

# ORIGINAL

1

In The Matter Of:

Central Pine Barrens Commission Public Hearing

January 19, 2022

3:00 p.m.

Being held via Zoom Videoconferencing

---

RD Industrial Compatible Growth Area

Development of Regional Significance Application

RECEIVED

FEB 10 2022

Central Pine Barrens Joint  
Planning & Policy Commission

ALL STAR REPORTERS

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

Judy Jakobsen, Executive Director

Angela Brown-Walton, Administrative Assistant

Julie Hargrave, Policy and Planning Manager

Supervisor Edward P. Romaine

Supervisor Yvette Aguiar

Supervisor Jay H. Schneiderman

John Milazzo, Special Counsel

Dorian Dale, representing County Executive

Andrew P. Freleng, Chief Planner

Sarah Lansdale, Director of Planning

Daniel P. McCormick, Deputy Town Attorney

Emily Pines, Special Counsel for Town of Brookhaven

Janice Scherer, Land Planning and Development

## Administrator

Martin Shea, Senior Environmental Analyst

APPLICANT REPRESENTATIVE:

Timothy Shea, Certilman Balin

Chick Voorhis, Nelson Pope Voorhis

Brian Ferruggiari,

24

25

1

2

PUBLIC SPEAKER:

3 Dick Amper, Executive Director of the Pine Barrens Society

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2 MS. JAKOBSEN: On the next public  
3 hearing. Sorry. I have to switch papers  
4 here.

5 Okay. So this is the second public  
6 hearing. I will read the notice: The  
7 notice of public hearing pursuant to New  
8 York State Environmental Conservation Law  
9 Article 57-0123(2). Notice is hereby  
10 given that the Central Pine Barrens  
11 Planning and Policy Commission will hold a  
12 public hearing on January 19th, 2022, on  
13 the matter of an application for a  
14 Development of Regional Significance.

15 The name of the project is: RD  
16 Industrial Compatible Growth Area Hardship  
17 Waiver of Regional Significance  
18 Application.

19 The applicant/owner is: AVR-SP  
20 Brookhaven JV, LLC.

21 Applicant's Representatives are  
22 Timothy Shea, Jr., Certilman Balin and  
23 Charles J. Voorhis, Nelson Pope and  
24 Voorhis.

25 The project site is: Suffolk

1

2                   County Tax Lot numbers 200-554-3-4.41,  
3                   4.45 and 4.46.

4                   The location is: Ramsay Road and  
5                   Precision Drive in Yaphank in the Town of  
6                   Brookhaven Suffolk County.

7                   The project description: The  
8                   Applicant proposes development of a  
9                   three-lot commercial industrial  
10                  subdivision and a site plan to construct  
11                  505,300 square feet of industrial  
12                  buildings and associated infrastructure on  
13                  a 47.26 acre project site. On December 6,  
14                  2021, the Brookhaven Town Planning Board  
15                  issued a Negative Declaration for this  
16                  Type 1 Action pursuant to the regulations  
17                  of the State Environmental Quality Review  
18                  Act.

19                  If the Commission Members could  
20                  please identify themselves for the record,  
21                  starting with the Town of Brookhaven.

22                  SUPERVISOR ROMAINE: Town of  
23                  Brookhaven, Ed Romaine, joined by Special  
24                  Counsel Emily Pines.

25                  MS. JAKOBSEN: Town of Riverhead?

1

2 SUPERVISOR AGUIAR: Yvette Aguiar,  
3 Supervisor and Deputy Town Attorney  
4 McCormick.

5 MS. JAKOBSEN: Town of Southampton?

6 SUPERVISOR SCHNEIDERMAN: Town of  
7 Southampton Supervisor Jay Schneiderman,  
8 joined by Janet Scherer, Land and Planning  
9 Development Administrator and our  
0 Environmental Analyst Marty Shea.

MS. JAKOBSEN: Suffolk County?

12 MR. FRELENG: I don't know if that  
13 leaves me. Andy Freleng, Chief Planner,  
14 Suffolk County Department Economic  
15 Department and Planning.

16 MR. DALE: I was on mute.

17 Dorian Dale Director of Planning,  
18 Suffolk County representing the County  
19 Executive, along with my colleague Andy  
20 Freleng, who has already announced  
21 himself, and Sarah Lansdale who is the  
22 Director of Planning.

23 MS. JAKOBSEN: Thank you. I'd like  
24 to start off with having Commission staff  
25 provide an overview of the project, that

1

would be Julie Hargrave, our Policy and  
Planning Manager.

4 Julie?

5 MS. HARGRAVE: Thank you. Good  
6 afternoon again.

1

2 undergo its own SEQRA review and go  
3 through the SEQRA process. Also, lots in  
4 the subdivision have been further  
5 subdivided since the project was  
6 originally planned. And again, the Town  
7 adopted a Negative Declaration for the  
8 SEQRA determination on December 6th.

9 The uses, just to go back, the uses  
10 in the industrial park include commercial  
11 offices, manufacturing warehouses, hotel.  
12 There was a hotel zone change at one time  
13 that didn't go through. The projects  
14 underway is a park and other developments.  
15 Not every property in this subdivision,  
16 industrial subdivision, has been developed  
17 yet, but they are moving along. And,  
18 again, this is for two warehouse and one  
19 mini-storage. The mini-storage would be  
20 three stories. I can show you a picture  
21 of the site. Let me just share my screen.  
22 I apologize. I'll do that in a minute.

23 So you have the staff report and it  
24 explains the background proposed site  
25 plan. And again, this is a development of

1

2 regional significance and it has to  
3 conform to the standards and guidelines of  
4 the Land Plan that's outlined in Chapter 5  
5 of the Pine Barrens Land Use Plan.

6 There's a specific application the  
7 Applicant has to make for development of  
8 regional significance. The Commission  
9 hasn't had that many of these. There's  
10 been several in the record. Those are  
11 explained in the staff report and also  
12 described in the staff report. The  
13 area -- let's just -- again, let's get the  
14 map up, so everybody can see where this  
15 is.

16 (A document was shared on the  
17 screen.)

18 MS. HARGRAVE: This is at the  
19 eastern end of the Brookhaven R&D Plaza,  
20 south of the LIE, west of North Street,  
21 north of the railroad tracks. And again,  
22 it's about three lots that have been  
23 assembled 47 acres. To the south, there's  
24 residential; north of the highway is BNL;  
25 northwest of the site, is the Meadows at

1

2 Yaphank, the 320 acre, also a development  
3 of regional significance. And again, this  
4 area is zoned industrial, zoned for  
5 industrial development and the staff  
6 report goes through all of the standards  
7 and guidelines. We'll go through all of  
8 them, unless you have specific questions.

9

10 There are some questions on items  
11 that we need more information, including  
12 the clearing. One or two confirm that the  
13 cleared area of the road and the other  
14 prior disturbance has been included in the  
15 clearing limit. That's a standard  
16 calculation that we always confirm to  
17 ensure that the clearing limit is being  
met.

18

19 And unfragmented open space, the  
20 site is -- this is generally the site  
21 plan. I want to say that the Applicant  
22 did submit an amended site plan, it's very  
23 similar to this site plan that was in the  
24 package, that was in the application  
25 submitted in November, but additional  
information was submitted on January 14th,

1

2 last Friday, to tighten up some of this.

3 But, generally, as you can see,

4 this site plan fragments open space,

5 there's patches of open space all around.

6 There's one acre, five acres, nine acres,

7 it's -- it's very patchy. The open space

8 will be 16, about 16 acres to come out of

9 this. And if that was in a block that was

10 more unfragmented, it could be at the

11 eastern end of this site, it could be the

12 western end, maybe that would be less

13 sufficient, but if this could be more

14 clustered to the west side of this site,

15 maybe the largest building on the eastside

16 could be flipped to 90 degrees to cluster

17 this more toward the road, not have as

18 many buffers that really don't constitute

19 quality open space and are less

20 meaningful. They will be degraded over

21 time, they don't provide a significant

22 habitat value. There's many factors of

23 why unfragmented open space is important

24 and why this needs to be clustered more.

25 And this is just not meeting intent of

1  
2       this standard right now, but -- and it's  
3       really for the Commission to discuss and,  
4       you know, maybe the Applicant can explain  
5       some of the constraints or the purpose of  
6       why it was laid out this way and if they  
7       could look at an alternative that is more  
8       conforming to the standard. There's no  
9       cultural resources impact, the  
10      preservation office said there was no  
11      resources identified there.

12           And so we have some questions at  
13       the end of the staff report, again, just  
14       to confirm the clearing limits and to make  
15       sure that the conformance is demonstrated  
16       there. And, again, if it's found to be  
17       that it doesn't conform, then the Hardship  
18       Waiver may be necessary. The plan will  
19       need to be, you know, show all the  
20       clearing limits. We're looking for a more  
21       clustered plan to reduce the fragmented  
22       open space and also show if there are any  
23       impacts to steep slopes. I think it was  
24       about one -- less than two acres of steep  
25       slopes shown and we want to make sure that

1

2                   those are protected in conformance with  
3                   the standards and guidelines that relate  
4                   to steep slopes.

5                   Landscaping plan eventually will  
6                   need to be reviewed, at least by the Town,  
7                   for conformance to have native plantings.  
8                   And any plans for signage that could be  
9                   visible from the LIE, this is a scenic  
10                  corridor in this area and the proposed  
11                  road goes right up against the buffer to  
12                  the LIE or right up against the  
13                  right-of-way, so it doesn't look like  
14                  there's much of a buffer left and I'm not  
15                  sure what will be visible and what won't.  
16                  We don't have a visual simulation of what  
17                  this will look from the highway. And  
18                  definitely signage, if there's going to be  
19                  any signage sticking out above the  
20                  treeline where that's visible for this  
21                  site from the highway. The three storage,  
22                  mini-storage, may be visible. I'm not  
23                  sure if that information, I don't think,  
24                  was provided.

25                  We wanted to ask if there was going



1

2           or an expansion. Obviously, an horizontal  
3           expansion could impact the clearing  
4           limits, so maybe not horizontally, but if  
5           there's a future build-out that may be  
6           proposed, we want to be clear on that now.

7           And there's only one road out of  
8           this site, of this whole industrial park.

9           One lane, actually, for 238 acres of  
10           development. And if this is going to  
11           create -- generate a lot of traffic, which  
12           the Environmental Assessment Form did  
13           explain that it would be a significant --  
14           that significant traffic trips would  
15           occur. If there has been a traffic study  
16           done, obviously, the Commission will need  
17           to review that. And if not, how does this  
18           application plan to handle the significant  
19           traffic associated with this project?

20           And I think that's all I have.

21           MS. JAKOBSEN: Thank you.

22           Does any of the Commission Members  
23           or Reps have questions for Julie?

24           SUPERVISOR ROMAINE: I do.

25           There's only one road that if I'm

1

2 at this location, I can leave and get  
3 back, is that northern William Floyd  
4 Parkway? There's no other road leading to  
5 any other, where you access this  
6 industrial park; is that correct?

7 MS. HARGRAVE: Correct. There's an  
8 entrance --

9 SUPERVISOR ROMAINE: That is not  
10 correct? There's a road that leads to the  
11 service road of the Long Island Expressway  
12 that I can leave this development and go  
13 that way?

14 MS. HARGRAVE: You can't leave,  
15 you're correct. It is coming into the  
16 site, but that's not an exit. You're not  
17 allowed to go out that exit. It's an  
18 entrance, I'm pretty certain, if someone  
19 can -- maybe the -- you're a Supervisor,  
20 so I -- I don't want to misspeak, but I  
21 believe I checked that and it's an exit  
22 from the north, it's an exit from the  
23 service road, but you cannot leave this  
24 development and exit onto that service  
25 road to get on the LIE or to get on

1

2                   William Floyd Parkway. There's one exit  
3                   onto William Floyd Parkway, from my  
4                   understanding, from this development.

5                   Is there anyone that can confirm  
6                   that?

7                   MR. MILAZZO: That can be something  
8                   that the Applicant can address.

9                   MS. JAKOBSEN: Let's finish up with  
10                  if anybody has any further questions and  
11                  then we'll get clarifications from the  
12                  Applicant.

13                  Does anyone else have any other  
14                  questions for Julie at this point?

15                  (Whereupon, there was no response  
16                  amongst the Board members.)

17                  MS. JAKOBSEN: Okay. So we will  
18                  now turn to the Applicant's  
19                  representatives. I see Mr. Shea and  
20                  Mr. Voorhis are present.

21                  Can we please unmute, I guess, who  
22                  wants to go first? Chick, do you want to  
23                  go first or Mr. Shea?

24                  MR. SHEA: I will go first, if you  
25                  don't mind and then I'll hand the baton

1

2 off to Mr. Voorhis.

3 MR. VOORHIS: Also, Julie, if  
4 possible, I would like to share a screen  
5 when I speak and if that could be enabled.

6 MS. JAKOBSEN: Okay.

7 Angie, can you do that for me? I  
8 can't access that.

9 MS. BROWN-WALTON: Got it.

10 MS. JAKOBSEN: Okay. Thank you.

11 MR. SHEA: Okay. If I may, I'll  
12 start.

13 Timothy J. Shea, Jr., Certilman  
14 Balin. 100 Motor Parkway, Hauppauge, New  
15 York, for the Applicant. I am joined on  
16 this Zoom presentation by Chick Voorhis of  
17 Nelson Pope Voorhis, Brian Ferruggiari of  
18 AVR-SP JV, the Applicant and Jeff Vollmuth  
19 of Vollmuth and Brush. It is planned that  
20 Mr. Voorhis and I will do the  
21 presentation.

22 The project before the Pine Barrens  
23 Commission has been determined to be a  
24 development of regional significance, thus  
25 requiring a hearing and Commission

1

2 approval. Although Mr. Voorhis will be  
3 doing the bulk of the presentation of our  
4 application to the Commission, I wanted to  
5 provide some background with regard to how  
6 it is we arrived at the site design and  
7 our request for Commission approval.

8 The site in question is located on  
9 the southwest corner of Ramsay Road and  
10 Precision Drive, what was previously known  
11 as the map of Brookhaven R&D Plaza,  
12 Section 2. The site in question is 47.26  
13 acres in size and was the subject of a  
14 filed map known as the R&D Plaza in the  
15 1980s, which included a public road,  
16 ending in a cul-de-sac in the middle of  
17 the site, together with the proposed  
18 recharge basin going north and south. The  
19 map created two separate lots; one in the  
20 northwest corner of the site and the  
21 second lot encompassing the southern  
22 eastern parts of the overall site. The  
23 lots were separated by the road and the  
24 recharge basin, thus creating those two  
25 separate lots.

1

2                   Based upon our investigation, in  
3                   the 1980s, construction of the road and  
4                   recharge basin was commenced, but never  
5                   completed. AVR and its joint venture  
6                   partners submitted a site plan application  
7                   to the Town of Brookhaven in order to  
8                   develop the property, as indicated in the  
9                   site plan, which was initially filed with  
10                  the Pine Barrens Commission on or about  
11                  November 4, 2021.

12                  Subsequent to that filing, the Town  
13                  of Brookhaven Planning Board approved the  
14                  initial application as designed in the  
15                  interim. The Applicant had occasion to  
16                  speak with Pine Barrens staff, where staff  
17                  raised concerns about designs in the  
18                  project. In response to some of those  
19                  concerns, the Applicant modified the site  
20                  plan, increasing the size of the largest  
21                  lots of open space to be retained on site.  
22                  In part, dealing with the fragmentation  
23                  argument that was previously discussed.  
24                  These modifications were discussed with  
25                  staff and detailed in our letter dated

1

2 January 14, 2022.

3

4 The modified plan was approved by  
5 the Town of Brookhaven Planning Board on  
6 January 8, 2022, and is the application in  
7 front of the Commission that we seek to  
gain approval of.

8

9 As indicated with our supplemental  
10 application documents and revisions to our  
11 application, the changes to the plan do  
12 not result in changes to the location of  
13 the buildings and are limited to adding a  
14 truck turning lane, to exit Building A, in  
15 order to avoid a potential traffic  
16 conflict with people entering the site, as  
17 employees, which is located closest to  
Ramsay Road.

18

19 Omission of a sewer line through  
20 the area in front of Building A, which is  
21 the building adjacent to Ramsay Road and  
22 reduction of truck driving aisles behind  
23 Buildings A and C. A and C are the two  
24 buildings to the south, the one building  
25 that is going north and south along Ramsay  
Road and the other being the 250,000

1

2 square foot building going east and west  
3 along the southern part of the proposed  
4 private driveway -- private road. We've  
5 reduced those two drive aisles from 75  
6 feet in the rear to 60 feet in order to  
7 provide additional open space and result  
8 in any fragmentation -- relieve any  
9 fragmentation.

10 As the Commission is well aware,  
11 the site plan do not create an evac route  
12 and are subject to review by the Town of  
13 Brookhaven Planning Department, the  
14 various agencies under the Town's  
15 umbrella, and in this case, the Suffolk  
16 County Planning Commission, Suffolk County  
17 Department of Health Services.

18 In arriving in an acceptable site  
19 plan, the Applicant must, to the extent  
20 applicable, live within the constraints to  
21 the Town code. Additionally, the  
22 Applicant must meet with staff to  
23 determine preferred design parameters on  
24 its site. In this case, two code  
25 provisions and conversations with Planning

1

2 staff were major driving forces in  
3 arriving at the site plan designed for  
4 this site.

5 First, the Town code has a land  
6 development standard, including one  
7 standard for parcels over five acres in  
8 size, that a setback requirement is there  
9 for improvements -- that bars improvements  
10 within 100 feet of the street frontage.

11 This had to do with the street frontage  
12 along Ramsay Road, which is the building  
13 in the -- going north and south, right  
14 along Ramsay Road. The Town has, in  
15 certain cases, been willing to relax such  
16 a requirement on smaller lots, but  
17 regularly requires the 100 foot yard  
18 buffer and setback for larger parcels of  
19 property. In this case, the 47.26 acre  
20 parcel, with significant street frontage  
21 on Ramsay, resulted in the Town requiring  
22 us to adhere to the 100 foot setback for  
23 parking facilities and other improvements  
24 and creation of the 100 foot vegetated  
25 buffer along Ramsay Road, pursuant to

1

2 85-855 of the Town code.

3

4 The second major concern the Town  
5 raised was the proximity in the project  
6 and the development areas that are  
7 residentially zoned to the south of the  
8 subject parcel. Just south of the Long  
9 Island Rail Road tracks, which abut our  
10 property and which are also zoned  
11 Residential. All Long Island Rail Road  
12 tracks, that I'm aware of, in Suffolk  
13 County are zoned residential.

14

15 Pursuant to our discussions with  
16 Planning staff and in compliance with the  
17 Town Land Development Standards, the  
18 Planning Department required us to adhere  
19 to a 75 foot buffer to any residential use  
20 or zone from any commercial industrially  
21 use occupying greater than five acres.

22

23 This is pursuant to 85-843B2C of the Town  
24 code. In fact, our initial design had the  
25 private road accessing the site along the  
southerly boundary of the property and it  
was somehow rejected by the Town Planning  
staff as not providing the required buffer

1  
2 to residentially zoned property to the  
3 south. Thus, in order to adhere to the  
4 wishes of the Town, we were required to  
5 provide both the 100 foot buffer along the  
6 frontage of Ramsay Road, as well as the 75  
7 foot buffer along the southerly boundary  
8 line leading us to utilize the majority of  
9 the whole previous map and somewhat clear  
10 the right-of-way with the cul-de-sac down  
11 the middle of the property for the  
12 development. If you can take a look at B  
13 --

14 Chick, since you have control, can  
15 you show the plan very briefly?

16 (A document was shared on the  
17 screen.)

18 MR. SHEA: Okay. So right there on  
19 the site plan, you can see along the  
20 middle of the property and you can see it  
21 coming to a head in the cul-de-sac within  
22 the proposed largest building, and that's  
23 what we are utilizing for the clearing and  
24 going for access getting into the site.

25 The other driving factor in the

1

2 site design is the fact that the Long  
3 Island Rail Road and MTA have discussed  
4 relocating the Yaphank Railroad Station.  
5 And one other site is under consideration  
6 is located to the east of the subject  
7 site. That lot is essentially landlocked  
8 by virtue of the fact that it is  
9 triangular in shape, with the LIE abutting  
10 it to the north and the railroad tracks  
11 abutting it to the south and the subject  
12 property abutting it the west. As such,  
13 we were requested to accommodate the  
14 possibility of the adjacent site being  
15 chosen for the railroad station by  
16 providing cross access between the subject  
17 parcel and the adjacent parcel.

18 The only way to accomplish this was  
19 to provide a private road from the west  
20 property line through to the east property  
21 line. And the best alternative, given the  
22 Town's direction with regard to buffering  
23 the southern part of the site, was to  
24 utilize the part of the previously mapped  
25 and partially constructed roadway and to

1  
2 extend the same to the easterly property  
3 line. Given the adjacent site has not  
4 been selected, the Applicant had to create  
5 a cul-de-sac at the end of the road to  
6 provide for a turnaround, which is part of  
7 the plan. Thus the design provided  
8 herein, in our opinion, is the best design  
9 to preserve open space in large blocks and  
10 given the totality of the facts, we  
11 believe that this application should be  
12 granted. And these blocks of open space,  
13 will be preserved via conservation  
14 easement.

15 We do have one major issue which we  
16 would like to discuss with the Commission  
17 and have it considered: The site,  
18 although not home to the long-eared bat,  
19 is a possible breeding ground of the same  
20 and as such is regulated by the New York  
21 State DEC. The DEC has enacted  
22 regulations which reduce the previous  
23 window for clearing in such locations from  
24 December through May 1st, to now being  
25 December through February 28th.

1

2                   As Mr. Voorhis will describe in  
3                   better detail, this leaves the Applicant  
4                   with an extremely short window to  
5                   effectuate clearing the property parcel  
6                   for construction to occur. If clearing is  
7                   not complete by the end of February, no  
8                   clearing will be able to take place until  
9                   next Winter, thus delaying construction of  
10                  the site by a minimum of nine months and  
11                  up to a year when considering start up  
12                  times.

13                  I will now hand the presentation  
14                  off to Mr. Voorhis and then do a very  
15                  brief conclusion after he is done.

16                  Thank you very much.

17                  MR. VOORHIS: Thank you, Tim.

18                  Good afternoon, everyone. Most of  
19                  you know me. I'll just make a brief  
20                  introduction for the record.

21                  My name is Chick Voorhis of Nelson  
22                  Pope Voorhis. Our offices are in  
23                  Melville. I'm a certified planner and a  
24                  certified environmental professional and  
25                  have 44 years of environmental planning

1

2 experience on Long Island.

3 MR. MILAZZO: Can we swear him in?

4 CHICK VOORHIS, the Applicant herein, having  
5 first been duly sworn by the Notary Public, was  
6 examined and testified as follows:

1 And also Jeff Vollmuth from Vollmuth and  
2 Brush is the site engineer. All of these  
3 parties are available if there are  
4 questions. I will cover the application  
5 in great detail, so hopefully that will  
6 help the understanding.

As was indicated by a number of people, the site is in the Compatible Growth Area, it does include the buildings identified here. I do want to point out that the 100,000 square foot sub storage is a low intensity use, it has low traffic, wastewater, water generation and use. This is the DRS by virtue of the fact that it's over 300,000 square feet,

1

2 but it is unique, because this is part of  
3 the Brookhaven R&D Plaza subdivision and  
4 we are reaching the 300,000 square feet by  
5 the fact that we've combined the three of  
6 the lots from the original subdivision, so  
7 that subdivision was approved in 1982.

8                   It's just semi-interesting, but  
9 Supervisor Romaine and I go back a long  
10 time in Brookhaven. This is the first  
11 project that I worked on in the Town and I  
12 actually assisted with finalizing the  
13 review of this subdivision at that time,  
14 it was a long time ago. Our application  
15 before the Commission was submitted on  
16 November 3rd of 2021.

17                   Both Tim and Julie identified the  
18 site location. I think we are all  
19 familiar with that. This shows it in an  
20 aerial photograph of 47.26 acres, Zoned  
21 L-1 Industrial. This is the context, this  
22 is the entire Brookhaven R&D, now known as  
23 Brookhaven Technology Center, this is the  
24 eastern terminus of it and all of these  
25 are individual lots. If you look at a Tax

1

2 Map, all of these would be expected to be  
3 built over time, but, as you can see, it's  
4 been 40 years in the making for a number  
5 of these lots.

6 Just in terms of the current review  
7 status, it was mentioned that the Town  
8 Planning Board has issued a Negative  
9 Declaration. They've also conditioned  
10 site plan approval and they've issued that  
11 conditional approval, that was just in  
12 December. And a revised approval, as  
13 we'll describe a little more and Tim has  
14 touched on it, was issued last Monday. We  
15 do know that there was a violation that's  
16 been resolved as of January 6th. Julie  
17 mentioned -- made mentioned that we  
18 amended and provided the newest Town  
19 approved site plans last Friday. And we  
20 did have the opportunity to meet with  
21 staff and explain the project and those  
22 changes last Thursday, so I thought that  
23 was helpful. And that brings us up to the  
24 hearing today.

25 As I said, the Brookhaven R&D was

1

2                   approved in '82, full EIS also in 1982,  
3                   it's been under development since about  
4                   1984.

5                   This is also quite interesting,  
6                   when this went for final approval, the  
7                   Pine Barrens Commission had not been set  
8                   up yet, but the Pine Barrens Act, Article  
9                   57, had been adopted. So this subdivision  
10                  was actually reviewed by what was known as  
11                  the Suffolk County Pine Barrens Review  
12                  Commission, which was an interim  
13                  Commission. I had processed a few  
14                  applications in front of that body and I  
15                  can tell that you we contacted the  
16                  Planning Department, Sarah Lansdale is on,  
17                  as is Andy Freleng. And I think all will  
18                  indicate that no decision has been found,  
19                  supposedly it was in the records at CPQ,  
20                  but Andy has not been successful in  
21                  finding that. And we also FOILED it at  
22                  the Commission office just in case those  
23                  original records from '93 to '95 were  
24                  handed off to the Commission and that has  
25                  not found any records. So I wish we had

1

2           it, there's no moratorium that was  
3           approved by the Town that makes reference  
4           to it, but it does not appear to exist.

5                   As I said, the lots are being  
6           developed continuously as we go from now  
7           forward, based on market demand. And  
8           because it's in the Compatible Growth  
9           Area, various applications, if needed,  
10           will either go to the Town for conformance  
11           with the Town's Central Pine Barrens  
12           District under Chapter 85 or, if needed,  
13           go to the Commission.

14                   This is our application and all of  
15           the required elements and the various  
16           attachments that I will refer to that were  
17           included with our application. We've met  
18           with staff, as I said, last Thursday, the  
19           13th, to discuss the changes. This plan  
20           is the most recent plan, it is the one  
21           that was approved by the Planning Board.  
22           It did improve, not to a major extent, but  
23           it did improve open space by tightening up  
24           these drive aisles and expanding this area  
25           of contiguous open space by about 15 feet.

1

2 This is the back of Building C, as well as  
3 the eastside of Building B. So those plan  
4 changes were favorable and in response to  
5 the Town's request.

6 We believe that this site plan does  
7 clarify the limits of clearing, and I'll  
8 go into that in more detail when I touch  
9 on the standards and guidelines. I can  
10 tell you that the existing cleared areas  
11 that Julie referred to as the 3.08 acres  
12 are the road right-of-way and an excavated  
13 recharge area. They are included in the  
14 existing cleared areas. And we did  
15 include a submission of site erosion  
16 control and landscape plans. This is a  
17 little larger rendition of the plan  
18 showing Buildings A, B and C. We are  
19 connecting to the Brookhaven Sewer  
20 District, as Tim indicated, we are  
21 reorienting the road and removing this,  
22 which basically bifurcated the site and  
23 split the site. We do have public water,  
24 we will be providing subsurface drainage,  
25 we will have coveted buffers for all of

1

2 the easement areas, and this right-of-way  
3 will be abandoned.

4 I'll cover the standards and  
5 guidelines. There are a number that, in  
6 their staff report, that was issued and  
7 available yesterday, indicated we conform  
8 with. I will just indicate that this  
9 analysis is based on our most up-to-date  
10 plans, which were submitted last Friday.

11 A small "c" indicates that the  
12 standard or guideline conditionally  
13 conforms per the staff memo. A large "C"  
14 indicates that it does conform or has been  
15 found to conform. "I" indicates this is  
16 an example, additional information was  
17 requested. We hope to address all  
18 requests for additional information today.  
19 And "N/A" is nonapplicable.

20 So we can go fairly quickly through  
21 this page. We are connecting to an STP  
22 and, therefore, we are conformed to  
23 Article 6 of the Suffolk County Sanitary  
24 Code. We are pursuing all approvals. Now  
25 that the Town has issued the Neg Dec and

1

2 the site plan is approved by the Town  
3 Planning Board, we will be continuing and  
4 obtaining all Health Department approvals.

5 The STP discharge was found to  
6 conform, that's a large "C".

7 Nitrate/nitrogen, we performed the same  
8 analysis based on the Sonar model we used  
9 for other DRS applications. And we are  
10 substantially less than the standard,  
11 which we believe does not apply because  
12 there are no ponds and that's how the  
13 guideline reads.

14 Articles 7 and 12, are required to  
15 be complied with and that is conditional  
16 upon the County's approval. We expect  
17 that that will be no issue whatsoever as  
18 we move forward through the final stages  
19 of that review. They are not impacting  
20 public wells or private wells and both of  
21 those have been found to conform in the  
22 staff report. And non disturbance  
23 buffers, this pertains to wetlands, and  
24 there's one question in the staff report,  
25 so additional information was requested.

1

2 That additional information had to do with  
3 the request to discuss the existing  
4 recharge basin that was excavated many  
5 years ago for that road, which was never  
6 completed.

7 That recharge area was checked for  
8 wetlands, there are no wetlands, it is not  
9 a vernal pool or pond. The area is mostly  
10 dry, as you can see in this photograph,  
11 looking north on the west side of that  
12 recharge area. There is one small, and I  
13 do mean small, wet area. It does not  
14 exhibit wetland indicator species and this  
15 was based by a visit by ecologists on my  
16 staff that occurred in November. This  
17 provides a little more context on that  
18 particular area.

19 This is a 2001 aerial photograph.  
20 It's really -- the photograph that best  
21 shows this after it was cleared, after the  
22 subdivision was approved. It does receive  
23 water because that was the whole purpose  
24 of creating it. You can see what, to me,  
25 looks like standing water in this area,

1  
2       but most of it has been dry and the road  
3       was never finished. And that small wet  
4       area, we did a GPS screen shot, is roughly  
5       in this location. So we have found that  
6       it was designed for recharge, it's not  
7       completed, it does receive stormwater,  
8       there are no wet lands or vernal pool.  
9       And based on this additional information,  
10       which I will certainly submit for the  
11       record, we believe and I believe staff  
12       will find that we conform with this  
13       standard.

14                   Moving as quickly as I can through  
15       the rest, pertaining to buffers and CNRs,  
16       this again was semi-redundant just in  
17       asking if that particular feature, the  
18       former recharge area, is a wetland. It's  
19       not, as I've explained. And of course, in  
20       terms of buffers, very similar and really  
21       much to the credit of AVR on the meadows,  
22       we're very familiar as a team with  
23       conservation easements, recording CNRs,  
24       checking them, snow fencing them,  
25       surveying them and ensuring that they will

1

2 be respected, so what you see is what you  
3 get on the plan. So we believe that based  
4 on this additional information, we are  
5 completely consistent with Standard 4.2,  
6 pertaining to buffers and CNRs.

7 The site is not within a wild  
8 scenic recreational river corridor.

9 Again, somewhat redundant, but the next  
10 several guidelines and standard pertain to  
11 that wetlands question under 4.4,  
12 additional information was requested, we  
13 believe we provided that in testimony  
14 today and that we conform.

15 Stormwater recharge, as I've  
16 indicated, subsurface drainage will be  
17 provided and the staff report indicates  
18 conditioned approval of this particular  
19 standard. We have Town site plan approval  
20 and that includes the grading and drainage  
21 plans, so they've been reviewed by Town  
22 engineering and found to be suitable and  
23 acceptable and so we believe that we have  
24 conformed with that condition.

25 Natural recharge was also

1

2                   conditioned and conforming, provided we  
3                   meet the condition, and again, we have  
4                   approved Town plans.

5 Next has to do with ponds. Staff  
6 report found that to be not applicable.

In terms of natural topography and recharge, there are no natural recharge areas available, the staff report found that to be consistent. And as I said, the Town approved plans ensured that that condition is complied with.

17                   That was also found to be conditioned --  
18                   to be consistent and so we do meet that.  
19                   And as I said, we'll stake and fence all  
20                   areas and ensure that the easement areas  
21                   are respected.

1

2 that this is always requested.

6 It's the updated plan that was submitted  
7 last Friday. And it shows the three  
8 easement areas, those were noted, as Julie  
9 said in her intro, Area A is 9.74, Area B,  
0 which is that one to the north that we'll  
1 talk about that more, is 5.69 and Area C  
2 is 1.24. And the sum of those areas is  
3 16.67, which is 35.27 percent of the site  
4 and that is completely consistent with the  
5 required natural area.

1

2 has been addressed, it's within areas that  
3 are already proposed to be cleared. This  
4 is just an additional graphic to  
5 demonstrate that.

6 You can see there is a kind of a  
7 fuchsia, purplish line, this is the limit  
8 of clearing. This is the clearing area  
9 for Building A, for Building B and for  
10 Building C. And the areas that are  
11 indicated as natural, are those easement  
12 areas that would be preserved in total.  
13 So you can see that the road where it had  
14 been cleared, much had been revegetated or  
15 maybe showing up as canopy on the aerial  
16 photograph, is within the clearing area  
17 for Building C.

18 The recharge area or that former  
19 excavation area is within the clearing  
20 area, which ends here and north of this  
21 line, the limited clearing, it has  
22 naturalized. And in fact, other parts  
23 have naturalized as well. So this, again,  
24 clearly shows that we've accounted for all  
25 of those areas. The natural areas do not

1

2 include prior cleared areas. The natural  
3 areas do not include the islands that have  
4 been referred to or smaller areas.

5 And importantly, based on a  
6 discussion at an earlier meeting agenda  
7 item, the Brookhaven National Laboratory  
8 area, which is really for this part of the  
9 site, on the southern part of the site,  
10 you'll see it better at the end of the  
11 presentation, is actually subtracted and  
12 is not part of our natural area. So the  
13 fact that that has been determined as of  
14 today, I believe, or will be determined,  
15 to not count against clearing. That means  
16 that we have an additional .36 acres that  
17 would be considered natural. And that  
18 just really serves to increase the natural  
19 area and further demonstrate our  
20 compliance with Vegetation Clearance  
21 Standard 6.1.

22 I do want to clarify, this has come  
23 up a few times, there's no additional  
24 development proposed for this property.  
25 This is it. These three sites, these

1

2           three buildings, constitute the full  
3           extent of development, so that question  
4           can be really satisfactorily addressed.

5

6           So we believe that we are  
7           completely consistent with the vegetation  
8           clearance and I believe staff will find  
9           that to be the case upon a detailed review  
          of the submission.

10

11           There was some talk already about  
12           unfragmented open space, I just want to  
13           say that this became a DRS when these  
14           three lots were combined. The individual  
15           lots, had they been developed with this  
16           road bisecting the site, with this  
17           recharge area and use of what would have  
18           been the configuration of lots, would have  
19           fragmented the open space even more. And  
20           I will say, that it would be very  
21           consistent with the other lots within the  
          subdivision.

22

23           The original road divided the  
24           property. Moving the road to the north  
25           allows us to provide greater contiguous  
          open space. And, again, there's really no

1  
2       coordinated open space. This site is  
3       within the subdivision. This site is  
4       within the subdivision, each of these  
5       individual sites will be developed, this  
6       is a recharge basin. It would have to  
7       have the same level of coordinated open  
8       space that our plans provide. And we are  
9       also removing recharge and using  
10      subsurface recharge and that allows us to,  
11      again, to provide greater open space and  
12      better contiguous open space.

13           One of the questions had to do with  
14       looking at turning the building to -- in  
15       an attempt to somehow provide additional  
16       open space to the east. I can tell you  
17       that we looked at that, this is a very  
18       quick graphic to show that and you can see  
19       a couple of things here. Number one, we  
20       would not be able to provide the roadway  
21       to access the site to the east, which Tim  
22       described in detail as a landlocked site.  
23       I can say that we can't really change the  
24       configuration of this building because of  
25       its use. The length and width of this

1  
2 building is critical to the function of  
3 this type of use, which is consistent with  
4 zoning, so it doesn't fit. We did look at  
5 it, we looked at a number of things that  
6 just do not improve the open space. And  
7 our engineer can indicate and Tim has  
8 indicated that this project provides the  
9 best contiguous open space configuration  
10 possible for the combination of this 47.26  
11 acres, which is now combined, and lets us  
12 have these larger contiguous open space  
13 areas.

14 I believe that you'll find that we  
15 are consistent with the intent and because  
16 of the constraints associated with the  
17 subdivision, we are improving open space,  
18 not further fragmenting it.

19 A couple of final points on that,  
20 to the north is the LIE, there is a  
21 right-of-way, it's about 125 feet of  
22 naturally vegetated area. I will get into  
23 that more into the roadside design aspects  
24 of the standards and guidelines. To the  
25 south is the Long Island Rail Road, to the

1  
2       east is the landlocked site and certainly  
3       open space will be required on that site  
4       and it will align with this site. And  
5       therefore, based on all of these factors,  
6       as well as the November 3rd submission,  
7       which goes into this in detail, we believe  
8       that we are consistent with the  
9       unfragmented open space requirement under  
10      Standard 6.2.

11           As we move forward, the fertilizer  
12       dependent vegetation has a large "C" that  
13       indicates the staff found it to conform.  
14       And in fact, we can fertilize, and I'm  
15       certainly not advocating this, but up to  
16       7.09 acres. We are proposing 1.34 acres  
17       of fertilized vegetation, which is .84  
18       percent, substantially less than 15  
19       percent. And I just want to point that  
20       out as a benefit to this type of project.

21           Native plantings is a requirement.  
22       We did submit a three sheet landscape  
23       plan. Staff, in their intro, indicated  
24       that the Town would review these plans for  
25       conformance and the Town has approved the

1  
2       landscape plan as of last Monday, the  
3       final conditional approval. So that's  
4       been submitted, it includes all of the  
5       species that are identified. Staff  
6       requested additional information, but I'm  
7       not sure if they looked at the landscape  
8       plans. And in fact, the Town has reviewed  
9       them, so that's a very important  
10      clarification. We believe we are  
11      consistent with 6.4.

12               In terms of ecological species, in  
13       the staff report, on Page 1, and then  
14       there was some attention to the northern  
15       long-eared bat. So I do just want to say  
16       for the record that the -- there is a  
17       tiger salamander breeding pond in the  
18       area, but it is north of the expressway.  
19       I apologize for this graphic, but it comes  
20       from the DEC Environmental Resource  
21       Mapper. This is that breeding pond to the  
22       north of the expressway, it's 1300 feet  
23       from the site. The DEC typically looks  
24       within 1,000 feet for open space to meet  
25       the upland lifecycle requirements for the

1

2 tiger salamander, so this has no bearing  
3 on the project whatsoever, I just want to  
4 make sure that's understood.

5 And with respect to the northern  
6 long-eared bat, we would be required to  
7 observe the December 1st through February  
8 28th clearing window, unless some other  
9 DEC authorization is provided for under  
10 Article 11. And based on our assessment  
11 of habitats on the site, we do not believe  
12 that would be forthcoming. There are no  
13 other listed species with a suitable  
14 habitat on this site and so I believe that  
15 we are completely consistent and have  
16 provided the additional information that's  
17 requested in the staff report to  
18 demonstrate conformance with Standard 7.1,  
19 Ecological Species.

20 Just a few more, thank goodness,  
21 but we do want to be thorough and have you  
22 understand the full submission.

23 Clearing envelopes is Guideline  
24 8.1. There has been reference to 1.85  
25 acres with slopes in excess of 15 percent.

1

2 I'm going to go into this in more detail  
3 because staff requested more information.

4 But I'll say as an overview, that the  
5 majority of those areas are manmade and  
6 I'll be able to demonstrate that to you.

7 Additional information was  
8 requested with regard to stabilization of  
9 the site and erosion control, which is  
10 Guideline 8.2. I do want to point out  
11 that this guideline does allow development  
12 on slopes greater than ten percent if it  
13 is mitigated. And it even talks about  
14 proper engineering design. And I'll just  
15 point out that the Planning Board has  
16 approved this, including grading and  
17 drainage plans and reviewed by the Town  
18 engineer. And then slope analysis, these  
19 three are all related, so we did submit a  
20 slope analysis with the application. I'll  
21 be providing some further information on  
22 all three of these guidelines.

23 Of the slope analysis that's shown  
24 here, the site is relatively flat, 93  
25 percent is zero to ten percent slopes,

1

2           about 2.9 percent of the site are ten to  
3           15 percent slopes. Those are these  
4           lighter gray areas that you can see really  
5           scattered about this site. The areas that  
6           are 15 percent and greater are the darker  
7           areas and those are really showing up in  
8           this area.

9           So let's just understand, this road  
10          was cleared and this recharge area was  
11          created. These are mounds, these areas  
12          are 15 percent greater slopes and some  
13          greater than ten percent are basically  
14          mounds that were left to remain when this  
15          road was created. This recharge area was  
16          excavated, it's manmade. The aerial  
17          photograph of it from before 2001, those  
18          are areas of slopes 15 percent or greater.  
19          And they are more intermittent, but some  
20          slopes along the Long Island Rail Road  
21          that were created -- the embankment was  
22          made for the LIRR, so we shouldn't get too  
23          excited about the 1.85 acres because the  
24          majority of it, if not all of it, is  
25          within areas that are manmade. And the

1

2 rest are really, you can see the light  
3 green, it's zero to ten percent, the  
4 majority of the site is zero to ten  
5 percent, the table of all of those sloped  
6 areas is in the lower right of this image.  
7 And there are just scattered areas greater  
8 than ten percent, most of which are  
9 manmade.

10 So staff did request an overlay, I  
11 think this is helpful for all three of  
12 these Guidelines, 8.1, 2 and 3. And this  
13 shows that same line, it was a fuchsia  
14 line before, which is an overlay on the  
15 slope map, so basically, this is the area  
16 for clearing for Building A and Building  
17 C. The excavated area is manmade and it's  
18 within the existing proposed clearing  
19 areas.

20 The Long Island Rail Road  
21 embankment is mostly in preserved areas.  
22 These mounds, that are not natural, they  
23 are manmade from when the road was  
24 created, are within areas that are going  
25 to be disturbed for Building C, but

1

2       they're not manmade slopes. And when you  
3       look at it, they're really only a few  
4       scattered areas outside of the three areas  
5       for building development, where there is  
6       some minor disturbance and scattered  
7       natural slopes greater than ten percent.

8       It would be impossible to avoid those  
9       areas and still provide the contiguous  
10      open space. So there's a little bit of an  
11      inherent conflict between those standards  
12      and guidelines, but we believe that this  
13      is the most efficient design and  
14      development for the site, it avoids the  
15      natural steep slope areas to the maximum  
16      extent.

17           And I do want to point out, we do  
18      have one retaining wall that I'll go into  
19      because there's this guideline that deals  
20      with that, it's at the south part of the  
21      Building A area. The guidelines don't  
22      prohibit retaining walls, but there is a  
23      staff comment that does talk about  
24      something to that effect, nor do the  
25      guidelines prohibit disturbance in steep

1  
2       slope areas. And they specifically  
3       provide language under Guideline 8.2 that  
4       slopes greater than ten percent and  
5       disturbance therein, may be approved and  
6       it's subject to technical review, design  
7       and mitigation. And so the fact that the  
8       Town of Brookhaven has already reviewed  
9       the design, the grading and drainage, the  
10       retaining wall, the landscape plan and  
11       issued their approval, as well as the  
12       erosion control plans, would indicate that  
13       we meet Guidelines 8.1, 2 and 3 with  
14       respect to slopes and each of the factors  
15       under those particular guidelines. So  
16       this is the additional information that's  
17       been requested by staff. I believe it  
18       clearly demonstrates that we are in  
19       conformance with those guidelines.

20           Getting very close again, as I  
21       said, 8.4, it's a little bit redundant,  
22       additional information was requested, but  
23       we have provided the erosion control plan  
24       approved by the Town of Brookhaven. Roads  
25       have been placed to ensure proper design

1

2 and access, additional information was  
3 requested and it's, again, related to  
4 Guidelines 8.1, 2 and 3.

5                   Here's the one about retaining  
6 walls. This is interesting because the  
7 staff report does pick up on a retaining  
8 wall, it says that some cut of material is  
9 needed. That retaining wall is right here  
10 and there's one other on Building C. And  
11 it basically facilitates ramp access to  
12 the building, but it's all within existing  
13 disturbed areas that are part of our  
14 allowable clearing. The only other  
15 retaining wall, other than these retaining  
16 walls for the ramps, is a retaining wall  
17 right here at the southeast side, as I  
18 said before, that provides for a grade  
19 transition that allows us to preserve  
20 contiguous open space to the south of that  
21 area. So, again, the walls are not  
22 prohibited, they're part of the  
23 mitigation, they have been approved by the  
24 Town of Brookhaven. Additional  
25 information was requested on this these

1

2           three items. I believe we have provided  
3           that and I believe you'll find that we are  
4           completely consistent.

5                   These will go relatively quickly.

6           In terms of open space dedication and  
7           there will be easements to the Commission.

8           We've identified those easement areas, the  
9           total of those three, A, B and C easement  
10          areas is 16.67, which is greater than the  
11          35 five percent. The same as what's been  
12          done for The Meadows with AVR. You know  
13          the group and you will be dealing with  
14          them after approval as this goes forward.

15          Additional information was requested and  
16          we have provided that.

17           Clustering, really is somewhat  
18          redundant about unfragmented open space.  
19          As I've demonstrated by combining the  
20          lots, we provide improved clustering as  
21          compared to the individual fragmented  
22          development of the three individual lots.  
23          Protection of that dedicated open space,  
24          same thing, those areas will be staked and  
25          fenced and we will absolutely be in

1

2 complete conformity. This is not an  
3 agricultural or horticultural use. The  
4 staff report indicated not applicable.

5 Cultural resources, I'm going to go  
6 into each of these in a little bit more  
7 detail because they're really summed up in  
8 11.4, road side design and there's already  
9 been quite a bit of discussion. But  
10 additional information was requested with  
11 respect to setbacks, the railroad, LIE,  
12 the south service road. And Tim went into  
13 pretty good detail about how the Town  
14 looks at this under Chapter 85 with  
15 respect to the railroad. The roadside  
16 buffers, are all arterial buffer  
17 requirements of Town code, and the Town  
18 has approved this. So we'll be protecting  
19 buffered open space from the Long Island  
20 Expressway and the service road, we will  
21 have large open space conservation  
22 easements. In particular, that's Easement  
23 B, which is 5.7 acres.

24 The industrial site views will be  
25 protected and the character will be the

1

2 same as other developments within this  
3 subdivision that was approved in the '80s.

4 And the final standard just has to  
5 do with warehouse and storage uses and  
6 compliance with articles of the Suffolk  
7 County Sanitary Code and that had a large  
8 "C", so staff reported indicated that we  
9 are consistent.

10 So just the final few slides have  
11 to do with roadside design. This gives  
12 you a little bit more information to give  
13 you a comfort level that we are completely  
14 consistent here.

15 First of all, the setback from the  
16 LIE of natural vegetation is about 48  
17 feet. The building itself, the yellow, is  
18 on 111.4 feet from the property line. The  
19 marking is 66.8 feet from the property  
20 line. And this large conservation  
21 easement will be preserved in total, it's  
22 about 800 feet long.

23 What I want to say is, and you see  
24 the image at the top, provides the entire  
25 stretch of buildings and lots along the

1  
2 expressway, this will be the largest  
3 natural undisturbed open space segment of  
4 this subdivision along the LIE and the  
5 south service road. And I think that's a  
6 really important factor that indicates  
7 that in terms of roadside design and  
8 contiguous open space, we've addressed  
9 that completely within the proposed design  
10 of this site.

11 The building character is similar,  
12 this is one of the smaller buildings and  
13 it is nearest to the expressway and the  
14 service road. However, again, this is a  
15 very limited part and it's no different  
16 than this road, which will become  
17 buildings. There's two already  
18 constructed here, one constructed here,  
19 and you can see the nature of these  
20 individual lots as part of the approved  
21 subdivision. This is why combining those  
22 lots allows us to create greater  
23 unfragmented open space.

24 I do want to point out, I did a  
25 blow up, which shows -- this is just the

1  
2       LIE right-of-way and when you measure  
3       this, it's 125 feet of natural vegetation  
4       between the travel lane pavement of the  
5       south service road or the expressway  
6       mainline and the subject site, so this  
7       will all remain as natural vegetation,  
8       plus close to 50 feet within the property,  
9       plus 800 feet of natural open space all  
10      along the expressway. So, again, we have  
11      approved the open space through design by  
12      combining the lot -- the lots.

13           There were questions about signage,  
14      the Town includes that in their site plan  
15      review, there are signage details. Those  
16      have been approved by the Town of  
17      Brookhaven. Visibility will be limited.  
18      There is really no need for signage to be  
19      visible from the expressway. And there  
20      was a comment about providing trails,  
21      nothing of that type has been required on  
22      this site or any of the other sites.

23           I've traveled the roads, you can  
24      walk through that area. And, again,  
25      there's no need to really get into that,

1

2 the Town has approved the site plans. So  
3 this roadside design image indicates that  
4 we are completely consistent with these  
5 particular Guidelines, 10.1 -- I'm sorry,  
6 11.1 through 4 that cover cultural  
7 resources, scenic and recreational and  
8 roadside design. Additional information  
9 was requested by staff, we've provided  
10 that information and I believe that you  
11 will find that we are completely  
12 consistent.

13 I just want to say for the record,  
14 that this is the Town approved site plan.  
15 It's the overall site layout plan from the  
16 Vollmuth and Brush site plan package that  
17 was approved by the Town and we proposed  
18 this plan for your action.

19 Just in closing, we've demonstrated  
20 complete conformance with all of the  
21 standards and guidelines. And you've  
22 heard many times this center is a  
23 continuing industrial development site, it  
24 conforms to the L-1 zoning of the Town.  
25 The project provides improved open space

1

compared to the individual site plans. Of course, the project will provide jobs and it meets the need for the zone use, that's not one of your criteria, but it is certainly important to the municipality.

I want to say for the record, that I will submit this PowerPoint presentation as a PDF right after this meeting and we will provide a link to copies of all of the Town approved site plans.

And we know that the intent of the Comprehensive Land Use Plan is to protect the Pine Barrens, we were all parties that were involved in that. And I've experienced that at the time of creation of the Land Use Plan, as well as Article 57. Conformance equals protection of the Pine Barrens, we all signed onto that. So we do conform and approval of this plan is requested based on the testimony by Tim and myself today and the team is here to answer any questions if you have any.

Thank you very much.

25 MS. JAKOBSEN: Thank you Chick.

1

2                   Tim, you said you had some  
3 concluding remarks?

4                   MR. SHEA: It's more of a request  
5 than anything else.

6                   As Chick has testified and was  
7 brought up by me and my presentation, the  
8 one overriding issue that we have here is  
9 the clearing window for -- to meet the DEC  
10 regulations with regard to the long-eared  
11 bat, which expires on February 28th and it  
12 leaves us a very small window in which to  
13 do any tree clearing on the site.

14                  Based on those regulations, we are  
15 asking that the Commission, after  
16 providing the written comment period, we  
17 ask that the written comment period mirror  
18 that of the prior application and it  
19 expire on January 28th at noon.

20                  And then we would ask that the  
21 Commission consider holding a special  
22 meeting the following week to consider  
23 this application, so that we may, if the  
24 Commission was so inclined to grant the  
25 application, be able to effectuate our

1

2                   clearing this year, rather than face a  
3                   nine month to a 12 month delay in doing  
4                   any construction activity on the site.

5                   And we appreciate the Board's  
6                   consideration and we appreciate the fact  
7                   that the staff was very good in meeting  
8                   with us and discussing these matters and  
9                   they were very assessable to us.

10                  And that's really the end of our  
11                  presentation. We are here to answer any  
12                  questions that may arise.

13                  Thank you very much.

14                  MS. JAKOBSEN: Does anyone from the  
15                  Commission have any questions for the  
16                  Applicants?

17                  MR. DALE: I would just like to  
18                  make a comment that we also in an  
19                  unrelated project having to do with  
20                  breaking ground down for the USTP, for the  
21                  Mastic sewer treatment plant. I have to  
22                  get in before the long-eared bat concludes  
23                  that and we have just been thrown another  
24                  wrench into the process by the -- provide  
25                  those by coming out of HUD, so we are

1

2                   certainly empathetic of that particular  
3                   consideration.

4                   MS. JAKOBSEN: Does anyone else  
5                   from the Commission have any questions for  
6                   the Applicants?

7                   SUPERVISOR ROMAINE: I'll just make  
8                   a quick comment.

9                   I agree with Dorian. Obviously,  
10                  this is a major project, a major economic  
11                  boost for the area in terms of creating  
12                  jobs.

13                  Could I ask Tim, how many jobs do  
14                  you expect to be created out of this  
15                  project?

16                  MR. SHEA: Well, there'll be  
17                  hundreds of construction jobs created in  
18                  order to construct this site and we would  
19                  anticipate well over a hundred jobs to be  
20                  created on the site, for permanent jobs.

21                  SUPERVISOR ROMAINE: Permanent  
22                  jobs.

23                  MS. JAKOBSEN: If there's no one  
24                  else from the Commission, we open to -- if  
25                  anyone from the public that would wish to

1

2 comment.

3 Angie, could you please unmute Dick  
4 Amper.

5 MS. BROWN-WALTON: He's unmuted.

6 MS. JAKOBSEN: Go ahead, Dick.

7 MR. AMPER: I am very uncomfortable  
8 about this. There seems to be a lot of  
9 back talk. That's fine, that's good.

10 The Pine Barrens Society has had a  
11 great relationship with EVR Realty for  
12 almost 40 years. This seems way, way over  
13 anything that we have been asked to  
14 accept, especially under the  
15 circumstances. We need to talk to them  
16 and to those who are involved with this  
17 project, including this unbelievably long  
18 exposé. This is clearly a challenge.

19 Commissioner -- Supervisor Ed  
20 Romaine, could you just do us a favor of  
21 looking at some of the things that may not  
22 have emerged or may not have been clear to  
23 you? We are not trying to hurt the  
24 economy of Brookhaven or anything, but  
25 there are problems that they have not

1

2           really covered at this point and we want  
3           to get it right.

4           I want to say that the Pine Barrens  
5           Commission needs to take this and take it  
6           seriously. There are a lot of  
7           difficulties, a lot of problems that have  
8           emerged that we have not seen successful  
9           results to. They are clearly trying to do  
10           what's right and cover all of the things  
11           that a complicated project are going to  
12           produce.

13           But this is a big one, this is one  
14           that they've gone back to time and time  
15           again. They haven't resolved the matter,  
16           they have not satisfied, I don't think,  
17           permanently the Town of Brookhaven. I  
18           think the Commission is showing an  
19           astuteness in terms of looking at all of  
20           that needs to be looked at, that's what  
21           the Commission should be doing. That's  
22           not the role of some access group that's  
23           trying to change things without regard to  
24           the importance of this. This is a big  
25           project. It is having an impact on

1

2 Brookhaven and on Long Island. And we'll  
3 take the time, we'll do it immediately.

4 We won't delay because the interaction  
5 with AVR was something that sort of threw  
6 us a curve.

7                   And then when I look at what the  
8 Commission was doing and -- and, Ed  
9 Romaine, I've never seen you not look  
10 fairly and squarely at what's good for the  
11 Town of Brookhaven. But this is a big  
12 one. They're having a problem with -- the  
13 problem that they are having is they are  
14 telling you the truth in most cases and  
15 about what's the problem here, but they're  
16 not coming forward with a solution. And  
17 it's a big problem and a bad contribution  
18 to history if we don't get it right.

19                   We will stay up at night, we'll do  
20 whatever we need to do. We would like to  
21 meet with you, Supervisor Romaine, we  
22 would like to talk with somebody at the  
23 Commission to say, let's be sure we've got  
24 this right because the evidence up to this  
25 point is, we sure as hell haven't.

1

2 SUPERVISOR ROMAINE: Can I make a  
3 suggestion? Number one, you are always  
4 welcome to meet with me, as you know.  
5 I'll make a second suggestion that I'm  
6 going to ask Emily Pines, who is very fair  
7 and I think you know Emily and is my  
8 representative.

11 MR. AMPER: You're both very fair.

1

2 available and I'm happy to set up a  
3 meeting with you. You know my telephone  
4 number, you know I'm available.

5 But, Emily?

6 MS. PINES: Yes.

7 SUPERVISOR ROMAINE: If you can  
8 just contact Dick with some contact  
9 information, either by e-mail or by phone,  
10 so he can express some of the concerns he  
11 has that he'd like to see checked out and  
12 I will ask Beth to do the same and Annette  
13 Eaderesto as well. I think you know all  
14 of these young ladies, if you don't mind  
15 me calling you young, but if you can check  
16 with them and then if you want to meet,  
17 I'm happy to meet anytime.

18 MR. AMPER: I appreciate it.

19 I also would like the opportunity  
20 to make sure that what we are concerned  
21 about, in fact, mirrors the concerns that  
22 the members of this Commission -- members  
23 of this Commission are doing a first rate  
24 job. And in this particular case, they're  
25 raising questions that need to be asked.

1  
2       We want the answers to the questions. If  
3       everything gets resolved, that's fine, but  
4       it's looking like something that's been  
5       there for a long time, that has not been  
6       entirely visible where the information  
7       being supplied is not consistent with what  
8       would be needed, so let's not rush to  
9       judgment. We still have a chance to get  
10      it right and that will involve the  
11      Commission, it will involve the Towns, it  
12      will involve the people who are applying  
13      for this project. But you listened to a  
14      very, very long explanation as to what  
15      should happen someplace and it's not  
16      entirely clear to us that that has been  
17      justified in any way, shape or form.  
18      Let's look at it, if we are missing  
19      something, you will straighten this out,  
20      you've done it before. But I'm telling  
21      you that I've listened to the  
22      presentations, I've read the articles that  
23      appeared in the paper or elsewhere and I  
24      just want to get this right. This is very  
25      big and potentially problematic, it's been

1

2       years in the making and if we are going to  
3       get it out, if we are going to make a  
4       decision, then let's get it right. That's  
5       all we are asking.

6                    SUPERVISOR ROMAINE: Dick, can I  
7       make one other suggestion to you?

8                    MR. AMPER: Yes, sir.

9                    SUPERVISOR ROMAINE: You know Brian  
10       Ferruggiari?

11                  MR. AMPER: I do. And I was  
12       disappointed that we had to reach out to  
13       him with a special initiative because it  
14       wasn't being clearly represented and we  
15       think that's part of how this problem  
16       started, but the solution to that would be  
17       to fix it. Let's find out, can this be  
18       fixed? If so, how so, because I don't  
19       think that you are in any way, shape or  
20       form are getting up in the morning to see  
21       if you can do something that isn't good  
22       for the environment. That's not who you  
23       are.

24                  But the staff at the Commission --  
25       I think the staff at the Town, needs to

1

2           take a new look, a hard look, and say, do  
3           we have this right? How many times has  
4           the Applicant come back and said, okay,  
5           then we'll change this because the staff  
6           required it. Let's get this right.

7           That's all we are asking.

8                    SUPERVISOR ROMAINE: I'm going to  
9           make two suggestions to you. One is to  
10           contact the Town personnel and myself.  
11           And the people that I've asked, Emily and  
12           Beth, will reach out to you, and Annette.

13                   The second thing is you have Tim  
14           Shea and Chick Voorhis, I would suggest  
15           that you reach out to them and Brian  
16           Ferruggiari possibly by a Zoom meeting or  
17           telephone.

18                   MR. AMPER: I wish we had that  
19           earlier.

20                   SUPERVISOR ROMAINE: And --

21                   MR. AMPER: It's never too late to  
22           get in and look at it again.

23                   SUPERVISOR ROMAINE: -- and any  
24           outstanding questions you have, you raise  
25           with them. And the only thing that's

1

2 happening today is this meeting is going  
3 to be closed and be left open until the  
4 28th of January and we'll go from there if  
5 anything else is going to happen based on  
6 your meetings; is that fair?

7

8 MR. AMPER: Absolutely. And I  
9 think that's what you're going to get. I  
10 think that the Commission will analyze  
11 this in a fair and objective way. I think  
12 the Town of Brookhaven will say, yeah, I  
13 think Mr. Romaine's agenda was a good one,  
14 but maybe he did not see this this way  
15 because he's always been open-minded. And  
16 all we are trying to do is get it right  
17 and the length of the read, does not  
18 define the rightness of the conclusion.

19

20 SUPERVISOR ROMAINE: I would echo  
21 your comments about AVR and the positive  
22 relationship with the developer and he's  
23 always been fair and open with us.

24

25 MR. AMPER: We'll get over it.

23

SUPERVISOR ROMAINE: Right.

24

25 So with that, I'm going to make a  
motion, unless there's other public

1

2 speakers, I'll make a motion to close this  
3 public hearing and leave it open for  
4 public comment until January 28th, at  
5 noon.

6 MS. LANSDALE: The County seconds  
7 that motion.

8 MS. JAKOBSEN: All in favor?

9 SUPERVISOR SCHNEIDERMAN: Aye.

10 MS. JAKOBSEN: Any opposed?

11 (Whereupon, there was no response  
12 amongst the Board.)

13 MR. AMPER: Thank you very much.

14 MS. JAKOBSEN: The motion --

15 SUPERVISOR ROMAINE: Emily will  
16 contact you.

17 MR. MILAZZO: We are now closed,  
18 right? Town of Riverhead was just late on  
19 the hand, right?

20 UNKNOWN SPEAKER: John, Riverhead  
21 is supporting closing the hearing.

22 MS. JAKOBSEN: It was a little  
23 late.

24 MR. AMPER: Thank you everybody. I  
25 appreciate it.

1

2                   MR. MILAZZO: That concludes the  
3 hearing.

4                   (Whereupon, this portion of the  
5 hearing was concluded at 3:39 p.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

## 2 CERTIFICATION

3

4 I, Domenica Raynor, a Notary Public for  
5 and within the State of New York, do hereby  
6 certify:

7 That the witness whose testimony as  
8 herein set forth, was duly sworn by me; and  
9 that the within transcript is a true record of  
10 the testimony given by said witness.

11 I further certify that I am not related  
12 to any of the parties to this action by blood  
13 or marriage, and that I am in no way interested  
14 in the outcome of this matter.

15 IN WITNESS WHEREOF, I have hereunto set  
16 my hand this 19th day of January, 2022.

17

18

19

*Domenica Raynor*

20

21

22

23

24

25