

STATE OF NEW YORK
CENTRAL PINE BARRENS JOINT PLANNING AND POLICY
COMMISSION

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Public Hearing on the Matter of an Application for
a Core Preservation Area Hardship Waiver, re:

7-ELEVEN, INC. at RIDGE,

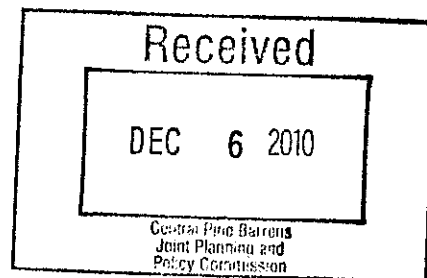
Pursuant to New York State Environmental
Conservation Law Articles 57-0121(10) and a
Compatible Growth Area Hardship Waiver application
pursuant to ECL Article 57-0121(9)
-----X

Brookhaven Town Hall
One Independence Hill
Farmingville, New York 11738

Wednesday,
November 17, 2010

The above-entitled matter came on for hearing at 4:45 p.m.

BEFORE: CHAIR PETER A. SCULLY,
CENTRAL PINE BARRENS JOINT PLANNING
& POLICY COMMISSION



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

THE PANEL:

PETER SCULLY

SEAN M. WALTER

JOHN TURNER, representing Mark Lesko

CARRIE MEEK GALLAGHER, representing Steve Levy

MARTY SHEA, representing Anna Throne-Holst

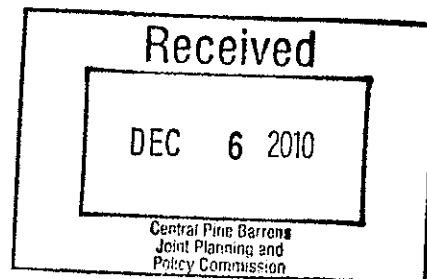
ON BEHALF OF THE CENTRAL PINE BARRENS JOINT
PLANNING AND POLICY COMMISSION:

JOHN W. PAVACIK
Executive Director

JUDITH E. JAKOBSEN
Policy and Planning Manager

ON BEHALF OF APPLICANT:

CERTILMAN BALIN ADLER & HYMAN, LLP
1393 Veterans Memorial Highway, Suite 301S
Hauppauge, New York 11788



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P R O C E E D I N G S

MR. SCULLY: I'll read from the public notice although I'll provide you a copy of the notice:

Notice is hereby given that the Central Pine Barrens Joint Planning and Policy Commission will hold a public hearing on November 17, 2010 on the matter of an application for a Core Preservation Area Hardship Waiver pursuant to New York State Environmental Conservation Law Article 57-0121(10) and a Compatible Growth Area Hardship Waiver application pursuant to ECL Article 57-0121(9).

The project name is 7-Eleven, Inc. at Ridge. The applicant/owner is 7-Eleven Inc. c/o Frank D'Anna, president of Colgate Design Corp. The applicant's agent is Leigh Rate c/o Certilman Balin Adler & Hyman LLP. The project site Suffolk County tax map numbers are 200-351-2-6.1(Core) and 200-351-2-20 (Compatible Growth Area).

Project site is located on the southeast corner of New York State Route 25 and Red Maple Road, in the Compatible Growth Area of the Central Pine Barrens, in the hamlet of Ridge, Town of Brookhaven, Suffolk County, New York.

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The project consists of the expansion of the parking lot from 18 to 32 spaces from the parcel in the Compatible Growth Area, which is 19,233.3 square feet and contains the existing 2,625 square foot convenience store occupied by 7-Eleven, into the westerly adjacent wooded parcel, which is 35,297.7 square feet and in the Core Preservation Area. The two parcels total 1.25 acres. The project site is situated in the J2 Business Zoning District.

The meeting will be held at 3:00 p.m., November 17, 2010, at the Brookhaven Town Hall. Please put your names on the record.

MR. WALTER: Sean Walter, member.

MS. GALLAGHER: Carrie Meek Gallagher, representing County Executive Steve Levy.

MR. SHEA: Marty Shea, representing Southampton Town Supervisor Anna Throne-Holst.

MR. SCULLY: Peter Scully, representing Governor David Patterson.

First from staff, Ms. Hargraves.

MS. HARGRAVE: Thank you. I just want to make sure that the applicant is here.

You have copies of exhibits that were

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1 before you, but they were also e-mailed to you.
2 They contain the staff report for the project, an
3 aerial of the project site, the site plan --

4 MR. MILEZZO: Have the record reflect
5 that we gave a copy of the staff report to the
6 applicant.

7 MS. HARGRAVE: -- the site plan for the
8 project, photographs of the site which were taken
9 by staff, the applicant's Core Hardship petition,
10 the summary of the responses to the CGA Hardship
11 criteria, and the summary of responses to the Core
12 Hardship criteria, and a map of past precedents
13 submitted by the applicant.

14 MR. MILEZZO: Let's have the record
15 reflect we have given the document we just marked
16 as A through I as per the title.

17 MS. HARGRAVE: As you can see on the
18 aerial photographs in the corner parcel of this
19 site -- two parcels comprise this project site, and
20 the corner piece is the core parcel that contains
21 the existing 7-Eleven is in CGA and adjacent to the
22 east. The west side of the parcel is Red Maple
23 Road and the north side is Middle Country Road.

24 Again, the application is Core Hardship
25

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2 and -- and the applicant submitted petitions to
3 address the criteria for both hardships, as well as
4 the review of standards for the Compatible Growth
5 Area portion of the site.

6 As far as compliance with standards,
7 the applicant proposes to clear some of the
8 existing vegetation that remains on the CGA parcel
9 to accommodate the new truck access loading
10 facility and some parking, as well as clearing the
11 core parcel for the project.

12 This core parcel is not on the road
13 front extension. That is for residential parcels,
14 however, the applicant could apply for a letter of
15 indemnification to obtain a pine barrens credit,
16 but we have no request for that for this parcel.
17 The applicant proposes to -- the proposal, as the
18 chair stated, is to expand the parking lot from the
19 existing 18 parking spaces to 32 spaces. There is
20 no expansion of the building, the 7-Eleven. It's
21 just the expansion of the parking lot and an
22 additional new curb cut on Red Maple Road.

23 Do you have any questions about the
24 project?

25 MR. SHEA: Does the existing parking

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lot conform with town requirements in terms of the number of parking spaces that are needed.

MS. HARGRAVE: I did look at the town parking requirements for a convenience store. It's 1 per 100 square feet, so we would need about 26 spaces. We are proposing -- they only have 18 now -- they are under their required amount now. I'm not sure what the requirement was when the site was built.

MR. SHEA: Just a follow-up question. This may be addressed to the applicant. As an alternative, have they looked at possible reconfiguration of the existing parking layout, as well as use some of the remaining portions of the property in order to get as much parking as possible on this property.

MS. HARGRAVE: I believe the applicant can address alternatives.

MR. CALTABIANO: Good afternoon. My name is Joe Caltabiano from Catapano Engineers.

MR. SCULLY: Do you mind being sworn, sir?

Whereupon,

JOE CALTABIANO,

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after having been first duly sworn, was examined and testified as follows:

THE WITNESS: The question, as to that, is the existing parcel is basically a dead end parking lot when you come in off Old Country Road. You come in, make a left and a right, and you have a choice of 18 parking spaces.

There is really no additional configuration when trying to keep the setback, the existing setback, to the property line I designed, and any existing curb cut in the area for the site. To try and reconfigure that, it would only create -- if we were to rotate the parking stalls 90 degrees, it would be a dead end going straight into the building if we were to reconfigure it that way.

The biggest concern for the site development is -- currently the site is -- thank you for the board, by the way. Currently the site is just a hundred foot -- 110 foot by 200 foot deep parcel in the middle of the street -- in the middle of Middle Country Road set at the corner. So it's kind of off Old Country Road. The concern there is the circulation of cars on the site, backing up onto Middle Country Road -- also deliveries of



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goods by different types of vehicles -- Bud Light, McClaren, Frito-Lay. Different-sized trucks currently get on and off this site.

Currently there is backlog of the way delivery trucks pull into the site via pulling back in, potentially idling on Middle Country Road. I'm not sure on that, but even, in any event, the situation that we have here is to develop a property going towards Maple[sic] Road. If we develop the property on the existing site, it would not alleviate any issues with regard to deliveries.

This site was developed 30, 35 years ago, if not more, and it is something that has developed over the years. 7-Eleven is a good company, very busy, and they're just trying to better themselves. They see that they have a situation here, and, given that the two properties are contingent -- contiguous by the same owner, they're apt to lease this parcel but develop only a small portion of it.

This alleviates and helps reduce, like I said before, the truck idling, truck parking, impact on the people coming in and out of the site, that are maneuvering into the site, back up -- not



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2 impact any existing or proposed parking stalls as
3 we have here. They will have their own designated
4 area, pulling back in, depending on the size of the
5 truck and the driver.

6 I know I may have answered your
7 question. I just want to know if I can go a little
8 bit further on to some concerns that they have.
9 They are relocating and increasing the size of the
10 refuse enclosure because of recyclables that they
11 have. It's laid out, the way it is now it's just
12 one simple refuse enclosure. 7-Eleven has gone
13 forward. They have a double-sided refuse enclosure
14 for regular trash, and then they have recycling and
15 cardboard, and so forth. So that's at the end of
16 the loading zone.

17 We have tried to impact as little
18 clearing as possible. There was a previous design
19 that had the development come almost three-quarters
20 of the way back into this parcel. We tried to push
21 it up, make a more favorable application on both
22 aspects. We kept the curb cut, as well, close to
23 Middle Country Road, creating other access, ingress
24 and egress, for the site.

25 MR. SHEA: Just a follow-up question.

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2 Was there any opportunity to put the proposed
3 loading space on the east side of the building in
4 order it take advantage of as much of the
5 Compatible Growth Area as possible? Does that
6 reduce the amount of natural vegetation that would
7 have to be cleared out? I recognize that you would
8 have to redesign the whole parking lot to do that.

9 THE WITNESS: We do have 25 feet -- I am
10 being a little generous. We have about 25 feet.
11 The only thing with that is that we would lose the
12 majority of the parking. We're keeping the
13 existing curb cut in. Instead of backing up here,
14 if we back up there, we are losing the majority of
15 the parking in front of the building -- which is
16 always important to an establishment like this
17 where they, people, come in, they stop, they come
18 in and they're off.

19 That would have to be something that
20 would need to be discussed with several of them,
21 but I would almost say it would be somewhat of a
22 detriment to their operations.

23 MR. SCULLY: Any questions for the
24 applicant? I know this is sort of a complicated
25 situation in that there are multiple parcels, one

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of which is the CGA. But I am reading sentences in some of the correspondence which I can't quite reconcile.

There's a March 17, 2010 letter, which indicates in the fourth paragraph that the subject property was recently purchased to be incorporated into the 7-Eleven site to improve access, and, in particular, truck access, yadda, yadda.

And then in a correspondence dated September 16, 2010, it says that the property, the property has been owned by the same owner in different corporate entities since that time, and that the property has developed -- and argues that their hardship isn't self-created because the property was developed in 1974. I'm trying to reconcile that statement.

MS. RATE: In our usual correspondence, it's not that it was purchased recently, it's just that it was leased recently by 7-Eleven, this portion. This is a 7-Eleven that had been leased and has been in existence since 1974. This piece of property here was recently leased by 7-Eleven for this property. That was owned by the owner --



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MR. SCULLY: Got it. Got it. So the applicant is 7-Eleven and 7-Eleven doesn't actually own the property.

MS. RATE: They are leasing the property from two separate corporations.

MR. SCULLY: So they leased the property since...?

MS. RATE: I want to say the early '90s. I don't have a copy of the lease with me. And actually this corporation --

MR. SCULLY: So let's go to the correspondence. Just make sure we have a clear and accurate record, because I think that's in your client's best interest.

So this March 17, 2010 letter which indicates that the subject property was recently purchased to be incorporated into the 7-Eleven site, that's not accurate.

MS. RATE: It was leased by 7-Eleven.

MR. SCULLY: You just testified that recently means the early 1990s.

MS. RATE: This part. There are two lots. So the existing 7-Eleven has had a longterm lease. This piece of property -- 6.1 -- has been



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1 leased and --

2 MR. SCULLY: The core parts. The core
3 parts have been incorporated into their lease
4 approximately how long ago?
5

6 MS. RATE: I will have to double-check.

7 MR. SCULLY: It's not prior to the Act?

8 MS. RATE: No.

9 MR. SCULLY: Or the plan?

10 MS. RATE: That's correct. The owner,
11 the owner of the property, he has owned both
12 properties since 1973.

13 MR. SCULLY: Got you. But he's not
14 before us arguing that he has a hardship; 7-Eleven
15 is. And they only recently leased the property,
16 right?

17 MS. RATE: Yeah.

18 MR. SHEA: The southeastern corner of
19 the project site, that would be the L-portion of
20 the vacant lot. Is that CGA or is that Core?

21 MS. RATE: This corner lot?

22 MR. SHEA: Is the entire vacant lot
23 Core?

24 MS. RATE: Yes.

25 MR. SHEA: Even the portion of the

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vacant land behind 7-Eleven is Core? Because the map, the map that's in this report is very confusing.

MS. HARGRAVE: The aerial photograph?

MR. SHEA: Yes.

MS. HARGRAVE: That's because our aerial data hasn't been updated to reflect the boundaries, or boundary clarifications for this site.

The way that the law reads, I believe, is the Core property was not developed at the time that the law was written. But this, the Core piece, this piece wasn't 6.1. It was not developed, so it was captured into the Core. Basically, the piece that was 6.1 was placed in the CGA. So it does jog around.

But our aerial -- I'm just trying to clarify that -- our aerial still shows this corner piece as a CGA. And I think that the applicant wasn't sure -- the applicant came almost a year ago to ask about this parcel and if it was in the Core or CGA. I think the other maps show it in the CGA, but it's not. Based on this boundary clarification, it's in the Core.

MR. SHEA: Does it make sense as an



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2 alternative if we can put some new parking to the
3 rear of the 7-Eleven? Or because you want, because
4 of access is key, that's why you are looking to
5 concentrate all the parking to the west?

6 MS. RATE: Well, wait, there is a
7 residence here, and so we would like to see any
8 type of commercial development as far as possible
9 from that residential, that residential property --
10 to keep it more towards Middle Country Road.

11 I would like to clarify something as far
12 as the hardship. The application made by 7-Eleven,
13 I mean, is the application just made in the name of
14 the owner? That's preferable because the hardship
15 does relate to the ownership of the property. The
16 hardship is his. I think it's a technicality that
17 it's made in the name of 7-Eleven care/of the
18 owner. I don't that argument, it's not valid.

19 MR. MILEZZO: I don't know if it's the
20 same person with two corporate entities. Is there
21 one owner for both corporate entities?

22 MS. RATE: Two corporate entities.

23 MR. MILEZZO: And there are two owners?

24 MS. RATE: Yes. I know that you have it
25 in your packet already, but on the other side of

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2 Red Maple Road, in 2005 there was another inclusion
3 into the Core. It was under development as of June
4 1, 1993. That was for a daycare center that
5 received hardship. That clearing was at some 62
6 percent clearing -- something close to that. We
7 are asking for 64.7 percent clearing on this
8 property, really just clearly what was necessary to
9 make the project work -- I'm sorry, 34 percent.

10 MR. WALTER: Well, from the Town's
11 standpoint, this kind of makes a little bit of
12 sense because that parking lot seems to be -- I've
13 been in that parking lot a couple of times.

14 MR. WALTER: I mean, does this make
15 sense from a planning standpoint?

16 MR. TURNER: I don't know. It seems to.
17 I know that 7-Eleven very well. When I go out
18 tiger salamandering.

19 MR. TURNER: Or my way I stop at this
20 place to get coffee. It is -- the property -- it's
21 difficult. When I pull in at times, you're waiting
22 for people to pull out, but it seems like they have
23 less parking space than they are permitted based on
24 the code.

25 MR. TURNER: So if you go to 32 --



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2 MR. WALTER: Because, then, if you did
3 that, you could constrain the property with
4 something more environmentally friendly than
5 somebody coming in and putting a building there or
6 anything else.

7 MR. SHEA: Is the owner willing to put
8 the remainder of the offering in a --

9 MR. TURNER: There you go.

10 MR. SHEA: With that and preservation?

11 MS. RATE: I don't think --

12 MR. CALTABIANO: I believe you asked a
13 question if we could put parking to the rear of the
14 building. If we did, then additional clearing of
15 the existing 7-Eleven site and additional clearing
16 of the Core site -- and Ms. Rate mentioned that
17 there is a residence back there that we would like
18 to preserve as much of that as possible. It is
19 dense growth.

20 MR. WALTER: Then from a planning
21 standpoint -- I mean, no one could ever accuse me
22 of being a planner. But if you were to put the
23 parking lot on here, alleviate the parking problem,
24 covenant the property -- Marty, that's a good idea
25 -- then you've eliminated this parcel from ever

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being anything that's really going to be a
nitrogen-loading parcel other than the parking lot.

I don't know that Mr. Everett agrees,
but --

MR. EVERETT: Well, not only do I agree
that you're not a planner.

MR. SCULLY: We haven't heard from the
public yet, but I'm certain that we will. Any
other questions for the applicant or staff? Any
member of the public wish to be heard on this
application?

MR. ABRAHAM: Richard Abraham, the Long
Island Pine Barren Society. What's the basis for
the secret interpretation that this is an unlisted
action in terms of listed action?

MS. HARGRAVE: This is unlisted, but we
haven't received any referrals from the Town. Is
that what you are saying? There is no secret
determination.

MS. RATE: We have not received any
other applications at this time.

MR. ABRAHAM: Let me ask this in a
different way. Who is classifying this as an
unlisted action?

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MR. MILEZZO: The commission, right?

MR. MILEZZO: The commission. It doesn't meet the threshold for a Type 1 action, and it's not a Type 2A; therefore, it's unlisted.

And then the Core, that's my sense of why the staff did it that way -- and in the Core the commission is seeking listing agencies.

MR. ABRAHAM: There's no clarification for the Core yet?

MR. MILEZZO: The Core, no -- it's a secret question. Whether it's a Type 1 or Type 2. That's the threshold --

MR. ABRAHAM: All right. Anybody talk to the Suffolk County Water Authority about the proposed well field on Sally Lane, approximate to the site?

MR. MILEZZO: Julie?

MS. HARGRAVE: That's in the report. There is a -- it's a future -- it's a future well field, potentially. It's not built now and there is -- they don't even have a well sunk for it. So it's Suffolk Water Authority property, but that's all that it is right now.

MR. ABRAHAM: Does the commission -- I

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mean, doesn't the commission need to know whether the Water Authority is concerned about this project being located there. If we don't have an application, does that mean we aren't concerned?

MR. MILEZZO: You can -- if there is a future potential well field, the Water Authority is an interested agency in this application at best. So the secret review sent to the Water Authority -- if the Water Authority wants to comment, they will.

MR. ABRAHAM: The commission will seek that information, right?

MR. MILEZZO: The commission shares its applications with involved agencies, and then if interested agencies want it, they can share it. If they're an interested agency, they don't have to seek approval from the Water Authority.

MR. ABRAHAM: The response to the subject of where it endangers certain species issues is concerned, is indicated "to be determined." Is that something that would be required by this commission.

MR. PAVOCIK: First of all, Dick, the EAF is used as a guide. It's one of many things that considered in the review of applications. The



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2 staff, in the course of their review, will be
3 looking at -- looks at other factors, including
4 natural heritage information, any other known
5 documentation. As may be needed, they would reach
6 out to other agencies such as DEC wildlife
7 biologists as to whether or not there are
8 endangered species.

9 But it's my understanding, I believe
10 that there is no detection of endangered species on
11 or near the site.

12 MS. HARGRAVE: Has the applicant
13 inquired through the Natural Heritage Program
14 whether there are any listings of endangered
15 species? We don't receive that letter, so I was
16 just asking if the applicant had. We should make
17 that inquiry.

18 MR. ABRAHAM: I will tell you why I
19 raise this. Because I am looking through the
20 application, and we so rely on the reports of
21 consultants to the developers that it becomes
22 especially important to be sure that -- especially
23 when this commission has jurisdiction as the lead
24 agency, that it's doing what it can do.

25 And, in that connection, I am looking



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2 at what appears to be a list of past precedents for
3 other hardship waivers on project sites in the
4 Core. I trust these were supplied by the
5 applicant?

6 MS. HARGRAVE: Yes.

7 MR. ABRAHAM: This not the sort of thing
8 that this commission -- it's one thing when we
9 don't have the resources to go gather the
10 information. I would assume that this commission
11 would determine to what extent these constitute
12 similar -- applications that are similar and have
13 been approved, rather than simply presenting, well,
14 shall we say certain bounds of interpretation of
15 the applicant's ability to interpret precedent.

16 This one's for you, John.

17 MR. MILEZZO: We hear your question. We
18 will reach out to gather that information.

19 MR. ABRAHAM: I point out that -- I
20 think it would be difficult for the applicant to
21 make the showing that it will not have the definite
22 use the property in the absence of granting the
23 hardship on the Core. I raise this because we are
24 back to precedential stuff that's important to us.
25 But, apart from that, I think we would do a great

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2 favor to this applicant if we persuaded them of the
3 potential wisdom of modifying this plan in some
4 way, as suggested by Commissioner Shea, so that we
5 will be dealing with a CGA hardship only.

6 I understand -- I don't want to try to
7 suggest the waiting time to get into the parking
8 lot of the site, but it may be worth this
9 applicant's consideration of a modification of this
10 plan to conform to the CGA hardship definition --
11 and consume -- develop only the portion on the CGA
12 property, to save them and the commission and the
13 Pine Barrens Society a lot of time.

14 MS. GALLAGHER: Can you clarify once
15 more what actually is -- what actually is CGA and
16 what is Core?

17 MS. HARGRAVE: Yes. The corner piece,
18 it's L-shaped.

19 MS. GALLAGHER: So there's no --
20 there's really no way to do this.

21 MS. HARGRAVE: This is potentially --
22 they can do maybe a driveway and a few spaces back
23 here, but this is very minimal space.

24 MS. GALLAGHER: Because it looks like
25 --



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2 MS. HARGRAVE: Yeah.

3 MS. RATE: If we would be able to only
4 develop the CGA parcel, obviously that is what we
5 would do. We are not able to accomplish that
6 without using some portion of the property that is
7 in the Core in these circumstances, because there
8 just isn't --

9 As I pointed out, the property line is
10 here. It's basically fully developed, nearly. If
11 we were to, as my engineer was saying, if we were
12 to put the loading space over here, we would
13 actually lose parking and make conditions worse on
14 the site. That's why they have to use space on the
15 property that's in the Core.

16 As far as addressing whether there is a
17 beneficial use of the site without relief, anything
18 that would be proposed there would require relief.
19 Any kind of project would require relief. And
20 really in a parking lot there's minimal
21 development, as opposed to proposing a building or
22 something like that.

23 With the relief factor they would get
24 approved. Again, we are trying to utilize this
25 property in the most minimally invasive way and

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2 still accomplish what we are trying to accomplish
3 -- and get safer passage-through delivery trucks,
4 additional parking, and relief from some of the
5 congestion and the problems of circulation, et
6 cetera, et cetera.

7 MR. SHEA: Is there any opportunity for
8 7-Eleven to relocate since they are just, you know,
9 leasing? Have you looked at other potential
10 properties in the area, to see if there is another
11 site in the area that would provide that additional
12 space for parking without having to come before
13 this commission?

14 MS. RATE: I would say that at this time
15 they have not because they have been located there
16 for quite some time and don't want to move anywhere
17 else.

18 MR. WALTER: So I have the precedent --
19 Joe Clark, precedent, set question.

20 If we had done this -- I'm looking
21 through the information -- if we had done this
22 before to the guy two doors down -- I mean, we're
23 always talking about precedent here. And this was
24 done -- I can't read the date -- it looks like
25 April 20, 2009, but it's not.

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MS. RATE: 2005.

MR. WALTER: 2005. How did that daycare center get approved?

MR. SCULLY: I guess what you would need to do is determine whether or not you agree that the situations were analogous and take a look at the basis for approval before you reach the conclusion that we've done this before.

MR. WALTER: I read it.

MS. RATE: The property --

MR. WALTER: It's not that difficult to read.

MS. RATE: -- that was a fully developed site as well, as opposed to a request for a parking lot.

MS. HARGRAVE: These approximate cases were provided by the applicant. So we can do some of that research. And we can also look at where other developments did occur in the Core, other applicants that asked for the same type of thing. In this general vicinity, what is left to be developed?

MR. SCULLY: Anybody else wish to be heard? Does a member of the public wish to be



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Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

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1
2 heard? Any other questions of the staff or the
3 applicant?

4 MS. HARGRAVE: Just to draw your
5 attention to page 5 of the staff report, there were
6 a few items that perhaps the applicant can address,
7 and, if they have to, to get back to the commission
8 with this information.

9 MR. SCULLY: There's a list of six
10 discussion items listed on page 5 of the staff
11 report, and we just want to bring that to your
12 attention, and the applicants are requested to
13 respond to those.

14 MS. RATE: We would like to address
15 these.

16 MR. SCULLY: You can do that. Or else
17 do it in writing within two weeks. That would be
18 helpful.

19 MS. RATE: Which would you prefer?

20 MR. SCULLY: I think for a more complete
21 record, it would be better for your client probably
22 to get some sort of a written response.

23 MS. RATE: Okay.

24 MR. SCULLY: Two weeks reasonable?

25 MS. RATE: Number one, you are

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asking...?

MS. HARGRAVE: Compatible and other variant hardship requires review of the criteria in the --

MS. RATE: You are asking for each and every other use that would be pertinent in J2?

MS. HARGRAVE: Yes, that's what it's asking.

MR. SHEA: Just a question. Would the applicant be amenable at all to reducing the number of spaces to 26, which you indicated is required pursuant to Brookhaven Town code?

MS. RATE: I would have to double-check what the requirements are. I thought that it was 1 per 100. It would be over-parked, if we were able to reduce only parking space. My calculations that I have done previously, we did have a few extras, not a significant amount. But at the same time I don't have a problem going back to the staff and showing them that we can deduct parking variances. So that's fine. We would like to discuss it with our client as well.

MR. TURNER: One more question for you. Do you know of another 7-Eleven in the county or in

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2 the town, if they have these loading zones? Is
3 this something that's typical of this kind of
4 operation? Or is it somewhat of an unusual
5 request?

6 MR. CALTABIANO: Not really. Depending
7 on the village or the town, if the building serves
8 food you are not required to have a loading zone.
9 Given the animal, if you will, that 7-Eleven is,
10 the convenience store type involving deliveries and
11 anything like that, even though it's not
12 specifically required by the codes, some planning
13 departments do request it. I have a couple of
14 situations where my office is in Huntington. It's
15 not required by code but the planning commission or
16 the planning department is requesting that we have
17 a specified loading zone and truck maneuverability
18 for 55-foot long, like a trailer, which is one of
19 biggest trucks that deliver.

20 So even if Brookhaven would require it,
21 this application would benefit from having it as
22 keeping the parking lot flowing back and forth for
23 agents coming in and out. There is no conflict.

24 They currently have a brand-new
25 7-Eleven that they're developing in Melville that



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2 is not even a year old, and they are looking for
3 parking lot expansion. Approved a loading zone?
4 Not required. Same size as we have here, and
5 7-Eleven is going to go with the parking lot
6 expansion. There's another application where, like
7 I said, building is 3,000 square feet with loading
8 zone not required.

9 I am talking about Huntington. Loading
10 zones are not required for a building under 10,000
11 square feet. But they are asking to do it to
12 mitigate the impact on the neighbors and the
13 surrounding roadway.

14 So it's kind of a win/win for the Town
15 if they don't require it and for the 7-Eleven, in
16 this case, to have it.

17 MS. GALLAGHER: I think it might also
18 be helpful, given the recent discussion we've had
19 on other projects, just to get this, like a sketch
20 plan, maybe to show how, from an engineering
21 perspective, it would not be possible to
22 accommodate whatever the Town requires on the
23 amount of parking spaces allowed and the loading
24 zone in the CGA -- because I think it's hard for us
25 to visualize. That was the idea with --

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2 MS. GALLAGHER: I think so, yes. In
3 some way to reconfigure to that either that's
4 possible or it's not possible.

5 MR. CALTABIANO: Only in the existing
6 site development?

7 MS. GALLAGHER: Within the CGA parcel,
8 even if that means -- I'm trying to get to the
9 draft reports. I need to see the CGA.

10 MR. CALTABIANO: I can look into that.

11 MR. SCULLY: Other questions for the
12 applicant or the staff? If not, I suppose we will
13 close this one for the deliberation of the board.
14 Thank you.

15 (Time noted: 5:15 p.m.)
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C E R T I F I C A T I O N

I, MONIQUE CABRERA, a Shorthand Reporter and Notary Public, within and for the State of New York, do hereby certify that I reported the proceedings in the within-entitled matter, on November 17, 2010, at the BROOKHAVEN TOWN HALL, One Independence Hill, Farmingville, New York, and that this is an accurate transcription of these proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this *3rd* day of *December*, 2010.

Monique Cabrera
MONIQUE CABRERA, Reporter

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