

# 1 CENTRAL PINE BARRENS

## JOINT PLANNING AND POLICY COMMISSION

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5 In the Matter of the

## 6 Public Hearing on the

## 7 COMPATIBLE GROWTH AREA APPLICATION

8 Core *Preservar* of

## 9 HAMPTON ATHLETIC CLUB

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200 Howell Avenue  
Riverhead, New York

May 31, 1995  
5:35 p.m.

## PUBLIC HEARING

1       A P P E A R A N C E S :

2            GEORGE PROIOS  
3                   Chairman  
3                   County of Suffolk

4            RAY COWEN  
5                   State of New York  
5                   Representing the Governor's Office

6            BRENDA FILMANSKI  
7                   Town of Riverhead  
7                   Alternate for Deputy Town Supervisor

8            DORIS ROTH  
9                   General Counsel for the Commission

10           MARTIN SHEA  
10                   Town of Southampton  
10                   Alternate for Active Deputy Supervisor

11           JOHN GIRANDOLA  
12                   Town of Brookhaven  
12                   Planning Division

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

14           DONNA PLUNKETT  
15                   Staff to Commission

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1 CHAIRMAN: I'd like to call the  
2 meeting of the Central Pine Barrens Joint Planning and  
3 Police Commission to order. This is a public hearing  
4 pursuant to the Environmental Conservation Law, Article  
5 57-0121, subsection 10.

6 Notice is hereby given that a public  
7 hearing will be held by Central Pine Barrens  
8 Joint Planning and Policy Commission on May 31st, 1995  
9 on the matter of an application for core preservation  
10 area hardship permit. The subject of the hearing  
11 is the Hampton Athletic Club. Project:  
12 Construction of 80 parking spaces on .84 acres to meet  
13 the parking requirements for interior modifications to  
14 the existing facility. It is located on the east side  
15 of County Road 104, just south of its  
16 intersection with Lewis Road, and Oakville in  
17 the Town of Southampton.

18 I will introduce myself. I'm George  
19 Proios acting chairman of the County  
20 Executive's office, Robert Gaffney, chairman of the  
21 commission. Raymond Cowen is to my left. I will ask  
22 each of you to introduce yourselves.

23 MR. COWEN: I'm Raymond Cowen, I am  
24 here representing Governor Pataki.

25 MS. FILMANSKI: Brenda Filmanski, Town

1 of Riverhead, Alternate for Deputy Town  
2 Supervisor.

3 MR. SHEA: Martin Shea, alternate for  
4 Acting Deputy Supervisor, Town of Southampton.

5 MS. ROTH: Doris Roth, McMillan,  
6 Rather, Bennett and Rigano, P.C., General Counsel  
7 for the Commission.

8 MS. PLUNKETT: Donna Plunkett.

9 MR. GIRANDOLA: John Girandola  
10 representing the Supervisor for Brookhaven,  
11 John LaMura.

12 CHAIRMAN: The applicant or the  
13 attorney representing the applicant?

14 MR. DI PIETRO: Arthur DiPietro, for  
15 the applicant, Westhampton Beach.

16 Essentially the basis of this  
17 application is for permission to construct an  
18 additional parking lot on the premises. It  
19 involves clearing of natural vegetation in the core  
20 area. We have already received both site plan and  
21 special acceptance approval from the Planning Board of  
22 the Town of Southampton. In conjunction with that  
23 there is a thorough review extended over a period of  
24 several months, probably about a year  
25 and-a-half, two years, and one of the

1       conditions of the approval, the Planning Board  
2       stipulated that was to acquire a donation parcel. That  
3       was done through the efforts of the Nature Conservancy.  
4       A donation parcel was located. We have an option to  
5       purchase it. We will exercise the option upon all final  
6       approval, being granted as a condition of the Planning  
7       Board approval as well as your board deeming fit,  
8       approval of this application, and cause the parcel to be  
9       conveyed to the Nature Conservancy.

10                   The proposed clearing of the subject  
11       site is eight-tenths of an acre. The donation parcel  
12       which has been clarified as a pristine area is a total  
13       of five acres. So there's about a six to one ratio of  
14       benefit to the extent that the general purpose of  
15       preservation are set forth in enabling portions of  
16       Article 57.

17                   This site has been developed and  
18       actively utilized as a tennis and sports facility since  
19       the mid-1970's, and most recently, in the past  
20       three years, the town of Southampton approved the  
21       construction of nine additional outdoor tennis courts.  
22       After full site plan inspection, approval of  
23       construction of those courts. Has further  
24       underlined the hardship aspect of this  
25       application in that those courts utilize land

1 which had been non-existent at that time it had been  
2 approved and might have provided a site for the parking.

3 MR. COWEN: When were those courts  
4 built?

5 MR. DI PIETRO: I believe they were  
6 built in 1991 or 1992.

7 CHAIRMAN: Do you have a site plan  
8 showing the configuration of the building?

9 MR. DI PIETRO: This site plan shows  
10 everything developed to date including the proposed  
11 parking. There is another site plan that shows the  
12 actual parking places.

1        southwest of the property, the last item of construction  
2        which I referred to earlier, were nine courts that were  
3        built three or four years ago between the currently  
4        existing parking lot and County Route 104.

5                        The off-street parking was originally  
6        approved by The Town of Southampton. Immediately  
7        adjacent to the nine courts I just mentioned. Then  
8        there was a supplemental parking area which was provided  
9        in conjunction with the construction of the nine  
10      courts.

11                      The reason this matter was reviewed  
12        by the Planning Board is that the prior  
13        principal and officer of the owner, under his I guess  
14        direction -- the same corporation entity -- constructed  
15        a gymnasium within the pre-existing structure of about  
16        12 or 13 hundred square feet. Ostensibly it has some  
17        additional weight equipment weight machines, and that  
18        was done without a building permit. When the  
19        authorities in the Town of Southampton were alerted that  
20        to that construction, a stop work order was issued. As a  
21        result of an investigation, the Town, both the Building  
22        Department and the Planning Department, deemed it  
23        appropriate to do a comprehensive analysis of the  
24        actual current utilization of the site. Out of that  
25        analysis came the Planning Board's position and

1 recommendation at first, and then the stipulation, that  
2 additional parking be built. That position was  
3 substantiated and supported by the Department  
4 of Fire Prevention because their opinion was  
5 that during peak use there were congestion  
6 problems and emergency vehicle access problems that were  
7 resulting from the inadequacy of the parking facility  
8 as provided on site.

9 CHAIRMAN: Where on this map are the  
10 additional parking spaces to be located?

11 MR. DI PIETRO: That was called  
12 proposed 80 parking spaces clearing line. So the  
13 parking will continue towards the southwest between the  
14 existing tennis courts and property line which is shared  
15 with the Suffolk County Airport.

16 CHAIRMAN: This is property previously  
17 owned --

18 MR. DI PIETRO: It has all been owned  
19 without any acquisition or subdivision alienation. The  
20 integrity of this parcel fee ownership as it exists  
21 now has been continuous since -- I closed on it for the  
22 then owner in 1973.

23 MR. SHEA: The intent where the  
24 parking lot has been proposed, that has been  
25 cleared.

1 MR. DI PIETRO: That's correct.

2 MR. SHEA: They haven't started  
3 construction of the actual park lot?

4 MR. DI PIETRO: No, construction  
5 has --

6 MR. SHEA: Has there been any grading?

7 MR. DI PIETRO: There has been some  
8 grading. There has been no paving or curb work done.

9 MR. COWEN: When was the clearing  
10 done?

11 MR. DI PIETRO: After the approval of  
12 the Planning Board. The Planning Board generated a  
13 letter allowing that with the understanding the  
14 applicant would not claim any vested rights.

15 MR. COWEN: Was that this year or last  
16 year?

17 MR. DI PIETRO: This year.

18 MR. GUANDOLA: The land that has been  
19 dedicated -- you are actually the middleman.  
20 You are exercising the option?

21 MR. DI PIETRO: Right.

22 MR. GUANDOLA: You're purchasing the  
23 property?

24 MR. DI PIETRO: Title will not pass  
25 through us. When we exercise the option, we will

1 discuss -- we will in effect assign our rights as the  
2 holders to the option to the Nature Conservancy. Title  
3 will close directly between the owner and the Nature  
4 Conservancy.

5 MR. GUANDOLA: So the nature  
6 conservancy will pay the other owner?

7 MR. DI PIETRO: No, we will pay.

8 MR. GUANDOLA: I have another question  
9 really for the Commission. As far as rights of the  
10 Nature Conservancy, as far as the Pine Barrens'credit,  
11 can they seek the Pine Barrens credit?

12 MR. SHEA: Not if you're going to hold  
13 title. Who are you transferring title to; the state or  
14 county?

15 MR. DI PIETRO: It was my  
16 understanding, at the recommendation of the Planning  
17 Department -- I was not in the loop at that time, so I  
18 don't know if it was the staff or it was a member of the  
19 Planning Board, or the entire Planning Board consensus,  
20 but it was my understanding that it was recommended by  
21 Southampton Town that the Nature Conservancy hold title.  
22 We would be willing to do anything which makes the Town  
23 of Southampton and this commission comfortable. We have  
24 no vested interest in the outcome.

25 MR. GUANDOLA: My only concern is that

1 at a later date that the Nature Conservancy  
2 could not submit to Pine Barrens credits out  
3 there due to the parcel is being sterilized  
4 and will be Pine Barrens credits coming off of it.

5 MS. PLUNKETT: Can you put in  
6 restrictive covenants in some way?

7 MR. DI PIETRO: That is not part of the  
8 option. If that's imposed, the only thing that I am not  
9 -- we have an option to purchase it for "X" amount of  
10 dollars, to direct that exercise of the option title be  
11 conveyed to the Nature Conservancy. There is a letter  
12 from a representative of the Nature Conservancy  
13 recommending the parcel. I don't believe any further  
14 details were imposed between the Nature Conservancy and  
15 the Town.

16 CHAIRMAN: I think Ray raised a broader  
17 issue which we haven't analyzed. We have always assumed  
18 that the Nature Conservancy would be retaining all these  
19 properties given the financial status of not-for profit,  
20 not to mention the Boy Scouts was one where the selling  
21 of land that normally they have held was open space. It  
22 may be worthwhile to get some sort of a written letter  
23 from them how they intend to maintain the property that  
24 they do own. Just so it's on record.

25 MR. SHEA: This property is five acres

1 of Pine Barrens, and this is a case where it is highly  
2 unlikely that they would want to dispose of that  
3 property.

4 CHAIRMAN: Not dispose, but they may  
5 try to have credit generated which would then enable  
6 them to bring in money and I could see them make an  
7 argument that they used that money to purchase other  
8 land.

9 MR. DI PIETRO: They already have title  
10 to a contiguous parcel in the immediate vicinity and so  
11 does the Town of Southampton.

12 MS. ROTH: Isn't there something about  
13 the parcel will not be issued Pine Barren credits  
14 because of other options, however, the Nature  
15 Conservancy can address that?

16 CHAIRMAN: I'm not so sure that's  
17 relevant to this hearing. Certainly there is an option  
18 to impose some other conditions.

19 Let me ask you a couple of questions  
20 on this.

21 Were any of the structures on this  
22 property constructed after June 1st, 1993?

23 MR. DI PIETRO: No.

24 MR. COWEN: For the sake of clarity,  
25 on the record, I notice you have copies of the statute

1 in front of you.

2 MR. DI PIETRO: Yes.

3 MR. COWEN: Would you mind telling us  
4 about 57-0121.10, the hardship section, and just point  
5 by point addressing those issues.

6 MR. DI PIETRO: I do have a written  
7 description of it. I will get copies. I believe they  
8 address the hardship provision paragraph by paragraph.  
9 I had it in a memo form last week because Donna had  
10 asked me to make it a little bit more -- make it part of  
11 the record.

12 In reviewing -- this is a hardship  
13 application. I would be more than satisfied with  
14 granting a relief but in reviewing Article 57, the  
15 definition as appears on Page 146, lower case Roman  
16 Numeral sub seven, perhaps it could also be argued this  
17 constitutes an existing recreational use that may be  
18 deserving of an exemption.

19 MS. PLUNKETT: Non-developed.

20 MR. DI PIETRO: Non-developed  
21 consideration.

22 CHAIRMAN: Anyone else?

23 MR. SHEA: Yes, one of the reasons why  
24 we do not support this application is that this property  
25 is located in an area of core and highly fragmented.

1 It's on the edge of the core. It's surrounded by the  
2 county airport. To the east is cultivated land and  
3 residential property. There are woods remaining which  
4 extend down and very fragmented. The land which would  
5 be purchased is in core and are extremely valuable and  
6 certainly an area that the Town wants to preserve.

7 The Town also has concerns, as Art  
8 mentioned, about the safety activities on the site.  
9 Currently, on any weekend, there are big parking  
10 problems. Many of the clients have illegally parked on  
11 the shoulders. This a high traffic area. Certainly  
12 there are safety issues here as well. The Planning  
13 Board has spent a lot of time looking at this site and  
14 whereas there has always been a concern about allowing  
15 additional clearing on the site, the applicant tries to  
16 propose mitigation, to purchase the property, five acres  
17 outside the property, which they feel is adequate  
18 compensation for the clearing of this land.

19 MR. COWEN: Could you tell us the  
20 exact nature of the property owned by the  
21 airport; that is to the northwest of the parcel?  
22 Is there a buffer?

23 MR. DI PIETRO: There is a narrow  
24 fringe. It is wider to the east, northeast, in the  
25 vicinity of County Road 104. As the property line runs

1 from there to the southwest it gets narrower. I'd say  
2 there are places where it's no more than 30 to 50  
3 feet. Beyond that it is wide open, clear, sand  
4 area. The pre-runway lays north and southwest.

5 MR. SHEA: The wooded area indicates  
6 it is a very narrow strip. In some places a little bit  
7 wider. Right outside of that, is an area that is made  
8 of native grass. Immediately beyond that is the runway  
9 strip, understanding there is a disturbed area  
10 surrounding the runway.

11 MS. PLUNKETT: The immediate property  
12 line is wooded though, just so you understand.

13 MR. DI PIETRO: Yes, and it's wider  
14 here. It narrows down as you get towards the location  
15 as proposed. Immediately beyond that is what Marty just  
16 described; the pre-runway. It's not paved. It is clear  
17 and does have ground strobe lights and runway lights.

18 MS. ROTH: Can you identify the  
19 document or report you are referring to?

20 MR. DI PIETRO: I am referring to a map  
21 of property, Oakville. The last date as indicated,  
22 location of clearing wood line, January 18th, 1994,  
23 prepared by Raynor and Marks, surveyors of Quogue, New  
24 York.

25 CHAIRMAN: Can you indicate for us the

1 map -- show the green area on the south portion of the  
2 property.

3 MS. PLUNKETT: Show us the existing  
4 wooded area. The areas that remain wooded.

5 MR. DI PIETRO: What is indicated on --  
6 this is natural vegetation because this has not been  
7 disturbed at all. To complete that, it should include  
8 the area between the nine tennis courts and Route 104  
9 and the two areas on either side of the entry access  
10 road.

11 MR. COWEN: on the extreme southwest  
12 portion of the property there is a grass  
13 ballfield. What is that used for? Is that  
14 actively used?

15 MR. DI PIETRO: Yes, it is. It's not  
16 used on an intense basis but it is actively used to play  
17 softball and soccer.

18 MR. COWEN: As part of the commercial  
19 activities here?

20 MR. DI PIETRO: Yes, it is.

21 MS. PLUNKETT: Will there be any  
22 vegetation after construction of the parking  
23 area? In other words, along the edges where  
24 there has been disturbance -- or any  
25 re-landscaping proposed with the construction

1 of the parking area?

2 MR. DI PIETRO: There was no  
3 traditional management imported for site landscaping  
4 stipulated by the Planning Board or the staff. It has  
5 been our experience, even with clearing for  
6 improvements, that there has been quite a bit of natural  
7 vegetation in the area. So the answer is no, we don't  
8 have that much really to play with. There is a very  
9 small amount which municipal requirements have set back  
10 between existing lot line and the actual parking area  
11 and then we are going -- probably the area on the other  
12 side of the parking lot which is contiguous to the  
13 existing tennis courts, there will be virtually no real  
14 room for vegetation.

15 MR. COWEN: Can you comment on why  
16 your client chose to clear that land before  
17 receiving approval from this commission on  
18 this application?

19 MR. DI PIETRO: Yes, we made the  
20 request of the Planning Board. We are a seasonable  
21 business with a seasonable area on Eastern Long Island.  
22 To be very candid and up front -- the Planning Board was  
23 very candid with us -- we asked permission to begin  
24 clearing in order to avoid having the project ongoing  
25 during the summer season because a lot of the materials,

1 as well as the heavy equipment needed to complete this  
2 project, will be stored and staged in the existing  
3 parking lot on the northeast, and with that, as well as  
4 economic consideration, to try to have the improved  
5 facility available for the major portion of the summer.  
6 So that is why we asked. The Planning Board gave us a  
7 letter to go ahead but with the caveat that we would not  
8 accrue any vested rights as a result of it.

9 MR. COWEN: Did your client do that  
10 with full knowledge of the requirement of this  
11 commission?

12 MR. DI PIETRO: I'm not being cute, but  
13 I can't honestly answer that. I left for vacation in  
14 California after the Planning Board had granted  
15 approval. With the letter approved, but not in hand,  
16 not knowing exactly where we were going to land as far  
17 as jurisdiction of this commission was concerned, and  
18 the referral occurred when I was out of town. Quite  
19 frankly, when I finished on that Thursday, which is I  
20 believe was the first Thursday in May, that was May 5th,  
21 they granted the approval-resolution. I was of the  
22 impression that any referrals necessary at the foot of  
23 the approval process would be internal within the Town  
24 of Southampton. At that point in time, I did not  
25 anticipate an application before the commission.

1 MS. PLUNKETT: I would like to make  
2 this commission aware that prior to the approval by the  
3 Planning Board on May 18th, the coordinator on SEQRA,  
4 approximately a week before that, at which time the  
5 staff didn't reply to their staff -- complaining to them  
6 this was a core area and would require a hardship  
7 exemption. So whether that information was made  
8 available to the applicant, I'm not exactly sure. But  
9 we did respond to the Planning Board, and upon their  
10 request for seeking that the coordinator -- to let them  
11 know that this application would require a hardship  
12 exemption.

13 MR. COWEN: Obviously before the  
14 Planning Board made its decision?

15 MS. PLUNKETT: Yes, because they had  
16 to have that before they made any declaration  
17 and approval.

18 MR. COWEN: Are you aware of any  
19 communication between the Planning Board and  
20 the applicant?

21 MR. SHEA: No.

22 MS. ROTH: Assuming you are coming to  
23 this Board for a hardship exemption -- I  
24 notice your petition talks about needs and  
25 also extraordinary hardship -- are you seeking

1 permission for one or the other?

2 MR. DI PIETRO: Yes, I tried to address  
3 all of the items set forth in that portion of the  
4 statute. I believe there are unique circumstances  
5 inherent to the cite and to the development and use of  
6 the site over a period of years, which predate the  
7 effective date of this statute. I also believe that  
8 there is a public safety need as expressed by Mr. Shea  
9 on behalf of the Town, and I would concur in that.

10 MS. ROTH: You understand that you  
11 need not say both? You can satisfy one or the other?

12 MR. DI PIETRO: I am addressing both  
13 and I leave it within the sound discretion of the Board  
14 -- would you look favorably upon the application and  
15 flexibility to go in either direction, which is most  
16 appropriate for our needs, whether it's precedent value  
17 or case specific value. I have learned in 25 years --  
18 I want to give the Board as much flexibility as  
19 possible to make me happy.

20 CHAIRMAN: Any other questions?

21 (WHEREUPON, there was no response from  
22 the Board.)

23 CHAIRMAN: Does anyone from the  
24 audience wish to address or comment on the matter?

25 (WHEREUPON, there was no response from

1 the audience.)

2 CHAIRMAN: If not, I will set a date  
3 for receiving any final comments. We will leave the  
4 hearing open until we can make an inspection. The date  
5 will be Tuesday, June 6th.

6 (WHEREUPON, this hearing was  
7 concluded at 6:10 p.m.)

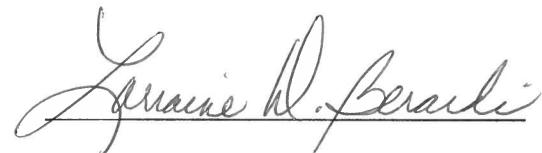
8 CERTIFICATION

9

10 I, LORRAINE D. BERARDI, Court Reporter,  
11 do hereby certify that the foregoing is a true and  
12 correct transcript of the proceedings held May 31,  
13 1995, at Riverhead, New York, in this matter.

14

15 Dated: June 14, 1995



16  
17 LORRAINE D. BERARDI

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