Long Island. I have to pay taxes --
22 you know, I'm going to get another tax
23 bill coming up. It's just another
24 \$27,000. I'm trying to resolve this.

25 MS. AUGIAR: Oh, you're going to

1
2 make out well.

3 MS. HARGRAVE: So the decision
4 is to have the hearing to only -- if
5 Mr. Gazza formally withdraws his
6 12-lot subdivision and proceeds with
7 only the development of one lot which
8 requires a Core Hardship.

9 Does the Commission wish to have
10 another hearing in October or November
11 to hear just that development proposal
12 and then have a decision after -- on
13 the date after that?

14 MR. GAZZA: I have withdrawn the
15 12-lot, and I'm on the single-family
16 home with the -- for the horses.
17 That's my application.

18 MR. SCHNEIDERMAN: Let's leave
19 the record open -- the written record
20 open for a month and then we can make
21 a decision. Hopefully, it gets
22 resolved in that month.

23 MR. GAZZA: Thank you.

24 MR. SCHNEIDERMAN: Does that
25 seem okay?

1
2 MR. MILAZZO: That's perfectly
3 appropriate.

4 And I will remind the
5 Commission, the Commission is debating
6 and determining whether Mr. Gazza has
7 established a Hardship on his
8 application and is now considering
9 whether the Town, the County or any
10 other agency is interested in
11 acquiring this property that's outside
12 of the purview of your consideration
13 and is now going to the merits on his
14 application. His application has
15 either demonstrated a Hardship exists
16 based on what he has told us today or
17 it hasn't. And the determination of
18 whether he sells or not doesn't
19 matter.

20 So I just want that to be the
21 criteria the Commission Staff uses in
22 reviewing and determining whether the
23 Hardship exists subject to the new
24 comments that come in in the next
25 month.

1
2 MS. HARGRAVE: I think we also
3 need to add three exhibits. So it
4 would be K, L, and M. It would be the
5 report from Town Of Brookhaven dated
6 September 14th that provides comments
7 on the application. And it does
8 indicate the essential acquisition and
9 would prefer if anything goes through,
10 would be the one lot development.

11 The Gazza letter dated
12 September 15th, 2020, received on
13 September 15th is 14 pages and that is
14 -- that was received yesterday with a
15 cover letter and some supporting
16 materials.

17 And then material that was
18 received today from Mr. Gazza, was a
19 letter dated September 15th, and that
20 was received today. It was five pages
21 and that has the -- and that was
22 brought up to the Commission today and
23 that has the potential one lot
24 development for a single-family
25 residence.

1
2 So that's all.

3 MR. SCHNEIDERMAN: Thank you.

4 So I am making a motion to close
5 the oral testimony and leave the
6 written record open for a month --
7 something like that.

8 MS. AGUIAR: I second.

9 CHAIRWOMAN GALLAGHER: So close
10 the public hearing and leave the
11 written record open for a month?

12 MR. SCHNEIDERMAN: Yes.

13 MR. MILAZZO: Yes.

14 MR. SCHNEIDERMAN: On the
15 amended application that involves just
16 the single-family dwelling horse
17 lot -- horse farm.

18 MR. MILAZZO: The voting members
19 -- so we have two recusals -- and we
20 have the County recused themselves and
21 the Town Of Brookhaven, so the three
22 members that can vote are Riverhead,
23 Southampton and the State.

24 So we have a motion from
25 Jay Schneiderman, is there a second?

1
2 MS. AUGIAR: Yes, I second.

3 MR. MILAZZO: All in favor.

4 (Whereupon, there was a
5 unanimous, affirmative vote of the
6 Board.)

7 MR. MILAZZO: Thank you. Any
8 nos, any extensions to County and the
9 Town Of Brookhaven. So the resolution
10 rests. It's 3, 0, 2.

11 This hearing is closed. Thank
12 you.

13 (Whereupon, this hearing was
14 concluded at 4:20 p.m.)

15 * * * *

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1
2 EXHIBITS:
34 EXHIBIT DESCRIPTION
5 K Town of Brookhaven report
6 L Gazza Letter 9/14/20,
7 14 pages
8 M Gazza Letter 9/15/20,
9 5 pages
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1
2 C E R T I F I C A T I O N

3 STATE OF NEW YORK

4 Ss:

5 COUNTY OF SUFFOLK

6
7 I, DOMENICA RAYNOR, Court

8 Reporter and Notary Public of the State of

9 New York, do hereby certify:

10 That the within transcript
11 was prepared by me and is a true and
12 accurate record of this hearing to the
13 best of my ability.14 I further certify that I am
15 not related to any of the parties to this
16 matter by blood or by marriage and that I
17 am in no way interested in the outcome of
18 any of these matters.19 IN WITNESS WHEREOF, I have
20 hereunto set my hand this 16th day of
21 September, 2020.22
23 *Domenica Raynor*
24
25

\$1000 50:12	ability 20:25 71:13	action 8:21,23 9:18 18:13,14 31:20,24,25 35:22 36:2,5 (11)	ago 14:6 15:19,19 16:11 49:23 54:22 (6)	21:2 25:9 26:9 29:18 44:4,24 54:10 56:17 68:4 71:14,17 (13)
\$100000 45:21	able 34:17 35:13 40:4 46:20 51:4 60:18 (6)	actively 61:16,18,21 62:8,18 (5)	agree 44:20 52:23 53:23	amend 48:21
\$26000 51:14	about 14:5,25 18:10 19:11 28:24 31:13 32:16 33:7	add 41:3 57:17 67:3	agreement 26:6 49:9	amended 68:15
\$27000 14:25 22:22 25:5 64:24 (4)	49:22 51:11 52:14 54:25 56:12 59:9	address 12:21	aguilar 3:6 4:10 49:12 68:8 (4)	among 33:15 41:8 54:14 62:10 64:5 (5)
\$2800 19:17	63:19,20 (16)	addressed 11:3 32:16	align 64:9	amount 39:8 52:3
\$400000 15:6 29:11	absolutely 55:13	adjacent 11:11	allocated 16:25	amper 3:16 54:4,10,16 (4)
\$405000 20:4 51:8	absurd 22:23	adjourn 44:13 53:17 58:22	allow 19:8 26:12 58:11 63:25 (4)	another 10:23,24 47:23 60:16 61:5 64:22,23 65:10 (8)
\$450 50:13	accordance 8:15	admits 55:14	allowed 33:24	answer 26:20 32:13 40:17 41:3 49:22 61:8 (6)
\$683051 50:7	accordingly 5:19	admitted 54:18	allowing 49:16	anybody 55:24 56:3
\$80000 43:4,6 44:24 45:18 47:4 (5)	accurate 71:12	adventures 50:21	almost 4:22 28:19 52:16	anymore 23:5
& 1:1 2:2	acquire 42:2	advertising 36:9	alone 14:25	anyone 54:2 56:13
10a 32:20 33:3	acquired 34:16	affect 32:24	along 12:8 14:12 15:5 19:6 (4)	anything 24:5,7,9,11 35:2 37:23 52:13 67:9 (8)
12lot 6:5 9:3 18:7 21:17 30:24 31:4,15,22 32:3 35:10 63:22 65:6,15 (13)	acquisition 5:12,16 13:5 15:13 17:4 26:13 35:6 38:13 44:14 67:8 (10)	affirmative 41:24 42:6 69:5	already 17:20 26:10 32:15	anyway 55:8
14th 67:6	acquisitions 17:2	after 4:3 60:17 65:12,13 (4)	also 4:21 7:6,10,19 9:8,19 11:15 15:16,24 22:18 34:23 44:7,22 47:24 67:2 (15)	apologize 11:7 61:24
15th 67:12,13,19	acre 8:12 21:25 22:12 23:6 36:15 38:22 50:3,5 (8)	afternoon 26:19	alternative 6:7,15 9:16 30:19,22 31:3,7,16 (8)	apparently 15:21
16th 1:16 71:20	acreage 24:24	again 4:22 10:13 11:25 27:10 41:2 57:17 63:8 64:12 (8)	already 17:20 26:10 32:15	appealed 16:20
18th 59:16,17,19,21,24 60:10 (6)	acres 4:22 6:6,8,22 8:8 12:19 13:10,25 14:2,3 21:11 22:2,5,11 35:4 36:21,23,25 49:25,25 (20)	against 18:21 52:16	always 51:23 60:25	appealing 26:2
6174b10 8:22	agencies 36:5	agency 5:13 16:19 17:7,7 66:10 (5)	am 15:25 17:9	appearing 17:10 25:9
6174b5ii 9:6	act 8:17 10:7,10 14:20 (4)			

applicability 48:4	28:20 29:2,2,3,4 30:10,12,16,17 34:13,14,14 36:22	assessment 27:2,3,11	bad 36:21,25 37:3 49:25 (4)	being 31:12,18
applicant 3:15 4:19 5:9,16,20 6:2,12 7:6,15 8:17 10:11,23 11:16,25 12:10 35:23 (16)	37:15 38:6,17 39:7,25 40:2 41:12 42:24,25 43:4 44:2 45:12,14,17 47:2,22 49:9	assessor 27:7,8	balance 39:12	believe 37:20 40:10,18 41:5 61:20 (5)
applicant's 11:22	50:15 54:8 55:2,5,22 56:10	assessors 22:19	barisi 57:19	beneficial 32:16 33:5
application 1:1 5:17,25 6:3,11 11:7 17:12 18:12 19:25 29:21 30:8,14,15 31:11 32:3 38:11,18 45:5 47:9,11,13 58:3 63:22 65:17 66:8,14,14 67:7 68:15 (29)	57:2,21,24 59:3,5,22 60:15 61:12 62:18,21 64:16 68:22 (65)	association 20:22	barn 21:8 22:6 30:21	besides 64:2
applications 36:8 46:16	area 1:1 4:23 5:3 7:23 8:4,7,14 9:15,20 13:18 19:6 48:10 (12)	assuming 39:7	barren 5:7,21 6:13,20,25 15:17 17:18,21 23:8 24:14 39:9,20 40:20 43:6 48:2 (15)	best 18:4 26:20 48:16 49:8 71:13 (5)
applied 10:12	areas 8:11 9:12	attorneys 14:13 24:16 50:23 51:6 (4)	barrens 1:1 2:2 5:22 8:17 9:13 10:13 14:20 16:3 23:23 24:17,21 26:12 34:20 39:13 40:3,9,15,21 41:12,17,20 44:23 45:4 48:12,23 51:24 52:20 53:4 56:20 61:10 (30)	bidders 41:6
apply 7:14 32:23	aren't 58:9	auction 40:12,19 41:6	bit 20:15 52:6	big 17:24
appreciate 12:20	argue 31:12 44:12	auctions 16:6	bills 51:16	bill 64:23
appropriate 66:3	argued 23:3	augiar 53:23 55:20 61:2 64:25 69:2 (5)	based 41:20 57:2 66:16	bitch 54:25
approval 46:7,10,12	arguing 53:7	automatic 42:19	baseinaudibleso 42:9	blanket 42:7
approvals 9:25 10:19	argument 39:17 41:11 43:22 44:16 49:10,11 51:19 52:15 (8)	available 17:6	basically 26:3	blood 71:16
approved 46:2,4 47:13	around 8:6 13:12 21:2 34:9 51:16 (5)	avoid 10:9	beautiful 20:7	board 27:9 29:6 69:6
approximately 8:8 10:21 12:19 36:19 (4)	article 23:20	aware 56:10 58:9	because 14:7 16:3 19:20 20:20 21:22 26:9 35:10 37:20 41:18 43:14 51:6 52:19 55:9 56:7 63:19 (15)	both 5:2 45:16
aquifer 23:13	ask 35:18 36:11 38:15	b 70:2	bought 13:6 14:5 15:5 42:12 50:17 54:22 55:7 (7)	bought 13:6 14:5 15:5 42:12 50:17 54:22 55:7 (7)
are 4:6 5:2,15,18 8:2,5,13,14 10:17,25 11:19 12:7 13:24 20:8 23:5,20 27:25	asked 20:18 22:20 30:18,19 56:5,14,16 (7)	back 11:8 17:22,24 18:25 20:2 23:3 38:6,9 44:11,16 (10)	before 6:19 12:18 17:10 25:9 31:14 49:20 55:18 (7)	breakdown 50:3
asking 18:7 28:20 43:17 56:17 (4)	background 13:5	backstop 51:25	began 4:3	brief 4:20
	backstops 56:6	backstops 56:6	behind 57:22	briefly 4:17
				bring 19:5,11 23:22,24,25 38:8

(6)	25:11,15,17 26:4,6,20 27:17 31:6,12 32:13,17 35:18 36:11,24 40:15 41:16 42:25 43:7 44:15 46:10 47:4,16 48:6 51:11,20 54:5,11 56:10,13 57:6 60:8 62:6,25 65:20 68:22 (45)	chance 18:2 30:23 chances 28:15 change 23:3 49:5 63:20,24 (4) changing 16:7 52:7 chat 56:2,15 check 53:10 checkbook 45:3 chris 57:8 christmas 51:16 ciampo 3:17 56:4,5 57:6 61:7,24 62:12 63:4 (8) claims 27:2,11,17 28:14,16 (5) cases 27:6 cause 34:19 cellphone 16:13 central 1:1 2:2 9:12,13 41:19 43:22 56:19 (7) certain 32:10 39:8 52:3 certainly 24:7 26:23 36:13 certify 71:9,14 chairwoman 3:3 4:5 12:5,12 53:25 68:9 (6) challenging 15:11	closed 69:11 closing 64:10 cluster 6:5 19:4,13,15,17,22 21:17 (7) changing 16:7 52:7 chat 56:2,15 check 53:10 checkbook 45:3 chris 57:8 christmas 51:16 ciampo 3:17 56:4,5 57:6 61:7,24 62:12 63:4 (8) claims 27:2,11,17 28:14,16 (5) cases 27:6 cause 34:19 cellphone 16:13 central 1:1 2:2 9:12,13 41:19 43:22 56:19 (7) certain 32:10 39:8 52:3 certainly 24:7 26:23 36:13 certify 71:9,14 chairwoman 3:3 4:5 12:5,12 53:25 68:9 (6) challenging 15:11	10:18 commissioners 19:22 43:20 common 27:21 communication 21:3 compensated 25:21 compete 16:9,15 competing 16:2,17 competition 61:11 complaining 55:8 complete 11:18 complicated 48:7 component 41:19 concerned 52:5,7 concluded 69:14 condition 6:16 conducted 40:20 conducting 40:12 conference 2:2 confirm 40:15 61:22 62:25 confirmation 63:11 conformance 10:6,10 11:23 conforming 38:23
-----	--	--	--	--

connected 9:7 19:9	21:6,7,9,13 22:13,13 48:11 60:14 61:8 (13)	53:5,11,12 56:7,9,22 61:11,12,16,18,21 62:22,23,24 (63)	debt 19:24 dec 9:24 31:6,18 32:6 35:17 (5)	43:21 66:6,22 devalue 52:8
connection 19:11	couldn't 52:2 54:23	criteria 11:23 66:21	dec[sic] 31:3	develop 6:4,8 9:17 18:23 23:9 25:8 33:20 36:6 (8)
consider 24:11 31:6 37:11 38:12 60:18 (5)	counsel 3:8 24:3	critical 9:11 41:18	december 64:8,18	developable 55:7
considerably 29:14	county 3:11 4:12 5:14 13:14,22 15:14 19:9 28:3,8	crosstalk 33:15 41:8 54:14 62:10 64:5 (5)	decision 23:2 59:11,23 60:21,24 63:16 64:7,9,17 65:3,12,21 (12)	developed 8:2,6,14 34:4 54:24 (5)
consideration 66:12	29:4,10 34:8 37:5,13,22 38:13 39:23 52:7 59:2	currently 6:2 62:2	decisions 10:17	developer 18:17
considered 23:17	66:9 68:20 69:8 71:5 (23)	cut 13:10 23:16,16 25:17 36:6 (5)	declared 18:12	development 13:15,16,17 15:18 16:12 19:2
considering 38:10 66:8	county's 29:13	course 21:16	definite 61:14	22:9,11 23:17,18 33:18,23 35:17 57:22,25 65:7,11 67:10,24 (19)
constitutes 33:18	couple 21:10	cutting 22:4	definitive 61:8	developments 34:11
contiguous 8:25 34:25	court 71:7	dale 3:11 4:11 49:19 50:8,11 (5)	delegate 4:16	devote 50:20
continue 12:7 26:11 30:7 44:12 49:16 (5)	cover 67:15	dark 13:21	delinquent 51:3	dice 51:9 54:19
continued 14:22,23	created 35:24 54:17	date 65:13	demonstrated 66:15	didn't 24:16 36:6,6 37:7 56:15,16 61:13 (7)
copy 23:11	credit	dated 67:5,11,19	denied 27:16	different 22:7 46:18
core 1:1 4:23 5:3 9:19 10:20,22 23:8,18 24:14,23 25:7 33:24 34:20 42:13 65:8 (15)	15:20,22,24 16:8,16 40:3 41:17 45:19,20,22,22,24 46:2,13,21 47:5,11,16 52:20 (19)	dating 50:15	department 9:25 46:8	difficult 33:19
corner 17:8 22:12 25:24	credits 5:21,23 6:13,20,24,25 10:13,14,15 15:18	dave 46:17	department's 52:10	director 3:7
corral 20:25 22:6	16:5,14 17:18,19,2 0,21,23,25 18:2	day 60:24 64:10 71:20	dependency 37:14	disapproved 10:24
correct 39:13,14 40:6,14 41:22 60:2 (6)	39:9,13,20 40:5,10,11,20,23 41:12,21 42:2,8,10,20,23	days 41:17 58:8,13	depending 48:4	discussing 29:12
cost 50:4	43:6,16,24,25 44:25 45:17	deadline 58:15,17 60:21 64:17 (4)	description 7:24 70:4	discussion 27:23
could 6:20 12:22 18:5,23	46:9,25 48:2,2,9 51:24 52:5,9,12	deal 29:4	designated 9:3,11	dispute 33:7
		dealer 15:16	determination 11:21 66:17	disruption 25:15
		debating 66:5	determining	

distinction 47:25	due 58:18	enter 49:6	exception 34:10	facts 29:16
district 8:13 48:5	dwelling 20:19 29:22 30:20 35:8 42:13 68:16 (6)	entertain 49:14	excess 44:2	failed 28:11,22
divide 10:14	e 3:2,2,13,13 70:2 71:2 (6)	entirely 5:7 58:22 60:8	executive 3:7	faith 49:7 53:18
division 30:24 35:9	earlier 16:21 57:3	entity 39:23 52:4	exemption 8:16 9:22	fall 26:7
documents 10:25 30:13	early 58:15	environment 55:6	exercise 48:15	family 6:10 14:17 30:21
doe 13:16 34:11 57:23,24 (4)	east 19:11	environmental 3:9 9:12 35:15 49:3 (4)	exhibit 7:4 8:5 70:4	far 9:23 12:4 45:17
does 5:22 10:5 29:25 33:4 35:7 38:11 45:23 55:15 65:9,24 67:7 (11)	easy 18:19	esq 3:8	exhibits 7:5,7 67:3	farm 20:21 39:11 68:17
doesn't 20:12 42:21 47:5 66:18 (4)	economically 48:17	essential 67:8	exist 42:21	favor 55:11 69:3
doing 12:25 56:12	ed 4:9,14	essentially 8:25	exists 6:16 66:15,23	federal 7:19
dollar 56:6,14	edward 3:4	established 48:12 66:7	exit 13:11	fees 46:19
domenica 71:7	either 13:13,21 34:4 57:7 66:15 (5)	establishing 16:6	exorbitant 14:24	felt 20:17
done 12:22 21:24 36:10 57:3 (4)	element 35:21	estate 14:9,10,24 20:23 50:21 52:18 54:21 (7)	expected 52:25	few 13:7 58:8
door 22:10 47:2,3	elements 32:18 33:12 42:16	evaluation 51:25 57:3	expects 55:16	fight 35:11 46:19
dorian 3:11 4:11	else 13:18 17:13 33:8 35:2 55:24 56:3 (6)	even 13:22 15:8 18:19,25 19:15 24:10 33:18 44:11 48:2 (9)	experience 51:12	fighting 46:24
down 23:16,16 25:17 36:6 48:23 51:2 (6)	email 57:18	explained 45:19	file 22:23 26:25 27:16,17 28:11,13 29:18 (7)	
drained 15:2,3 24:19	emergency 4:15	expressed 5:24 6:10 33:17 49:24 (4)	filed 22:25 27:13,25	
drawing 19:17	emily 4:14	expressway 5:2 13:11 14:2,4 19:7 (5)	financially 15:3	
drawings 36:8	end 11:19 32:7 36:22	event 29:25	find 21:6,12 60:22	
drinking 25:18	endangered 7:12,13	ever 53:6,9 62:13	fine 31:9 57:12 63:17	
drop 48:21,23	engineer 19:16	every 17:7,7 22:22 28:13 (4)	finished 38:7	
	enough 26:14	everything 13:18	extraordinary 17:11 25:10,11	
		exceeds 8:23	extensions 69:8	
		excellent 13:2	f 1:1 71:2	
		except 33:5	factor 53:3	
			five 6:8 8:12	

21:25 22:4,12	27:4,8,13,19,22	(12)	guy 14:10 54:20	has 4:14
23:6 25:2 38:22	28:2,6,9,18,23	goes 44:15 50:16	5:4,5,20,23,24	
58:13 67:20 (10)	29:8,21 30:18	52:16 67:9 (4)	6:2,10 7:2,6 9:8	
florida 59:7	31:9 32:22	going 12:7 15:21	13:12 14:20	
	33:2,17	17:11,14 19:21	16:11,22 21:4	
floundering	36:2,13,17,20 37:2	20:16 22:15	23:12 25:21 26:16	
15:22	38:15,21 39:14	24:5,9 32:2,11	30:5,14,15,22	
	40:7,19 41:5,14	35:9,11,12,13,15	36:25 42:7	
fluctuate 52:21	42:12 43:5	36:22 37:11,18	45:2,18 52:25	
	44:3,20 45:14	39:8,11 44:6	56:21 62:2	
	47:12,15,21	45:12 46:15	66:6,14,16	
focus 42:15	49:9,24 50:7,9,13	48:15,22 49:2,20	67:21,23 (35)	
	52:23 53:22	50:2 54:7 56:3	hasn't 21:20 30:4	
follow 51:3,3	59:2,3,6,17,22	58:6 60:15	31:19 42:23	
	60:2 61:3	64:20,22,25 66:13	43:13,14 66:17 (7)	
following 4:4	63:17,20 64:14,19	(37)	haven't 11:3	
	65:5,14,23 66:6	gone 34:13	having 60:23	
formally 65:5	67:11,18 70:6,8	good 49:6 53:18	he 4:16	
	(71)	55:3 56:9 59:18	5:20,21,23,24	
forth 44:12	generate 6:23,25	(5)	6:3,10 24:3,6 43:8	
found 14:14,18	get 11:13 17:19	got 11:7 20:16	,10,12,13,14,17,18	
30:23 43:13,15 (5)	18:18 20:3	23:2 52:24 (4)	46:11,20	
four 50:17	22:13,14 28:20	government	54:6,19,19,22,23	
	39:19 41:3	15:10	55:6,7,8,9,15	
fredrick 3:15	43:5,24	16:10,11,15,17	66:16,18 (30)	
12:14	46:3,7,10,12,19,20	17:14 22:15 34:17	happens 48:19	
	47:16 52:5 53:16	36:5 56:6,11 (11)	happy 29:18 37:8	
free 37:5	55:9	grace 32:11	he's 54:24	
	56:10,15,17,22	33:13	head 56:25	
fresh 7:8	57:4,10,11 60:8	granted 31:4	heads 13:8	
	61:8,13 63:3,6	granting 59:22	health 9:25 46:8	
front 22:8	64:22 (34)	greater 43:10	52:9	
frontage 5:4,6	gets 65:21	45:17	hear 65:11	
further 37:23	getting 51:22	grievance	heard 44:17 58:2	
71:14	give 13:4,7 20:17	22:24,25 27:13,16	61:9,13 (4)	
future 12:23	24:5,9 47:4	(4)	hearing 1:1	
	59:4,11 (8)	groundwater	18:11 32:7	
gallagher 3:3	given 18:5 51:5,6	9:14	37:15,20 38:5	
4:5,7 12:5,12	62:3 (4)	guess 28:9 39:4	42:15 49:15	
53:25 68:9 (7)	giving 24:7,11		58:10,11 60:16	
gamble 52:17,18	37:14 64:17 (4)		61:4 62:6,15	
gave 21:21 23:10	go 4:18 7:5,23		63:12,14 64:11	
	15:21 17:21,24		65:4,10 68:10	
gazza 1:1 3:15	32:11 44:11,15		69:11,13 71:12	
12:10,11,13,14	52:2 53:2 62:20			
26:16,23				

(23)	holding 14:16 30:12 61:12	37:8 38:6 45:6 46:12 (12)	indecipherable 33:15 41:8 54:14 62:10 64:5 (5)	19:2,13,24 21:24 22:15,22 23:14,18 24:4,9,23 25:6,12 27:20 29:10,19 31:15,17,17,25 32:5,11 33:7,8,11,22 34:2,3 35:3,9,10,21 37:11,14,20 38:18 39:17,19
hearings 46:18	home 22:6 48:24 51:15,15 57:22 63:21 65:16 (7)	i'm 7:23 11:11 12:17 15:16 16:16 17:8,8,25 22:10 24:6 25:3,5,23,23,24,25 26:20 29:12 33:2 35:11,12,13,15,20 37:18 38:19 39:7	indicate 67:8	31:15,17,17,25 32:5,11 33:7,8,11,22 34:2,3 35:3,9,10,21 37:11,14,20 38:18 39:17,19
hears 27:6,11	homes 34:4	26:20 29:12 33:2 35:11,12,13,15,20 37:18 38:19 39:7	inform 58:10	33:7,8,11,22 34:2,3 35:3,9,10,21 37:11,14,20 38:18 39:17,19
help 24:15	hope 26:4 58:23	35:11,12,13,15,20 37:18 38:19 39:7	information 10:5 20:20 57:5,10 (4)	37:11,14,20 38:18 39:17,19
helpful 58:8	hopefully 53:19 65:21	41:23 44:3,6 45:4,7 46:22 48:11 55:10,11	informed 5:13 57:20	40:13,14,18 41:20,20 42:8,19 43:7,12,13,22,23 45:19,25 46:3 47:24
hendricks 14:6,8,14 15:2 24:13 25:4,6 26:7,15 (9)	hoping 64:13	58:3 63:18 64:12,20,22,24 65:15 (43)	inquiry 14:21	47:24 48:18,18,23,25 49:8,21
her 11:9,13 14:13,17 15:3,4,5,10 21:21 24:14,15 34:6 58:3,10 (14)	horse 6:9 20:21 21:15 22:5 30:21 39:11 68:16,17 (8)	i've 16:10 21:14 22:18	intention 5:11	50:19,25,25 51:10 52:20 53:3,16,25 54:16,20,20 55:8 58:6,15 59:15 60:2,20,24 61:15,18,19,21
here 26:20 43:22 49:17 53:3 61:4 (5)	horses 20:24 21:2,9 65:16 (4)	idea 20:19 35:6	interjecting 27:24 47:8,21	62:2,5,7,12,14,16 63:16,20 64:13 65:4 66:5,8,10,13 67:13,13 68:25 69:11 71:11 (134)
here's 47:4	hour 50:12,14	ii 9:18 29:23 31:13 32:20,20 48:25 (6)	interpretation 10:12	69:11 71:11 (134)
hereby 71:9	house 21:8 22:2 30:17 31:8 (4)	imagine 28:2	into 7:9 17:8 25:24 26:7 34:21	island 5:2 10:6 20:21 64:21 (4)
hereto 7:17	housing 10:7 11:24	immediate 32:25 34:3	37:8 50:16 51:22 53:2 63:3 (10)	isolated 34:15 35:3
hereunto 71:20	how 14:19 18:20 24:20,23 25:15	impact 18:15,16 35:12 49:3 (4)	invested 15:6	issued 6:20
hey 53:9	26:10,11,15 30:10,11 36:14	important 17:2,4 52:11	investment 14:17 21:14	items 11:19
hi 30:9	59:9 (12)	inability 43:23	investor 17:25 18:17	its 9:8 23:15 38:14 42:14 (4)
highway 5:6	however 29:17	inaction 35:22	involved 51:9	itself 16:4 53:5
him 54:12 55:17	hung 38:19	inaudible 33:14 41:7 54:13 62:9 64:4 (5)	involves 68:15	janice 21:4,4
hire 47:22	hurdles 35:16	inclined 56:12	is 4:14,19,22,24 5:7,16 6:7,15,21 7:3,8,10,22,24 8:20,21,25	jay 3:5 4:8 53:23 68:25 (4)
hiring 47:22	husband 57:24	including 10:2,15,19 11:20 35:23 (5)	9:10,17,20,21 11:25 12:13 13:18,20,21 14:9 15:22 16:4,7 17:14 18:5,8	jerry 41:2 62:25
his 4:16 42:16,17 43:15 45:25 54:25 63:21 64:2 65:5 66:7,13,14 (12)	hydrological 48:5	incredible 55:14	job 13:2	
hits 51:15,15	i'd 12:24 18:21 60:7			
hold 14:23	i'll 7:4 19:4,5,6,7 26:8 29:15 36:17			

joe 26:16 30:9,25 33:9 39:6 43:16 44:6 45:11,13 46:6 47:4 51:19 53:10 64:16 (14)	knocking 47:3 know 17:12 18:7,13,19,23 21:16,18 22:3 23:10 24:8,10,22 27:25 28:5,15 29:7,8,12 30:11 32:14 35:10 38:20 43:16,18 45:14,16 48:4,8 56:24 62:19 64:22 (31)	leave 13:3 37:19 58:21 60:7 65:18 68:5,10 (7) legal 3:8 less 29:24 let 29:18 38:3 61:24 let's 40:7 44:11,12,13 45:20 65:18 (6)	26:10,11 49:2 56:9 64:21 (10) longterm 14:17 look 21:19 27:20 37:8 looked 15:11 looking 33:2 lot 10:8 18:8 21:25 31:16 38:18,22 50:16 51:10 65:7 67:10,23 68:17 (12)	manhattan 24:19 manorville 4:24 57:23 many 26:15 28:12 map 7:4,8 8:4 13:20 19:17,23 (6) maps 20:13 marisa 11:9 marissa 57:19 market 15:20,22,24 16:8 17:25 40:4,5 42:25 (8) marketing 40:9 marriage 71:16 material 63:24 67:17 materialize 30:2,4 materials 67:16 math 43:8 matter 1:1 18:20 53:20 58:25 66:19 71:16 (6) matters 10:18 71:18 may 10:7 12:11 37:12,15,16,21 43:14,17,18 60:12 (10) maybe 12:23 15:14,14 16:18 41:22 50:17 58:13 (7)
john 3:7,8 12:7,24 24:3 30:10 42:4,18 45:10 49:13 54:5 (11)	 knowing 42:13	 letter 10:12 23:25 67:11,15,19 70:6,8 (7)	 lieu 10:9 life 15:4 20:5 24:14 26:9 46:23 50:18,20 (7)	 lots 8:2 9:4 19:5 24:24 (4) loving 6:10 lower 42:8,24
joseph 1:1 3:15 12:10,13 (4)	 knows 45:11	 like 4:20 12:24 14:11 23:4 39:21 44:2 48:20 50:11 57:16 58:2,4,20 63:19 68:7 (14)	 luck 55:4 lucky 55:2 m 67:4 70:8	 material 63:24 67:17 materialize 30:2,4 materials 67:16 math 43:8 matter 1:1 18:20 53:20 58:25 66:19 71:16 (6) matters 10:18 71:18 may 10:7 12:11 37:12,15,16,21 43:14,17,18 60:12 (10) maybe 12:23 15:14,14 16:18 41:22 50:17 58:13 (7)
judged 38:14	 kosherphonetic 57:8	 like 4:20 12:24 14:11 23:4 39:21 44:2 48:20 50:11 57:16 58:2,4,20 63:19 68:7 (14)	 lines 14:12 list 7:20 8:16 9:9,22 32:17 (5)	 made 29:15 30:5 56:20 magnitude 43:9 maintain 32:2 major 29:13 make 4:20 12:2 37:7,12 44:16 46:25 49:4 50:24 53:20 55:17,19,25 63:9,21 65:2,20 (16)
just 4:13 11:18 13:6,7,14 18:6 20:3 21:10 22:4,13 24:6,19 25:2 26:16 28:9 29:15 31:20 32:13,17 33:13 35:3 38:18,19 39:10 44:13 47:2 53:21 55:3 56:5 57:17 58:21,21 60:16 61:7 63:24 64:8,23 65:11 66:20 68:15 (40)	 land 8:9 9:2 13:21,25 14:5,7,9,15,16 16:14 19:8,8,10,10 20:6,7 22:14 23:14 24:23 25:6,16,25 29:3 32:17 34:22 55:7 (26)	 like 4:20 12:24 14:11 23:4 39:21 44:2 48:20 50:11 57:16 58:2,4,20 63:19 68:7 (14)	 lines 14:12 list 7:20 8:16 9:9,22 32:17 (5)	 made 29:15 30:5 56:20 magnitude 43:9 maintain 32:2 major 29:13 make 4:20 12:2 37:7,12 44:16 46:25 49:4 50:24 53:20 55:17,19,25 63:9,21 65:2,20 (16)
k 67:4 70:5	 lane 12:15	 listed 7:11	 litigation 50:24	 make 4:20 12:2 37:7,12 44:16 46:25 49:4 50:24 53:20 55:17,19,25 63:9,21 65:2,20 (16)
keep 63:14	 last 5:10 14:18 40:12,25 50:18 (5)	 little 4:15 13:4,8,14,16,23 15:6 20:4,15,25 34:10 52:6 (12)	 located 14:7	 may 10:7 12:11 37:12,15,16,21 43:14,17,18 60:12 (10)
key 53:3	 later 15:4	 living 55:15	 makes 61:2	 maybe 12:23 15:14,14 16:18 41:22 50:17 58:13 (7)
kind 39:18 41:18 59:5	 law 23:19 32:10 33:11 41:20 (4)	 located 14:7	 making 52:15 53:2 68:4	
kinds 48:6 50:24	 layouts 22:7	 long 5:2 10:6 14:19 16:10 20:21		
knew 15:12 51:21 53:3,6,11,11,13 54:23 55:6 (9)	 learned 16:10			
	 least 10:8 28:21			

me 13:3 18:5 20:17,19 21:5 23:22 24:9,11,12 25:19 30:5 41:22 43:7 46:5,12 47:22 53:5,6 56:13 61:25 64:20 71:11 (22)	66:2 68:13,18 69:3,7 (36)	municipalities 41:25	never 14:18 53:3,6,11,13 61:12 62:2 (7)	now 13:23 15:23,25 16:4,16,22 22:18 25:3 31:14 32:12 44:25 54:24 55:2,8,19 56:17 66:8,13 (18)
mean 18:14 25:17 57:9	mile 8:10	municipality 15:14	new 4:7 7:11 66:23 71:3,9 (5)	nowhere 44:15
means 18:14,14,15	mill 5:4 19:24 22:8	municipally 13:19 34:8,14	next 12:9 20:9 22:9,10 58:13,18 60:13 66:24 (8)	number 10:14 34:19 50:6
meek 3:3 4:6	minutes 49:23	mute 64:13	night 29:6	numbers 56:23
meet 9:9	moments 13:7	my 11:18 12:13 13:2,5,24 16:19 17:5,15 18:6 19:8,16	no 5:23 16:21 17:6 18:20 20:11 21:18 23:2 25:12,14,14 26:13 27:10 28:7 30:5,18,18,23 33:23 35:5,5	o 3:13 71:2
meeting 11:3 29:6 37:19 58:17,18,23 59:14,15,21,25 60:14,20 (12)	month 65:20,22 66:25 68:6,11 (5)	20:4,5,11,13 21:13 22:25 24:6 26:3,9 27:22 29:9 36:2 38:4 39:4 40:25 46:23 47:3	37:2,3 39:25 41:6 42:19 49:10,10 50:13,13 53:6,9 57:12,15 61:14 71:17 (35)	obligation 41:24
meets 9:5	months 46:14	myself 14:11 57:8,24	nobody 19:14 24:15	obligations 42:6
member 3:4,5,6	more 10:8 13:23 29:15 43:5,8 44:7 52:13 63:6 (8)	n 3:2,13 71:2	noncontiguous 4:25	obtain 5:22 6:13 7:15
members 4:6 49:16 53:15 68:18,22 (5)	morning 21:22	name 11:10 12:13	nope 23:20	obviously 48:8
mentioned 8:20	most 43:2	named 57:19	north 8:3 13:17 14:2 22:12 34:12 (5)	occasions 40:13
merits 38:14 66:13	mostly 13:13	natural 23:15	off 42:3 56:24	occur 35:7
met 18:10	motion 68:4,24	necessary 29:19 46:3	october 58:19,23 59:7 60:14,19 61:4 63:15 65:10 (8)	
might 19:18 30:7 39:24 48:16 52:8 58:8 64:8 (7)	move 12:8 49:12 53:20	necessity 29:23	offered 37:4 40:24 42:23	
milazzo 3:8 24:3 30:9,10,25 31:10 33:9 35:20 37:10,25 38:8,24 40:16,22 42:3,22 45:2,8,11 49:18 54:3,8,11 56:19 57:11 60:11 61:15 62:5,14 63:8 64:7	ms 4:13,17 11:17 12:25 14:6,8 15:2 16:21 32:15,23 49:12 53:23 55:20 57:15 59:3,13,19 60:5 61:2 64:25 65:3 67:2 68:8 69:2 (24)	need 6:19 7:15 9:24 20:14,14 38:20 44:6 46:7 48:20 49:4 67:3 (11)	necessary 29:19 46:3	officially 9:11
	much 13:3 29:24 36:14 42:8 43:17 55:11 63:7 (7)	negotiations 49:7 53:18	notary 71:8	ogden 12:15
	municipal 35:6 39:22 44:10,14 (4)	neighbors 57:21	noted 62:16	oh 11:17 50:11 56:3 64:25 (4)
			nothing 34:21	old 26:10
			november 58:16 59:9,14,14,19,21,2 4 60:10,20 63:16 64:19 65:10 (12)	

once 27:15 56:3	55:23 57:13,16 66:10 (16)	p 3:2,2,4,13 (4)	pending 44:13,19,22 53:18 (4)	6:13,20,25 8:17 9:13 10:13 14:20 15:16 16:3 17:18,21 23:8,23 24:14,17,21 26:12 34:20 39:9,12,20 40:3,8,15,20,21 41:12,16,19 43:6 44:23 45:4
one 10:8,22,24 16:22 20:18 21:18 23:16,16 25:17 30:5,16 31:5,16 33:19,25 34:2 36:17 37:3 38:18,22 39:11 46:24 50:19 51:19 53:6,9 54:3 65:7 67:10,23 (30)	otherwise 48:25 60:22	packet 7:2,3	people 18:22 20:23 21:15 28:12,13 35:15 46:22 47:2 51:2,4,11 55:5,16 58:9,12 60:9 (16)	6:13,20,25 8:17 9:13 10:13 14:20 15:16 16:3 17:18,21 23:8,23 24:14,17,21 26:12 34:20 39:9,12,20 40:3,8,15,20,21 41:12,16,19 43:6 44:23 45:4
only 5:5 21:21 30:16 34:22 36:7 50:17 62:24 65:4,7 (9)	out 11:4 14:13,14 17:5 18:3,18 19:19 21:25 22:4 24:2 29:2,16 37:15,16 39:20	palliable 19:21	percent 8:24 9:5 28:19 44:20 (4)	pines 4:13,14
onto 22:8	40:5 42:21 50:22 57:11 65:2 (20)	paper 45:24 47:10	perfectly 66:2	pink 13:24
open 5:12 6:6 9:3,4 40:5 58:7,21 60:6,8 63:15 65:19,20 68:6,11 (14)	outcome 44:14 48:16 71:17	parcel 5:4,5 6:18 9:21 34:21,24 35:5 37:22 (8)	period 56:9 58:7 60:6,13 (4)	pitch 54:25
opened 19:18	outside 66:11	parcels 4:25 8:13 13:23,24 (4)	permits 7:15,17 9:23,24 10:2,4 (6)	place 14:20
operated 9:2	outstanding 56:21	park 9:2	permitted 19:3	plan 8:6 21:16,17,19 49:8 (5)
opinion 24:6 53:21	over 5:21 15:6 19:16 30:3 37:20 40:12 45:5 53:8 (8)	part 15:4 51:7	person 11:8 12:22 46:20 57:16 (4)	planner 3:10
opportunity 12:20	overcome 35:16	particular 48:10	planning 1:1 2:2	plans 57:21
opposed 11:14 57:25	overlap 6:16,21 10:16	parties 33:16 41:9 54:15 62:11 64:6 71:15 (6)	perspective 52:10	please 54:12
oral 68:5	own 9:8 25:6,25 34:25 35:2 40:9 62:22,23 (8)	partner 29:14 37:21	persuing 50:21	plus 28:20 50:9
orally 23:4	owned 9:2 13:13 14:14,15 34:8,14,22 (7)	path 8:3 34:12	petition 22:24 23:2 27:3,12,14,18 28:14,17 (8)	pm 2:3 4:3 69:14
order 43:4	owner 12:17	pavacic 3:7 11:15 12:9,24 54:6 55:24 59:20 60:3,4 61:5 (10)	petitions 28:6	point 11:4 17:13 29:16 37:18 (4)
orders 43:9	ownership 34:5	pay 14:23 24:13 36:9,15 64:21 (5)	piece 33:20 34:15 45:23 47:10 61:23 (5)	policy 1:1 2:2
original 41:19	owns 5:20 40:23 62:24	paying 14:8 46:18	pieces 50:18	politicians 16:23 28:25
other 8:2,7 16:24 25:12 32:24 34:13 35:7 49:14,16 50:23 53:15,16		payment 10:8	piggyback 39:5	portion 4:2 6:17,21,21 10:16 60:17 63:14 (7)
			pile 17:20	pos 31:3,6,18 32:6 (4)
			pine 1:1 2:2 5:7,21,22	position 25:4

positive 35:16	problematic 60:25	proposal 6:7,15 9:16 65:11 (4)	pursuant 7:16 8:22 9:18	58:16
possibly 20:3	procedurally 60:11	proposed 6:4 31:17	purview 66:12	realtors 20:22
potential 5:15 14:22 15:13 38:12 67:23 (5)	procedure 28:11	proposes 8:18	pushed 17:8	reason 31:11
prefer 67:9	proceed 29:17,18	protect 7:18 19:6 55:6	pushing 22:10	receive 57:18
preferred 39:21	proceeding 5:17	protection 9:14 23:14 33:6,23 55:11 (5)	put 62:6,15	received 7:6 20:20 60:19 67:12,14,18,20 (7)
prepared 44:24 55:12 71:11	proceedings 4:3	proceeds 65:6	putting 22:5 57:9	receiving 60:23
present 4:19 11:12 12:2 33:16 41:9 54:15 62:11 64:6 (8)	process 5:15 29:20	prove 25:12 35:14	question 35:19 36:12 38:16 39:3,5 49:19 61:6,25 62:12,16 (10)	recent 43:3 45:13
presentation 4:20 12:2 26:4 42:16 (4)	processes 46:16	provide 10:5 40:16 50:3	questions 12:3 26:19,22 32:8,13 53:16 (6)	recently 42:11 57:20
presented 21:20 22:2	processing 5:18	provides 67:6	quickly 64:13	recommend 63:13
preservation 1:1 4:23 5:3 9:20 34:5 (5)	program 16:16 57:4	provision 8:16	quite 45:7 47:25	recommendation 32:5
preserve 25:18	prohibited 23:18	prudent 48:18	quogue 12:16	record 10:19 30:13 32:18 40:17 41:4 43:2 52:14 56:18,24 57:9 60:17 62:7,16,17 63:3,3,14 65:19,19 68:6,11 71:12 (22)
preserved 8:8 13:19 23:12	project 6:18 8:10,11,20,21 9:24 10:5 11:14 16:13 46:2,3,6 (12)	public 1:1 5:12 9:2,7 25:20,21,22 34:5 38:4 49:15,17,21 53:17 54:2,3 55:23,25 57:14 60:5,9,12,23 62:5,14 63:13,25 68:10 71:8 (28)	radius 8:10	raise 56:2
price 43:15	properties 17:3	publishing 18:11	rather 48:14	recoup 21:13
prices 16:7	property 5:10,11,23 6:4,14,24 7:21,25	purchase 17:15 29:3,25 30:3 42:10,19 56:22 (7)	raynor 71:7	recouped 15:8
primrose 8:3 34:12	8:3,19 10:15 12:17 13:9 15:7,10,12 16:20 17:4,15,17 18:6 20:10,12 21:7,11 22:21 23:6,7,24 32:24 33:4,20	purchased 5:9 35:4 36:15	reach 17:5	recusal 38:4
principal 3:9	34:3,9,16,25 36:3,4,16 37:3 39:10,22 42:12 43:11 51:5 54:23 66:11 (47)	purchasers 39:25	reached 14:13 24:2	recusals 68:19
prior 10:17	34:3,9,16,25 36:3,4,16 37:3 39:10,22 42:12 43:11 51:5 54:23 66:11 (47)	purchases 14:22	read 33:13 54:5	recused 68:20
private 8:18	36:3,4,16 37:3 39:10,22 42:12 43:11 51:5 54:23 66:11 (47)	purchasing 36:3	reading 19:14	reduction 10:9 28:20,21
probably 32:4	36:3,4,16 37:3 39:10,22 42:12 43:11 51:5 54:23 66:11 (47)	purporting 43:12	real 14:8,10,24 20:23 50:21 52:17 54:21 (7)	refuse 37:13
problem 51:18 57:12	36:3,4,16 37:3 39:10,22 42:12 43:11 51:5 54:23 66:11 (47)	really 49:22	regarding 9:6	

regular 11:2	residence 6:9 9:17 20:24 67:25 (4)	rich 54:8 55:20	sad 24:12	32:20
regulate 7:8	resident 8:12 11:10	richard 3:16 54:4	said 18:25 19:4 20:2,11 21:5,10,11 22:21,23 23:5,7,11,20,21,22 24:3 34:7 53:9 57:20 (19)	see 14:11 18:22 22:3,8 23:4 24:12 48:19 (7)
regulations 7:13,16 24:18 25:13,14 52:8 (6)	residential 8:15 23:7 24:24	rid 55:9 56:11	seeing 44:4,4	
regulatory 7:17	resolution 37:11 58:24 69:9	ride 21:2,9	seek 5:22 6:12 38:22	
related 71:15	resolve 64:24	right 15:22 16:22 19:12 22:9 27:15 31:14 33:10 45:5 50:12 51:15 57:10 63:9 (12)	salvatore 3:17 56:4 61:6	seeking 30:16,17 42:10
relief 22:21	resolved 6:19,23 65:22	rights 15:18	same 25:3	seem 65:25
remain 23:15	respect 32:9 42:5 63:12	ring 21:8	satisfaction 35:14	seems 39:21 48:14 63:23
remainder 6:14 39:9	response 56:15,17	risk 51:7,9,22 55:13,14 (5)	say 4:13 13:4 17:17 19:22 25:14 37:23 42:20 44:11 45:20 46:10 51:20 52:13 53:17 (13)	self 54:17 58:4
remaining 50:4	responses 11:22	riverhead 4:11 61:17 62:21,22 68:22 (5)	selfimposed 51:20	
remind 66:4	responsibility 55:4	road 5:5,6 9:21 19:6 22:8 (5)	sell 5:11 36:4,24 37:2 39:22 40:4 41:16 43:23 44:25 45:19,20 46:24 53:12 (13)	
remove 33:21	rest 6:24 38:4	roll 51:8	say 40:2 45:9 47:3 52:16 (4)	
removing 33:18	rests 69:10	rolled 54:19	says 23:9,12 24:6 25:13 33:3 46:6,11 54:19 (8)	sellable 41:13,13,14,16 (4)
report 4:18 7:7 8:5 11:18,20 34:7 67:5 70:5 (8)	retain 39:8 52:12	romaine 3:4 4:9 26:21,24,25 27:5,10,15,20,24 28:4,7,10,19,24 29:9 30:8	schneiderman 3:5 4:8 35:18 39:2,4,16 41:10,15 42:18 43:19 45:7 47:7,14,19,24	seller 42:20
reporter 71:8	returns 4:16	revello 32:15,23 36:11,14,19,24 37:6,16 38:2,3 (25)	49:13 51:18 53:14 55:22 57:13 58:20 59:10,16 60:7 61:3 63:18 64:12 65:18,24	selling 16:5,14,14 56:8
reports 19:14	review 27:2,12,18 28:6,14,16 29:24 (7)	room 56:2	68:3,12,14,25 (33)	61:10,16,18,21 62:8,18,21 (11)
represent 43:13	reviewing 11:21 66:22	ruined 15:3	sells 43:16 66:18	
request 48:21 57:6	revised 30:15,16	rules 24:18 33:24	sense 61:2	
requested 11:8	revising 38:17,21	run 13:16 34:11 57:23,24 (4)	sent 57:7 58:3	
require 10:7	reward 20:4	s 3:2,13,13 70:2 (4)	separate 34:24 35:5	
requirements 11:24			separated 4:25	
requires 9:19 32:10 65:8			september 67:6,12,13,19	
research 31:24				
reside 12:15				

71:21 (5)	significant 18:15	52:11,15 54:11 56:17 57:4	15:17 17:23 61:19 62:23 68:23 (6)	63:24 68:23 71:3,8 (16)
seqra 9:18 10:25 11:20 29:19,24 31:2,17 48:25 (8)	similar 10:18	58:6,8,16 59:22 60:8,11 62:6 63:9,12 64:16	southerly 6:18	stated 5:20 13:9 34:6
serve 8:19	since 9:10 14:15 35:8,24 39:10 (5)	65:3 66:20 67:3 68:2,4,9,19,21,24 69:9 (79)	southern 5:5 6:17	statement 18:16 35:13 49:3
serves 9:9	single 34:24 35:4		space 5:12 6:7 9:3,5 (4)	statute 32:10
set 71:20	singlefamily 6:9 9:17 20:18 29:22 30:20 31:7 35:8		speak 11:12 17:9 29:10 54:7 57:16 (5)	stay 31:19 48:22
seven 8:13	48:24 63:21 65:15 67:24 68:16 (12)	17:16,16,16,21,23 18:6 22:16 26:2,5,5,21 28:21 32:8 39:12 41:24 43:24 44:6		step 16:19 18:25 52:4
shaded 13:21	sir 27:25 29:7	45:15,16 52:4 67:15 (22)	special 9:14 58:17	stepped 20:2 24:15 53:9
she 11:10,14 14:15,16,21,22,23 15:8,9 21:5,9,11 24:16 34:7 58:4 (15)	site 4:24 5:6 6:18 7:10,10 8:6,9,10,11 (9)	somebody 46:24 55:2,12	specialty 51:2	still 30:17 31:22,23 38:19 (4)
she's 11:12	sitting 4:15		species 7:12,13,18,20 (4)	stop 26:17
shed 33:6	situated 7:22	someone 40:14 43:7 45:3	speculative 52:19	stopped 14:8
shortterm 49:8	situation 60:25	something 14:12 19:2 20:14,17 22:14,17 23:23,25	spend 26:8,9 46:14	stormwater 10:3
should 4:17 16:25 26:11,11 34:16,17 42:20 44:17 52:22 (9)	six 46:14	24:25 25:16 26:6 34:18 51:10 68:7 (14)	spending 28:25 46:22 49:2	strong 29:9
shouldn't 44:18 52:18 55:19 64:9 (4)	size 10:21		spent 15:9 16:24 19:16 20:6 (4)	struggling 22:19
show 20:12 25:13 33:10,11 (4)	small 18:6 27:2,11,17 28:14,16 (6)	sometimes 47:17,18	spot 25:23	stuck 25:24
showed 23:19,19	smarter 43:7		ss 71:4	study 7:23 8:4,14 49:4 (4)
showing 32:11	so 4:15 5:18,21 12:3 16:18 17:8 18:24 19:16 20:2	somewhat 40:2,7		subdivision 6:5,6 7:4,22,24 8:21 9:4
shows 13:20	21:13,18 22:10 24:12 25:5 26:6 27:20 28:10,12,21 29:15,19 30:25	sorry 7:23 35:20	staff 4:18 7:6 8:4 11:18,20 31:18 66:21 (7)	10:4,20 11:11 18:8 20:9 31:5,15,23 63:23 65:6 (17)
side 7:10,25 13:15	31:3,16,22 32:2,12,15,19,23 33:10 34:15 36:22 37:12 38:10,15 39:7,16 41:10,16	sort 14:10 41:10 63:5	stand 38:3	subject 32:3 33:4 63:10 66:23 (4)
sides 19:7	42:14,18 43:5,24 44:6 45:2 46:5,21,25 48:8,24 49:4 50:20,22	sought 49:22	standards 33:10	submit 7:17 58:12
sign 14:10 45:4,6		sounded 44:8	start 12:11 40:8 49:20	submitted 6:3 11:6,9
		sounds 31:2 44:2 48:20 63:19 (4)	state 4:7 7:11,20 13:13,22 15:15 19:10 23:15 24:22 34:9 39:24 41:25	

success 28:16	takes 55:13	their 7:18 21:2 35:16 40:9 47:12 48:3 51:5,6 (8)	40:18 48:15	top 56:25
successful 18:20	taking 51:22		thought 15:20 16:18 19:12 41:21,23 51:23 54:6 63:5 (8)	total 10:14
suffolk 3:11 4:12 9:13,14 71:5 (5)	talk 14:13 51:11	them 5:24 17:21 23:4,5,10,19,19 26:20 47:17 50:19,22 53:2,13 56:11,23,24		towards 50:20
suggest 42:15	tax 22:20 24:23 64:22	62:8,19,19 (19)	thousands 28:13	towers 16:13
suggested 31:18	taxation 24:19 26:13		threatened 7:20	
suggestion 29:10	taxed 15:10	themselves 68:20	three 30:12 32:18 33:12 50:17 67:3 68:21 (6)	town 4:8,9,11 5:14 9:8 10:2 15:17,25 16:2 17:22 19:9 22:20 24:21 29:6 37:8,11 38:13 39:23 40:8
supervisor 3:4,5,6 31:21 35:21 37:10 38:9 39:2,15 44:8,21 45:15 49:10 (13)	taxes 14:9,24 15:8 24:13 25:25 36:10 51:3,14 64:21 (9)	there's 7:19 8:4,7 13:14,22,25 17:24 20:10,15 27:9 32:20 33:23 40:2 44:18 47:20 51:9 52:24 54:3 57:15	threshold 8:24 9:5 16:7	45:17,22 46:8 47:25 48:3,39,19 49:7 53:19 58:25 64:14 66:9 67:5 68:21 69:9 70:5 (36)
supplement 43:2 56:23	tell 36:17 56:13	58:24 61:5 (21)	through 4:18 7:5 17:11 28:11 32:12 46:15 48:15 67:9 (8)	track 35:3 51:2
supply 8:19	telling 13:2	therefore 33:22	throw 19:19	transactions
support 55:12	ten 36:20 40:10 62:24	these 17:2 32:13 41:17,21 42:2 43:25 46:25 50:21 52:5,9,12 56:8 71:18 (13)	tight 25:23	42:25 43:3 45:13,15 (4)
supporting 67:15	tens 28:12		time 5:18 16:11 26:14,18 43:17 47:18 49:2 50:10,16 51:16 56:9,16 59:23 62:4 (14)	transcript 71:10
supposed 19:13 23:13,14	terms 43:21 50:4 64:15	they're 22:9	title 36:21,25 37:4 50:2 (4)	transfer 35:23 48:6
sure 11:12 45:8 48:11 58:4 63:9,18 (6)	test 25:10	thing 18:4		transpired 4:4
surrounding 8:9	testimony 43:24 44:17 68:5	things 12:8 16:24 19:13 31:5 (4)	trap 18:16 25:6 26:7	
survey 20:13	text 33:11	think 15:7 18:4 19:20 20:9 21:6,12 24:4	today 11:12 12:18 58:11 61:17,19 62:8 66:16 67:18,20,22 (10)	tree 10:3 23:16,17 25:17 33:19 36:7 (6)
surveyor 20:11	than 8:7 29:15	32:4,5 48:17 49:6 52:11 53:14 56:12 61:9,14 67:2 (17)		tried 18:21
surveys 36:7 46:19	testimony 43:24 44:17 68:5	third 35:21	told 16:21 53:6 66:16	true 40:18 46:11 71:11
swear 54:12	thank 12:24 26:18 28:4 37:17,24,25	those 7:16 8:5 13:24 14:12 17:23 27:6 29:16 32:12 33:12 40:5,24	tomorrow 29:3,5 37:12	trying 53:12 55:5 64:24
t 3:13 70:2 71:2,2 (4)	38:5,24 50:8 53:22 55:20 60:4 63:4,7 65:23 68:3 69:7,11 (18)	51:16 61:11 63:2 (14)	too 43:17 49:5	tverdyy 41:2 62:25
take 13:6 34:20 51:7	thanks 12:5	though 18:25	took 18:2 52:17,17	
taken 21:25				

two 4:24 9:10 10:19 13:23 15:18 16:5 22:7 24:16 34:10 40:13 68:19 (11)	19:5,17,18 21:15,19 22:8,11,15 24:15 29:5 30:13 38:19 45:6 51:5,6 53:9 64:23 67:22 (22)	vicinity 32:25 34:3	well 7:9 8:18 9:10 10:3 18:3 19:18 23:9 26:8 27:22 36:2,20 41:5 46:11 54:16 59:12 60:10 65:2 (17)	whether 44:17 66:6,9,18,22 (5)
type 8:21 9:9,18 18:13,13,18 19:23,24 26:5,5 29:23 31:13,23,25 32:4 35:11,17 48:25 (18)	upon 48:5	video 2:2	vote 59:8 68:22 69:5	went 23:3 54:22
unanimous 69:5	upper 16:11	voting 29:2 68:18	west 7:9,25 13:15 19:10 21:3 34:11 (6)	who 11:8 18:22 20:23,24 24:13 27:6,11 51:4,5 54:20 55:5,12,24 57:16,19 58:9 61:11 (17)
unconscionable 25:2	us 23:22,24,25 41:3 43:20 50:6 57:10 59:11 66:16 (9)	wait 48:18	wait 48:18	whoever 39:24
under 16:16 19:3 31:2,5 32:9,21 33:12,24 (8)	use 5:24 17:16,16 18:6 20:15 23:24 25:7,12,14,19,20,2 0 26:2,6,13 32:16 33:5,8,22 35:6 46:9,17,21 51:4 (24)	want 4:13 18:22 20:24 23:22 29:17 30:11 37:13,23 42:20 45:10,23,24 47:8,9,10,12,16 52:13 57:17 60:12 62:15 66:20 (22)	wanted 11:4 63:6	whole 13:2,18 16:8 17:19 24:14 29:15 39:16 55:17 (8)
underneath 32:19	used 34:18	wanted 11:4 63:6	what 17:13 18:13,23 20:3 21:24 23:21 28:5 33:8 35:6 36:5 41:16 42:14,24 43:8,10,12 44:3	why 13:5 17:9 31:24 37:6 (4)
understand 24:17 43:20 46:9,22 47:14,19 51:13 (7)	uses 8:6 42:14 46:18 66:21 (4)	wants 45:4,25 46:20 55:3 (4)	wetland 7:12	wilcox 46:17
understandings 63:2	vacant 34:13	wasn't 45:12	wetlands 20:8,10,11	will 4:15 12:23 13:6 29:14 31:10 37:3 38:15,21 39:5 40:16 41:3 53:10,20 56:22,23 57:11 60:16 61:22 63:2,9 66:4 (21)
unfortunate 16:23	valuable 53:2	water 7:9 8:18 9:8 25:18 33:5 (5)	whatever 24:25	willing 44:9 59:4
units 9:7	value 39:20 41:20 43:25 48:8 52:3,6,12,21,22,24 ,25 56:7,14 (13)	watershed 33:22	wheelerdealer 54:20	window 19:19,20
unless 22:14 51:11 53:15 58:16 (4)	values 42:24	way 44:19 47:6 55:18,19 71:17 (5)	when 14:11 16:12 18:9,12 30:12 36:15 38:6 50:20 51:16 52:7 (10)	wish 12:21 58:14 65:9
unlisted 8:23	valuing 23:6	we've 5:13 21:24	where 16:6 21:8 27:25 40:4 48:7 (5)	wishes 55:25
until 4:16 37:19 58:13 60:6 63:15 (5)	vegetation 5:8 25:15 33:21	wednesday 58:14 59:20	whereof 71:19	withdraw 31:10
unusual 39:18 41:11	verification 63:10	weigh 38:12 49:17	whereupon 4:2 33:14 41:7 54:13 62:9 64:4 69:4,13 (8)	withdrawn 10:23 35:9 65:14
up 13:8 15:21 16:19 18:21	very 13:3 33:19 55:10 63:7 64:13 (5)	welcome 44:21,22		withdraws 65:5
	via 2:2			within 8:9 71:10

witness 71:19	yeah 59:13	zero 52:2		
woman 21:3 24:20 57:19	year 5:10 14:5,25,25 15:19 20:5 22:22,22	zone 23:7 48:6		
won't 57:9 61:4	25:5 28:13 30:3 34:23 35:24	zoning 8:12 19:4 24:25 38:23 (4)		
wonder 61:7	40:13,25 46:14,15,23	zoom 2:2		
wooded 5:7 13:12 20:8	50:9,18 51:14 53:7 54:21 (23)	300 4:3 420 69:14		
work 50:16,22 52:25 55:19 (4)	years 14:16,19 15:9,19 17:22,24 26:9,10,14,15 28:5	500 8:8		
worked 55:18	54:21 62:20 (13)	945 10:15		
workforce 10:7 11:24	yes 11:17 12:12 19:22 46:10 49:18 57:12 59:6 61:14	1019 40:23 1093 6:22		
working 18:3 21:5,14,22 37:21 (5)	68:12,13 69:2 (11)	1953 14:15		
worth 44:2	yesterday 67:14	1994 10:21,24		
would 4:19 6:12,19,23,25 7:14,15 9:24 12:9 16:19 19:3,12 24:10 29:22,24 31:4,7,19 32:6 33:25 39:12 42:14 43:5 44:11,21,22 49:4 52:4 53:5,17 56:12 57:16,17 58:2,4,18,20 59:17 60:17 64:19 67:4,4,9,10 (44)	yet 11:4 21:21 31:20	1995 10:22 57:2		
write 53:10	york 4:7 7:11 71:3,9 (4)	2019 5:10 10:11		
written 11:5 30:6 58:7,12 64:2 65:19 68:6,11 (8)	you're 16:3,6 32:2 37:9 39:10 40:4 48:22,25 52:15 64:25 (10)	2020 1:16 2:16 67:12 71:21 (4)		
wrong 27:10 41:23	your 19:21 21:7 23:24 24:3 25:13,14 26:18 27:3 29:3 30:14,15 31:11,13 32:5 38:17 39:16 44:19 48:21,24	91420 70:6 91520 70:8		
wrote 17:6	49:3 54:8 55:21 56:2 60:12,19,24 62:16 63:15 64:7,9,10 66:12 (32)	100000 45:22 570121 32:19		
x 70:2	yourself 37:13 50:15 51:12 60:22 (4)	yvette 3:6 4:10		

I, _____, would like to make the following changes in my record:

ERRATA SHEET

Name of Witness _____

Case: _____ Date Held: _____

Signed: _____ **Date:** _____

LAWYER'S NOTES PERTAINING TO EBT