

CENTRAL PINE BARRENS
JOINT PLANNING AND POLICY COMMISSION

Southampton Town Hall
116 Hampton Road
Southampton, New York, 11968

March 18, 2015

3:12 p.m.

Before: PETER SCULLY, Chair

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

BRENDA PRUSINOWSKI,
Representing Brookhaven Town Supervisor Edward
Romaine

SARAH LANDSDALE, Representing Suffolk County
Executive for Supervisor Steven Bellone

JOHN PAVACIC, Member

SEAN WALTER, Member

ANNA E. THRONE-HOLST, Member

DAN McCORMICK, ESQ.
Attorney, Town of Riverhead

JOHN MILAZZO, ESQ.
Attorney, Town of Riverhead

JULIE HARGRAVE,
Senior Environmental Planner
Central Pine Barrens

Present:

David Sloane, Esq.
Christopher R. Nicolia, Esq.
CERTILMAN BALIN ADLER & HYMAN, LLP
100 Motor Parkway - Suite 156
Hauppauge, NY 11788

David Wortman, Director of
Environmental Services Long Island
VHB

CHAIRMAN SCULLY: I will read directly
from the public notice into the record:

Pursuant to the Environmental
Conservation Law Article 57-0121(10), notice is
hereby given that a public hearing will be held by
the Central Pine Barrens Joint Planning and Policy
Commission on March 18, 2015, on the matter of an
application for core preservation area hardship
exemption. The subject of the hearing is: Kent
Animal Shelter Core Hardship Waiver Application.

The Applicant's representative is David
Sloane of Certilman Balin.

Project Site is at 2259 River Road,
Calverton, New York.

Suffolk County Tax Map Numbers
600-138-1.62 and 1.71.

Project description is as follows:
Applicant requests a Core Preservation Area
hardship permit to expand and redevelop an existing
animal shelter on a 2.138 acre project site in the
Residence B-40 Zoning District. The site contains
8,913 square feet of existing structures. The
project includes the removal of three existing
buildings totaling 5,323 square feet and the

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2 construction of a 9,968 square foot building. The
3 project also includes the establishment of a 50-
4 foot wetland buffer and construction of a new
5 sanitary system. The project is classified as an
6 Unlisted Action pursuant to SEQRA, and no
7 coordinated review was performed.

8 The hearing will be held on March 18,
9 2015, at 3:00 p.m. at Southampton Town Hall, 116
10 Hampton Road, Southampton, New York. A copy of the
11 application is available for examination during
12 regular business hours between 8:30 a.m. and 5:00
13 p.m. at the Commission's office at: 624 Old
14 Riverhead Road, Westhampton Beach, New York 11978.
15 It is also posted on the Commission's website at:
16 [Http://www.pb.state.ny.us/](http://www.pb.state.ny.us/).

17 I would like to ask the members of the
18 Commission and representatives to identify
19 themselves for the record.

20 MS. LANDSDALE: Sarah Landsdale,
21 representing County Executive Steve Bellone.

22 MR. WALTER: Sean Walter, Commission
23 member.

24 MS. PRUSINOWSKI: Brenda Prusinowski,
25 representing Brookhaven Town Supervisor Edward

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2 Romaine.

3 MS. THRONE-HOLST: Commissioner.

4 CHAIRMAN SCULLY: Peter Scully,
5 representing the Governor of the State of New York.

6 We will turn first, I guess, to staff.
7 Julie?

8 MS. HARGRAVE: Thank you.

9 We are just going to go over the items
10 that we submitted to you for this application, the
11 staff report which was sent to you on Friday, March
12 13th, and the attachments to that staff report,
13 which you should have a copy. There are additional
14 copies of the staff report on the table.

15 The exhibits include an aerial of the
16 site, a 2013 aerial of the project site, so you can
17 see the two parcels that make up the project site,
18 the Peconic River and River Road.

19 Exhibit B is one of the 10 sheets of
20 the site plan, which is sheet 4. That shows the
21 existing conditions and the buildings to remain and
22 to be removed on the site of the project.

23 C is sheet one of the site plan, which
24 shows the proposed building and parking lot and
25 sanitary system, leaching pools and the existing

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2 buildings to remain and be removed, and the wetland
3 buffer and the restoration along the Peconic River.
4 That plan is also on the wall.

5 Exhibit D is the landscape plan, and
6 that shows the building and all of the landscaping
7 in the wetland buffer.

8 E is the Health Department border
9 review variance that was approved in September of
10 2013 and the sheets that go along with that, sheets
11 8, 9 and 10 of the site plan, showing the design of
12 the sanitary system.

13 Exhibit F is the New York State DEC
14 fresh water wetlands permit.

15 G is the DEC Wild Scenic and
16 Recreational Rivers Permit.

17 H is the Town of Riverhead Zoning Board
18 of Appeals' approval, and that's dated March 18,
19 2014.

20 I is the photograph of the project site
21 and all the buildings on the site and the existing
22 conditions.

23 J is sheet 5 of the site plan, and that
24 shows the grading agreement proposed on the site.

25 K is the part of the site that fronts

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2 on the river. The Peconic River is in a FEMA
3 mapped flood zone. That is a map of the FEMA flood
4 zone that covers the site.

5 L is a copy of the statement for a
6 preservation office letter that the applicant
7 received after they conducted an archeological
8 survey on the project site and it has conditions
9 which relate to the site plan and shows an area to
10 be undeveloped since it contains archeological
11 resources of importance.

12 M is the Department of State map
13 showing the waterfront boundary which the site is
14 in, the State waterfront boundary and the
15 significant wildlife complex that a portion of the
16 site is in. This exhibit also contains a
17 description of the Peconic River significant
18 wildlife habitat system, and as well there is a
19 letter that the applicant received from the
20 Department of State explaining the regulations of
21 the coastal management program.

22 N is the Commission's July 20, 2005
23 hardship for the Kent Animal Shelter, where the
24 applicant proposed a 300 square foot addition at
25 that time and it was built since this hardship.

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2 Exhibit O is a copy of the applicant's
3 petition and explanation of the project and their
4 petition to address the statute of the Pine Barrens
5 Act.

6 P is a copy of the online petition that
7 we received a notice of, so that's a copy of the
8 petition and the letters, 22 letters that were
9 received as of the date that we sent it to you, on
10 March 13th.

11 So that's the exhibits, and since that
12 day we have received an additional seven letters
13 that I wanted to hand you a copy of as, I guess,
14 that will be the next exhibit, Exhibit Q, and I
15 will give that to you.

16 Just to briefly go over the project:
17 Again, the Commission Chairman described it in the
18 hearing notice, but this is a core preservation
19 area hardship application for Kent Animal Shelter
20 2.138 resident B-40 zoning district in the Town of
21 Riverhead, in Calverton on River Road. The
22 applicant proposes to redevelop and expand the use
23 on the project site.

24 The applicant has received approvals
25 from the DEC, the Health Department and the Town of

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2 Riverhead. There may be more permits or approvals
3 needed, it's not clear at this time; and the staff
4 report explains the existing buildings and what
5 will be removed under the project. Three
6 buildings, as you said, will be removed to
7 accommodate the new redevelopment and the
8 construction of a building that is 9,968 square
9 feet will be developed.

10 There is a new sanitary system with
11 leaching pools and that system is described in the
12 site plan.

13 There are, again, these applicants have
14 performed an archeological investigation and it was
15 discovered that there was a prehistoric site on
16 this property and that needs to be protected and
17 that's why there is sort of a hole in the central
18 portion of the building and the northern portion of
19 the site is to be left to remain natural.

20 The staff report has some questions at
21 the end which the applicant has a copy of the staff
22 report, so those items may need to be addressed at
23 the end of the hearing or after the hearing if they
24 can provide additional information that we agree
25 with those questions.

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2 CHAIRMAN SCULLY: For the benefit of the
3 Commission, can you just explain the difference
4 between the threshold requirement for approval of a
5 hardship application in the compatible growth area
6 as opposed to the core preservation area?

7 MR. MILAZZO: Sure. I direct your
8 attention to the staff report on page 7.

9 So in the core, the applicant has to
10 demonstrate extraordinary hardship, and we truly
11 put in the staff report the language from the
12 statute. I will just read it in part: "Such
13 application" -- which is in the middle of the first
14 paragraph -- "Such application for an exemption
15 pursuant to the demonstration of hardship within
16 the core preservation area shall be approved only
17 if the person, the applicant, satisfies the
18 following conditions and extraordinary hardship for
19 compelling public need is established." And, then,
20 skipping ahead, "the person shall be deemed to have
21 established the existence of an extraordinary
22 hardship only if he or she demonstrates, based on
23 specific facts, that the subject property does not
24 have any beneficial use if used for its present use
25 or developed as authorized by the provisions of

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2 this article."

3 And then "this inability to have
4 beneficial use results from unique circumstances
5 peculiar to the subject property which," and it
6 gives three elements: "Do not apply to or affect
7 other property in the immediate vicinity; relate to
8 or arise out of the characteristics of the subject
9 property rather than the personal situation of the
10 applicant; or are not the result of any action or
11 inaction by the applicant or its predecessors in
12 title." So that's the core.

13 MR. WALTER: Before you go forward,
14 there is another part of that, compelling public
15 need. Could you read the requirements for
16 compelling public need? If you read it, it says
17 extraordinary hardship or compelling public need
18 and then it has its own criteria.

19 MR. MILAZZO: That's right, and the
20 applicant has come in under the, it's an A or a B,
21 and they have come in under the: Does not have any
22 beneficial use provision.

23 B reads, "A person," again the
24 applicant, "shall be deemed to have established a
25 compelling public need if the applicant

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2 demonstrates, based on specific facts," and this is
3 a two-part test, the "A" and "or": It says, first,
4 "The proposed development will serve an essential
5 health or safety need of the municipalities in the
6 Central Pine Barrens such that the public and
7 safety required the requested waiver.

8 "That the public benefits from the
9 proposed use are of a character that override the
10 importance of the protection of the core
11 preservation area as established by the law.

12 "That the proposed use is required to
13 serve existing needs of the residents and no
14 feasible alternatives exist outside the core
15 preservation area to meet the established public
16 need; and no better alternative exists in the
17 county," or -- and this one I don't think would
18 apply --

19 "The proposed development constitutes
20 an adaptive reuse of an historic resource," and I
21 don't think there has been any argument that is an
22 historic resource."

23 So that's the core. So the applicant
24 on a core hardship has to establish either A or B,
25 compelling public need is health, safety and there

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2 is no other place in the county, there is no other
3 feasible place to put it in the county; that's the
4 compelling public need or you have to show you have
5 no beneficial use if the present use is continued
6 or if the piece of property is developed as
7 permitted by the Act.

8 The CGA is a different standard. The
9 CGA is as follows: "The CGA hardship shall be
10 granted if the applicant has demonstrated the
11 restrictions," which would be the Act's prohibition
12 on development, "and the CGA doesn't conform to the
13 plan, causes unnecessary hardship.

14 "In order to prove unnecessary
15 hardship, the applicant shall demonstrate" -- and
16 this is not in your report because this is CGA,
17 this parcel's core. So it's really, this is not
18 how we are going to measure this application. It's
19 what they give for illustration.

20 "The applicant shall demonstrate to the
21 Commission that for each and every permitted use
22 under the zoning regulations for the particular
23 district where the property is located," here are
24 the three elements:

25 First one, "Applicant cannot realize

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2 their reasonable return, provided the lack of
3 return is substantial as demonstrated by competent
4 financial evidence.

5 "The alleged hardship relating to the
6 property is unique and does not apply to a
7 substantial portion of the district or
8 neighborhood," and there is some similarity on that
9 second element and the first element in the core.

10 "The request, if granted, will not alter the
11 essential character of the neighborhood."

12 That is in the core criteria.

13 The last one is, "The alleged hardship
14 has not been self-created," which you could argue
15 is similar to the was not the act, result of an
16 action or inaction of the applicant."

17 So that it's a lower -- the core
18 hardship is a higher standard, arguably to
19 demonstrate. You have to show that you have no
20 present beneficial use or compelling entity. So
21 those are the two tests.

22 Now, the only thing before the
23 Commission is they came in on the first elements.
24 We went through the public need as well, so that
25 sets the framework for reviewing their application.

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2 So they have to establish either compelling public
3 need or those three elements or some combination of
4 those three elements for the "no present beneficial
5 use."

6 CHAIRMAN SCULLY: Questions for staff?
7 Representing the applicant?

8 MR. NICOLIA: Representing the
9 applicant, Christopher Nicolia, with the law firm
10 of Certilman Balin Adler & Hyman, 100 Motor
11 Parkway, Suite 156, Hauppauge, New York.

12 As the staff report previously
13 mentioned, we are here today representing the Kent
14 Animal Shelter in their hardship application. I'm
15 here today with David Wortman of VHB, who is going
16 to retrieve my other companion, Pamela Green, the
17 Executive Director of the animal shelter.
18 Unfortunately, today Jeff Butler, the engineer who
19 designed the sanitary system, could not be present.
20 He drafted a letter and asked me to submit it to
21 the board and also to highlight its points for you.

22 Essentially, the sanitary system
23 currently existing on the site is completely
24 inadequate and may potentially lead to adverse
25 environmental impacts. The new and updated or

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2 proposed sanitary system is updated, is located
3 over 300 feet from the fresh water wetlands' line,
4 as opposed to the current system which is 50 feet
5 from the wetlands' line where 100 feet is required.
6 The details of that further outlined within this
7 letter which has been submitted into the record,
8 and I brought additional copies for you, if you
9 would like.

10 MR. MILAZZO: I think we should mark
11 this as Kent 1.

12 (Kent Exhibit No. 1 was so
13 marked.

14 With me is David Wortman of VHB, who
15 will also be presenting.

16 CHAIRMAN SCULLY: Before he speaks he is
17 going to be sworn.

18 MR. NICOLIA: The site is 2.138 acres
19 and it's been operating as an animal shelter since
20 1969 when the property took title -- when the
21 animal shelter took title to the property. It's
22 located on River Road, which is the northern
23 boundary of the core preservation area and it's
24 improved by nine structures and, as previously
25 mentioned, a substandard and inefficient sanitary

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2 system.

3 The applicant proposes to remove three
4 of the nine structures and consolidate them within
5 a 9,968 square foot building, which will be
6 significantly further away from the fresh water
7 wetlands line. The building that will be removed
8 includes a 3,091 square foot dog kennel, a 1,045
9 square foot caretaker's cottage, and a 1,187 square
10 foot animal intake building. The dog kennel and
11 the intake will be consolidated within the new
12 proposed structure, and the caretaker's cottage,
13 along with the caretaker's role, will be
14 eliminated.

15 Additionally, the existing sanitary
16 system will be replaced with an updated and fully
17 code compliant sanitary system located 300 feet
18 from the fresh water wetlands' line, as opposed to
19 the current 50 feet. The applicant also proposes
20 to install a 50-foot wide naturally vegetated
21 buffer between the operations and the wetlands,
22 which would measure approximately 12,720 square
23 feet.

24 As demonstrated in Jeff Butler's
25 letter, approving this application will greatly

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2 reduce adverse environmental impacts on ground
3 water and the Peconic River and to deny this
4 application would actually run contrary to the
5 goals of the Pine Barrens' law and result in
6 further adverse impacts to the environment.

7 Now, we initially submitted this
8 application as a hardship exemption, but yesterday,
9 after discussions with interested parties, it was
10 determined that this may actually be better suited
11 as non-development, and if that is the case, we
12 would be willing -- let me go back, because this is
13 essentially the replacement, reconstruction and
14 improvement of an existing structure, which has
15 existed on this property prior to the enactment of
16 the Pine Barrens' law.

17 If this board is willing to grant this
18 as non-development, we would be more than happy to
19 accept that, otherwise we are willing and ready to
20 present an application on the factors for a
21 hardship exemption.

22 As for the first factor of the hardship
23 exemption, that the animal shelter --

24 MR. WALTER: I'm sorry to interrupt, but
25 how can this be non-development?

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MR. MILAZZO: I am not sure.

So you indicated that you maintain that the project's non-development or if the Commission deems it non-development, you don't want the application. Is the non-development request for the same activity or is it something different?

MR. NICOLIA: The non-development request is for the same activity.

MR. MILAZZO: Okay. The Commission deemed it to be development, it's before the Commission because it's development, and you are here for a development hearing. So the Commission will probably reserve decision whether it's non-development, but you should probably make your record on the other piece today.

MR. NICOLIA: Understood.

The first factor for a hardship exemption is whether there is no beneficial use for the present use, and as the Supreme Court discussed in the matter of Long Island Pine Barrens Society, Inc., Richard Amper as Executive Director against the Central Pine Barrens Joint Planning and Policy Commission and American Physical Society, Inc., the Kent Animal Shelter no longer has beneficial use of

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2 the facility because it is greatly expanded from
3 its original use and the site no longer can satisfy
4 the animal shelter's needs.

5 Now, the next factor is whether this
6 lack of beneficial use is resulting from unique
7 circumstances peculiar to the subject property and
8 I would say that they do. I am sorry -- that the
9 lack of beneficial use is not the result of unique
10 -- results from unique circumstances peculiar to
11 the subject property because there is no other
12 animal shelter in the core area, and the area in
13 the immediate vicinity is largely residential.

14 The lack of beneficial use also relates
15 to or arises out of the characteristics of the
16 subject property because this is, again, as I told
17 you, a preexisting animal shelter. It existed
18 before the enactment of the Pine Barrens law and
19 there is no other property in the area being used
20 as an animal shelter.

21 Now, I understand the point that may be
22 made that we are still talking about the user
23 rather than the conditions of the property.
24 However, it is, in this circumstances, very
25 difficult to divorce the two insofar as this

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2 property, again, has been used as an animal shelter
3 since 1969 and the hardship on the applicant is not
4 the result of their own actions, because they were
5 there before the Pine Barrens Law was enacted, and
6 they have continued to maintain this use and modern
7 times have forced them to need to expend their use
8 to further meet the needs of the community.

9 And, lastly, granting this application,
10 there will not be a material detriment to any other
11 property in the area. This use has been existing
12 for many years already, and the existing sanitary
13 system, which could potentially be said to be
14 harming the neighbors or detrimental to the
15 neighbors, will be improved and replaced.

16 It's not inconsistent with the purposes
17 of the Pine Barrens Law, because it's actually
18 furthering the purposes of the Pine Barrens Law,
19 insofar as it's actually furthering the purposes of
20 the Pine Barrens law, insofar it's going to further
21 protect the ground water in the Peconic River
22 through an updated sanitary system in relocating
23 the main structures further away from the Peconic
24 River, and this is the minimum relief necessary for
25 the applicant to be able to continue to operate

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2 their business.

3 At this point, I would like to turn
4 over -- I would like to have Pamela Green,
5 Executive Director of the Kent Animal Shelter,
6 present some testimony as to the nature of their
7 use and what they plan with the new building.

8 CHAIRMAN SCULLY: You will be sworn by
9 the Reporter.

10 P A M E L A G R E E N, having been
11 first duly sworn by the Notary Public, was examined
12 and testified as follows:

13 THE REPORTER: Thank you. Can you state
14 your name for the record.

15 MS. GREEN: Pamela Green, 18 Robert
16 Cres, Stony Brook, New York.

17 I would just like to thank the members
18 of the Commission for considering our application
19 to rebuild our 47-year-old facility. Most of you
20 are familiar with Kent Animal Shelter and the work
21 that we do there. I would look also like to thank
22 our board and our legal counsel for helping us out
23 today.

24 Now, the shelter was built, as
25 Christopher said, in 1968. Back then there were no

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2 Pine Barren laws and there was a small group of
3 people actually from Southampton that said: Gee,
4 we need an animal shelter on the north fork,
5 because there wasn't any. So they saw this lovely
6 piece of property on the river and decided to put
7 the animal shelter there. So among the 47 years, I
8 have been there for 30, believe it or not -- I hate
9 to admit that, but the truth is the truth.

10 So, you know, it's a really difficult
11 business. It's sometimes brutal and the things we
12 see at the shelter day in and day out are heart
13 rendering. We help people that can't keep their
14 animals anymore because the family may be in some
15 type of crisis situation. We take animals from
16 municipal shelters in Riverhead, Hempstead,
17 Brookhaven that are scheduled to be euthanized. We
18 reach out to other shelters, high-kill shelters out
19 of New York, down south, that destroy up to 85
20 percent of their animals because they don't have
21 the spay/neuter programs that we have here. We are
22 very proud of that because every year, Kent Animal
23 Shelter spays and neuters 4,000 animals.

24 So I look at this little clinic and I
25 think, how is that possible? But we do it and

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2 actually one of our main veterinarians is here
3 today who does most of it.

4 So we go into Riverhead and we clean up
5 feral cat colonies. We spay and neuter as many
6 animals as we can, and that's why people aren't
7 calling us from the public with litters of puppies.
8 I can't say litters of kittens, because that is
9 still there, but the population of homeless animals
10 is getting better. So we make a difference by
11 giving a second chance, a new life to animals that
12 are abused, abandoned, they're homeless, they have
13 nowhere else to go.

14 Now, I am not an architect; I am not a
15 lawyer; I am not any of those things. I don't have
16 all the technical details, but I can tell you what
17 I do. I am not an expert on any of those things
18 but I am an expert on finding ways to help homeless
19 animals because I have been doing it forever. Some
20 days I think to myself, you know: I can't do this
21 anymore, it's just hard.

22 Yesterday I was driving to a meeting
23 and I am going down the road and I have to stop for
24 a school bus and a little girl gets off and she is
25 running to her house across the street and the dad,

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2 I can see dad at the doorway, two big German
3 Shepherds come running out to greet her, one is
4 carrying a frisbee and one is carrying a ball and
5 they're all excited, the little girl is home and
6 she is running up to them and she kicks the ball
7 and she is laughing, and I thought to myself: This
8 is what it's all about. We make differences in
9 families.

10 You know, there is a petition out there
11 and it wasn't even out there that long and we have
12 2,500 signatures. Some people from out of state
13 that used to live here, who got their animals from
14 Kent, and the comments, you know, I went home last
15 night and I had to read the comments. I am just
16 going to read a few of them because there are pages
17 and pages of them, but I just want you to
18 understand. I know this isn't about heart-felt
19 emotions or it's not about: Oh my God, what are
20 they going to do if they can't rebuild, their
21 facility is 47 years old? It's a cement block
22 building that is cold in the winter, it's not --
23 saying not good for the environment is an
24 understatement, it's not good for the environment.
25 I am an environmentalist. I love trees. I love

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2 the forest, and that goes hand and hand with people
3 who love animals, I think.

4 I will just read a couple of these.
5 This is from Laurie Good, she is a resident of
6 Riverhead and she says: "As a life-long resident,
7 I fully support the rebuilding of Kent Animal
8 Shelter. This wonderful facility is an icon in
9 Riverhead. They should be allowed to proceed with
10 the proposed project to rebuild the shelter. The
11 many improvements will enable Kent to rescue,
12 nurture and place even more animals. The proposed
13 project incorporates numerous improvements that
14 will greatly reduce the environmental impacts of
15 the current aging facility. This project is a win-
16 win for the environment, a win for homeless animals
17 and a win for the community. Take the fight
18 elsewhere."

19 Michelle Malanga in Medford: "Kent is
20 a long-standing staple in the well being and care
21 of Long Island's pet population. I myself have
22 adopted from there and attended many fund-raising
23 events and" -- have always been a very dedicated --
24 "they have always been a dedicated, sincere, hard-
25 working organization whose sole purpose is the well

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2 being of animals."

3 Other people talk about how the animals
4 they got from Kent actually changed their life,
5 changed the lives of their families. So that's
6 what we do. We not only help animals, we help
7 people. It's a really important thing. It's an
8 important organization and there is no zoning for
9 animal shelters in the County of Suffolk. We are a
10 private shelter, we are not municipal. There just
11 has to be a place for us, and the place that we are
12 at right now is, it gets the job done, but we find
13 homes for over 800 animals every year. We, again,
14 spay or neuter, I think it was 4,500 animals last
15 year. So the work we do is important.

16 I know this is not about emotions, it's
17 about the law, and I think that there needs to be a
18 way that we can do this and everybody is going to
19 be happy, because we don't have millions of
20 dollars. I don't have any donors that write out
21 millions dollar checks for me. I am not in the
22 Hamptons. You know, so with what we have we have
23 done an unbelievable job.

24 You know, we are told we should never
25 have been there. Can you imagine if Kent Animal

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2 Shelter was never there? Look at, it would have
3 changed so many things. So many animal would have
4 been destroyed. So many people would not have had
5 any place to go with their animals when they needed
6 help. So I hope that there is something, something
7 that can help us do this so we can continue to do
8 what we do because I think it's important.

9 Thank you.

10 MR. NICOLIA: Ms. Green, how many
11 animals can the Kent Animal Shelter accommodate as
12 of today?

13 MS. GREEN: We probably have about 130
14 animals there. We only have 25 kennel runs.

15 MR. NICOLIA: Are you at capacity?

16 MS. GREEN: Oh, yes, all the time. All
17 the time.

18 MR. NICOLIA: When was the last time
19 that you weren't at capacity?

20 MS. GREEN: There was no time.

21 MR. NICOLIA: So you have 25 kennel
22 runs; how many more would you need, the absolute
23 minimum to comfortably accommodate all of the dogs
24 that you have and more, to continue taking in dogs
25 and rescuing them from non-kill shelters?

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2 MS. GREEN: The new facility
3 accommodates 60 kennel runs, so that is two-and-a-
4 half times what we have now. We don't have any
5 facility for puppies. We need a place to put
6 litters and so forth and isolation areas,
7 interaction rooms where people can actually come
8 and spend a little time with the pets that they are
9 interested in rather than standing outside on the
10 property. We don't have any of that.

11 The new facilities they built there are
12 state-of-the-art beautiful, soundproof, you know,
13 efficient. We have \$1,000 worth of oil that goes
14 through our kennel every January and February and
15 it looks March this year as well, and you still
16 can't get it above in the high 40's when it's
17 really cold out.

18 They used to build them that way but
19 today it's archaic. It's inefficient and, you know
20 it's not great for the animals in the wintertime
21 either. You know, we put beds in there, we put
22 blankets there, we do everything we can, and it's
23 better than being euthanized.

24 MR. NICOLIA: If you have more space in
25 your facility, would you be able to better serve

1
2 the community?

3 MS. GREEN: Absolutely. We are so
4 involved with the community. We have humane
5 education programs; we have interns from Boces,
6 east-end Boces; we have the sheriff's department
7 work program, where the inmates are always at the
8 shelter doing various things. We go to schools, we
9 talk to children about animal welfare; and this is
10 a community organization. It's important in the
11 community.

12 MR. NICOLIA: So is it safe to say that
13 60 kennels will allow you to (a) better serve the
14 community and (b) take in more animals and rescue
15 them for non-kill shelters?

16 MS. GREEN: Yes, absolutely.

17 MR. NICOLIA: Thank you very much.

18 MR. McCORMICK: Question: Dan McCormick
19 from the Town of Riverhead. If I needed to avail
20 myself of your services but, in fact, your facility
21 as it presently is in existence wasn't there, where
22 would I go as an alternative at this particular
23 point?

24 MS. GREEN: If Kent wasn't there?

25 MR. McCORMICK: Yes.

1
2 MS. GREEN: Then you would have to
3 contact a town shelter. Town shelters do destroy,
4 they can when they have to, and, you know, it's
5 permitted. When they get too full they have no
6 place to put the animals; they are permitted to do
7 that.

8 So you would have to take your dog or
9 cat there. The Town of Riverhead doesn't
10 accommodate cats at all, and the new shelter would
11 put in facilities to have cats for adoption as
12 well.

13 MR. McCORMICK: As a follow up regarding
14 your expansion, what would you be allowed to do
15 now, assuming that you are granted the expansion
16 that you cannot do right now.

17 MS. GREEN: Well, I hesitate to say that
18 it's an expansion, that's a big no/no in the Pine
19 Barrens, it's a rebuild. What it will do is, it
20 will allow us to take another 40 dogs in that are
21 slated to be euthanized or that people can't keep
22 and don't know what to do with them, and don't want
23 to take them to a town shelter if they don't have
24 to. We built a new medical spay/neuter clinic in
25 there to continue doing what we are doing, it's

1
2 nothing new.

3 To me, it's not an expansion, it's the
4 same footprint, it's the same amount of space. We
5 are taking down three buildings and putting up this
6 building. We are taking this cement block building
7 off of the river and taking out all of the invasive
8 vegetation and putting in native vegetation, making
9 it 300 feet along the river front, making it a
10 beautiful place that the people that are canoeing
11 down the river don't have to see a whole bunch of
12 barking dogs. It will create a wonderful buffer
13 there.

14 MR. McCORMICK: Thank you.

15 MR. MILAZZO: You are indicating that
16 it's the same footprint; is it the same size?

17 MS. GREEN: Pretty much, just under
18 10,000 square foot.

19 MR. MILAZZO: Is it pretty much or is it
20 the same?

21 MS. GREEN: You should probably talk to
22 the engineer about that.

23 MR. MILAZZO: I think it's big, isn't
24 it?

25 MR. NICOLIA: It is bigger, but the area

1
2 in use will be smaller.

3 MR. MILAZZO: It's bigger but the area
4 in use will be smaller? Do you want to explain how
5 that can be?

6 MR. WORTMAN: I am not the engineer for
7 the project. My name is David Wortman, with VHB,
8 with offices at 100 Motor Parkway in Hauppauge, New
9 York.

10 I believe what Ms. Green is referring
11 to is that the same facility would fit within the
12 confines of the site that's already developed and
13 established for the use of the animal shelter, and
14 as far as the same but smaller, I believe the
15 reference there is to the fact that the functioning
16 facility of the animal shelter will be moved to
17 provide a great setback from the river, where
18 currently there is not, so they're consolidating
19 their functions within a smaller portion of that
20 overall site that is developed as the animal
21 shelter.

22 MR. MILAZZO: Going to the staff
23 exhibit, the staff report, I just want to make sure
24 the Commission knows that number, so there is no
25 confusion in the record.

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The existing facility is 8,913 square feet and the new facility will be 13,558 square feet; is that correct.

MR. NICOLIA: Yes.

MR. WALTER: Is that the footprint or is that the floor area ratio, upstairs/downstairs?

MR. MILAZZO: That's all of the facility.

MR. NICOLIA: That's the footprint.

MR. MILAZZO: It's all one floor, right? There is no second floor?

MR. NICOLIA: Right.

MR. MILAZZO: So the square footage will increase by 4,000 square feet; the lot coverage will increase by -- again, if I am wrong, please correct me, I just want to make sure that we have this correct. The lot coverage will go up to, impervious surface will be 45.91 of the site, is that correct? 45-and-a-half, almost 46 percent of the site?

MR. WORTMAN: I believe that's correct. The total area of impervious surface is -- 45 percent of the site you said?

MR. MILAZZO: Yes, that's according to

1
2 the town --

3 MR. WORTMAN: I don't believe that's
4 correct. I believe the figure might be the total
5 increase, you know the portion that's increased in
6 the impervious surface. However, under existing
7 conditions, there are 0.56 acres out of a 2.138
8 acre site that are established in the impervious
9 surfaces between the existing paved driveway and
10 the building footprints, et cetera. Under post-
11 development conditions, approximately 0.76 acre
12 would be established in impervious surfaces,
13 representing an increase of 0.2 acres from the 0.56
14 currently.

15 MR. MILAZZO: So the staff report, the
16 project proposed a net increase of lot coverage of
17 4,645 square feet, which is an increase of
18 approximately 52 percent.

19 MR. NICOLIA: I believe I understand
20 that to mean that the total increase in the
21 building footprint of 4,645 square feet represents
22 a 52 percent increase of the existing 8,913 square
23 feet of building area.

24 MR. MILAZZO: Okay.

25 MS. THRONE-HOLST: So what are you all

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agreeing on?

MR. MILAZZO: It's a bigger building.

MS. THRONE-HOLST: By what percentage?

MR. MILAZZO: 50 percent larger, and
it's not just a bigger building -- actually, 50
percent.

MR. WALTER: Can I ask some questions
since we are asking questions now?

MR. MILAZZO: Go ahead.

MR. WALTER: Counselor, I am going to
direct these to you because I think we are here
under the wrong standard. I say that because the
standard of extraordinary hardship is very, very
difficult to meet, and I know that you are
diligently trying to meet that, but there is an or,
extraordinary hardship "or" compelling public need
is determined to have been established under the
following standards. Then, if you go to the
standards, the iphone is pretty interesting,
because Mr. McCormick just took a picture of this:
The standards say you can meet 1 or 2, the second
one you are not meeting.

The first one, "The proposed
development will serve an essential health or

1
2 safety need of the municipality in the Central Pine
3 Barrens such that the public health and safety
4 require the requested waiver; that the public
5 benefits from the proposed use are of a character
6 that overrides the importance of the protection of
7 the core preservation area as established in this
8 article; that the proposed uses require to serve
9 existing needs of residents and that no feasible
10 alternatives exist outside the core preservation
11 area to meet the established public need and that
12 no better alternative exists within the County."

13 I am going to start with the last
14 thing, "no better alternative exists within the
15 County." If the county were to give the Town of
16 Riverhead land, I would be hard pressed to turn it
17 over to an animal shelter. I would build an
18 affordable home. The Town of Riverhead builds
19 affordable homes and the County turns over land to
20 us on a regular basis and we build affordable
21 homes.

22 I can sit here as a supervisor and I am
23 saying that I am scouring the town right now,
24 looking for sites to build affordable homes. So it
25 is not county land that is going to be available

1
2 within the Town of Riverhead. So I am going to
3 give you that.

4 Do you mind if I ask your witness a
5 question?

6 MR. NICOLIA: Please do.

7 MR. WALTER: Does the Town of Riverhead
8 have any facility for feral cats or for cats?

9 MS. GREEN: No.

10 MR. WALTER: Where do all the feral cats
11 in the Town of Riverhead go.

12 MS. GREEN: In the woods.

13 MR. WALTER: When you spay them, where
14 do they go?

15 MS. GREEN: We spay and neuter them and
16 they go back for into colonies that are managed.

17 MR. WALTER: By?

18 MS. GREEN: Volunteers.

19 MR. WALTER: Working for, working with?

20 MS. GREEN: Not us.

21 MR. WALTER: Not you?

22 Didn't I come to a photo op once where
23 you made me come home with a dog.

24 MS. GREEN: I did.

25 MR. WALTER: For a gentlemen that was

1
2 working with the Kent Animal Shelter to spay and
3 neuter, what was his name?

4 MS. GREEN: Oh, Al, yes.

5 MR. WALTER: So the Town of Riverhead
6 has no place for feral cats?

7 MS. GREEN: He is long gone.

8 MR. WALTER: Worn out? Passed away?

9 MS. GREEN: He has moved away.

10 MR. WALTER: Have you had a history of
11 working with the Town of Riverhead with animal
12 control issues?

13 MS. GREEN: Yes. Not since North Fork
14 Animal Welfare League, hasn't been a member just
15 before that.

16 MR. WALTER: And I will say, the Town of
17 Riverhead operates, I will tell you, the Town of
18 Riverhead has an animal -- a dog pound, the North
19 Fork Animal Welfare League has turned it,
20 thankfully, into an animal shelter and they are
21 doing some amazing things, but we really operate a
22 dog pound with no facilities for cats.

23 Is it safe to say, and I am not going
24 to put these words in your mouth, but is it
25 essential to the health, safety, you have to answer

1
2 this question, to the health, safety needs of
3 Riverhead that cats be spayed and neutered and
4 taken care of?

5 MS. GREEN: Absolutely. I mean, last
6 year, we have grants that we receive every year
7 from pet smart charities. I write up these grants
8 and they're to spay and neuter. I have a two-year
9 one going on right now for feral cats. If these
10 animals, if the cats are not trapped, they will
11 just continue to multiply and there will be so many
12 more, you have no idea. So is that a service that
13 benefits the health and safety of the community?
14 Absolutely.

15 MR. WALTER: Do you work in the town --
16 I can only speak for the Town of Riverhead, but I
17 think you work in other places, but do you work in
18 the Town of Riverhead so that this is an essential
19 service to the residents of the Town of Riverhead.

20 MS. GREEN: Yes. Well, we are in
21 Calverton, which is in the Town of Riverhead.

22 MR. WALTER: So you did testify --

23 MS. GREEN: And we do trap in Riverhead,
24 yes.

25 MR. WALTER: So you did testify that the

1
2 public benefits from your proposed use of Kent.

3 MS. GREEN: I did.

4 MR. WALTER: Now, if a resident of
5 Riverhead wanted to drop off a cat that they had no
6 place to drop, couldn't keep them anymore for
7 whatever reason, where in Riverhead would they drop
8 them off?

9 MS. GREEN: There wouldn't be a place in
10 Riverhead. There isn't a place.

11 MR. WALTER: Other than?

12 MS. GREEN: Kent.

13 MR. WALTER: Is that also an essential
14 health and safety -- is that essential to the
15 health and safety of the residents of the Town of
16 Riverhead to have that.

17 MS. GREEN: It is.

18 MR. WALTER: Would you say that the
19 public benefit of being able to have a facility for
20 feral cats outweighs any issues that you would have
21 with this expanded facility in the Pine Barrens
22 area?

23 MS. GREEN: Well, absolutely. You know,
24 there isn't anything for cats in Riverhead at all,
25 feral or otherwise.

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MR. WALTER: Are there any other better alternatives that are available to you from the county than the facility that you have now?

MS. GREEN: No, sir. If you know of one you should tell me.

MR. WALTER: Counselor, I am not going to ask anymore questions. I honestly think you are in under the wrong standard. I am going to leave it at that. I have probably annoyed at least one person in the room, but I think that I will say, as the town supervisor -- now I will testify and I should not do this -- but as the town supervisor, without Kent Animal Shelter I would have zero place to send cats. When we operated a dog pound and did not have North Fork Animal Welfare League we had puppies that would come into the facility and we had no place, no way to really adopt them out, because they would be put next to animals that scared me when I walked through the animal facility. So I can tell you that your services are essential to the Town of Riverhead.

So that, counselor, you'd better brief this point, because this is an important point. I am going to shut up now.

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2 CHAIRMAN SCULLY: Anything else from the
3 applicant?

4 MR. WORTMAN: Yes, please, if I may. I
5 prefer to speak from the podium, if I may.

6 D A V I D W O R T M A N, having been
7 first duly sworn by the Notary Public, was examined
8 and testified as follows:

9 THE REPORTER: Thank you. Can you state
10 your name and address for the record.

11 MR. WORTMAN: My name is David Wortman
12 with VHB, with offices at 100 Motor Parkway, in
13 Hauppauge, New York.

14 It may be is that we would meet the
15 criteria as described by Supervisor Walter; it may
16 also be that it's possible that this application or
17 project could be deemed to be not development, as
18 mentioned by Mr. Nicolio earlier. I will just
19 briefly, if I could, run through each of the
20 criteria for which we have applied for this
21 hardship exemption, and provide just a bit more
22 detail on the proposed project.

23 VHB has reviewed the proposed project
24 with respect to each of the criteria for the
25 granting of the hardship at Section 57-0121(10)(a)

1
2 of the Pine Barrens Act. We have to demonstrate
3 extraordinary hardship and I believe that the
4 Executive Director, Ms. Green's testimony speaks to
5 some of those unique circumstances, and I believe
6 we talked a little bit about the fact that there is
7 no beneficial use that could be made of the subject
8 property if used for its present use, which it
9 already is or developed as authorized.

10 Ms. Green's testimony speaks also to
11 the fact that it cannot be used beneficially in its
12 present use any longer because the facility no
13 longer meets its needs, and I am sure she would be
14 happy to answer any further questions regarding the
15 adequacy of that facility to service its present
16 use, but we are proposing to continue that use.
17 Some of that speaks to the unique characteristics
18 that are peculiar to the subject property. They do
19 not apply to or affect other properties in the
20 immediate vicinity in that this is the only
21 property in the neighborhood that is established as
22 an animal shelter and has been so prior to the
23 enactment of the Pine Barrens Act.

24 This hardship relates to and arises out
25 of the characteristics of the subject property in

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2 that it has its established use, has a facility
3 that is there that has become inadequate for its
4 purpose. This is not a result of the action or
5 inaction of the applicant in that this facility is
6 established prior to the Act and the hardship
7 arises out of the adoption of the Pine Barrens Act.

8 The criteria at Section 121(10)(b) of
9 the Pine Barrens Act that Mr. Walter's spoke to,
10 that applies to compelling public need. At this
11 time we are not claiming that there is a compelling
12 public need, although there may be, that is met by
13 the proposed -- existing and proposed facility.

14 MR. WALTER: Can you clarify that? Do
15 you want to talk to your counsel first before you
16 make that statement?

17 MR. WORTMAN: Okay. If I may first
18 speak to the remaining --

19 MR. AMPER: I object to the
20 Commissioner counseling the applicant, please.

21 (Pause.)

22 MR. WORTMAN: Thank you for the
23 opportunity. We would like to reserve the right to
24 make the application that there is a compelling
25 public need; however, we would also like to

1
2 continue with our current application which is for
3 the hardship criteria.

4 Under Section 121(10)(c) of the Pine
5 Barrens Act --

6 MR. MILAZZO: Can I interrupt for one
7 second: Just from a prospect process perspective,
8 you want to reserve the right to come in for a
9 compelling public need, you want to reserve that
10 right; are you suggesting that the Commission
11 decide the merits on your first application, if
12 it's favorable you will come back or do you want to
13 adjourn today and then make a second application
14 under the second piece of this or are we doing it
15 on the fly and this will be your complete
16 application?

17 You may want to -- however you decide
18 to proceed, we will proceed, but from a record
19 standpoint, I would prefer to have something before
20 the Commission rather than we may come back with
21 this later.

22 MR. NICOLIA: Would this board entertain
23 a motion to consider the compelling public need
24 factors along with the hardship exemption factors
25 and then make its determination as it sees fit?

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2 MR. MILAZZO: The Commission will
3 receive and review your application in whatever
4 form it's submitted to the Commission. So if you
5 want to submit that piece of the application,
6 submit it, but you may want to prepare for that
7 submission and you can ask that the hearing close,
8 adjourn, or we can do it today.

9 If this is your record on the
10 compelling public need, we will have both of them
11 before us and we will make that decision under both
12 elements.

13 MR. NICOLIA: I would like to confer
14 with counsel.

15 MR. MILAZZO: Off the record.

16 (Off the record.)

17 CHAIRMAN SCULLY: Back on the record.

18 MR. NICOLIA: We would like the board to
19 consider both opportunities today at the hearing,
20 based on the evidence submitted today for both the
21 hardship exemption and a compelling public need.

22 CHAIRMAN SCULLY: Assuming that means
23 you want to establish a better record under a
24 compelling need application, you'd better do that
25 quickly. You have a lot of people who travelled

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2 here to be heard. We have to offer the public an
3 opportunity to be heard, so how about it?

4 MR. WORTMAN: If we could first complete
5 the record on the application already before us,
6 very quickly, the criteria, 121(10)(c) of the Pine
7 Barrens Act requires that we show that the granting
8 of the hardship would not be material, detrimental
9 or injurious to other property or result in a
10 substantial impairment of the resources of the core
11 preservation area. Three of the existing buildings
12 will be replaced by one modern facility which has
13 received some approvals from the Town of Riverhead,
14 but would be subject to review by the town during
15 the building permit application process, et cetera,
16 with respect to fire safety and so forth.

17 As to its impacts on core preservation
18 area resources, the Pine Barrens Act is largely
19 focused on the protection of vegetation and, as
20 well, ground level resources, and to that end we
21 believe that the application, as it stands, would
22 do much to improve both at the site.

23 There would be a minimal increase, as
24 we spoke to earlier, in the total impervious
25 surface area by a 0.2 acre at the 2.138 acre site.

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2 There's no formal infrastructure under existing
3 conditions to the county strong water runoff and
4 it's allowed to travel over land to the Peconic
5 river as a resource and on to off-site properties.
6 A storm water management system would be installed
7 as part of the proposed actions to accommodate
8 storm water runoff to the total system. The
9 capacity is greater than 5,000 cubic feet, which,
10 as the applicant here has indicated, would be
11 capable of storing 100 percent of runoff from a 2
12 inch storm event at the site.

13 Currently, sanitary waste is directed
14 to several leaching structures scattered across the
15 subject site. There are five subsystems currently,
16 the nearest is less than 50 feet from the Peconic
17 River. The proposed system would divert that waste
18 from the area surrounding the river and to the
19 northern portion of the site furthest from the
20 wetland and as well as it relates to the ground
21 water resources, the upgraded system would be
22 designed such that its leaching structures provide
23 an adequate separation just steps from the ground
24 water, a minimum of 2 feet, to provide for the
25 filtration of any effluent leaching from the

1
2 systems, where the current systems do not
3 accomplish that, and further, be located, as I
4 said, further from the river. All leaching
5 facilities will be a minimum of 300 feet from the
6 river boundary, as shown on the project plans.

7 The engineer has already demonstrated
8 to the satisfaction of the Suffolk County
9 Department of Health Services, that has
10 jurisdiction over that system, that the proposed
11 system adheres to the effective limitations for
12 onsite discharges and that it meets current design
13 standards for systems.

14 With respect to nitrogen loading, the
15 project engineer has indicated that under existing
16 conditions approximately 412 pounds per year of
17 nitrogen is discharged to the systems currently,
18 with the new systems at a rate of approximately 50
19 milligrams per liter of discharge, less nitrogen
20 would be put into the ground water. That
21 translates to 120 pounds per year reduction or the
22 equivalent of nitrogen discharge to ground water of
23 five to six single-family residences. These
24 numbers are considered conservative, but they do
25 not take any additional credit for the separation

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2 distance to ground water that will be afforded by
3 the design proposal as compared with that of the
4 existing systems.

5 With respect to impact to the wetlands,
6 while the creational river system permit has
7 already been obtained, as well as the test for the
8 water wetlands permit from the, the State
9 Department of Environmental Conservation, and
10 lastly, with respect to vegetation, currently
11 there's no substantial areas of natural vegetation
12 at the site. As indicated in the Part 1 of the
13 Environmental Assessment Form that was submitted as
14 part of the hardship application, there are no
15 rare, threatened or endangered species at the
16 subject property. The proposed action does not
17 include the clearing of natural vegetation and, in
18 fact, to the contrary, the proposal includes the
19 establishment of 12,720 square feet in native
20 species along the wetland boundaries, providing
21 approximately a 50-foot buffer, thereby improving
22 conditions for the wetland and conditions as far as
23 natural vegetation at the site, increasing that
24 total area.

25 We respect and submit that the

1
2 improvement of the sanitary system, the storm water
3 system and improvements to natural vegetation areas
4 at the subject property would not result in any
5 significant adverse environmental impact. The
6 waiver would, therefore, also not be inconsistent
7 with the purposes, objectives or general spirit of
8 the Pine Barrens Protection Act, and lastly, as
9 detailed by Ms. Green, the requested relief is
10 believed to be the minimum necessary to address the
11 needs of the facility's operations as it is
12 currently proposed.

13 Therefore, all three criteria that
14 apply to the hardship at 121(10)(c) of the Act, we
15 feel are met, where at least one is required.

16 That concludes my presentation.

17 MR. MILAZZO: Questions for Mr. Wortman?

18 CHAIRMAN SCULLY: I do have one: You
19 stated that no clearing will be required?

20 MR. WORTMAN: There are no areas of
21 natural vegetation at the site under existing
22 conditions. There are individual trees within lawn
23 areas at the site. Currently, there is, as also
24 described in the application, some areas of
25 vegetation, nominal areas really, along the

1
2 riverfront itself, that have been affected by
3 invasives, and as part of the proposed action, the
4 total area would be increased, the total area of
5 vegetation at the site will be increased by that
6 same 12,000 square foot number I mentioned before.
7 There are a few individual trees that would be
8 required to be removed from the site within the
9 lawn areas.

10 CHAIRMAN SCULLY: The staff record
11 states under the Section entitled "Vegetation,"
12 that the site contains large, mature oak trees, at
13 these locations and demolition. Demolition plan:
14 Many will be removed in the project, so what is the
15 real answer? How many trees are being removed?

16 MR. WORTMAN: I believe that the area of
17 the proposed new building is currently occupied by
18 existing paved driveway areas and existing
19 buildings, and some of these lawn areas where there
20 are a few individual scattered trees within those
21 lawn areas. I have not personally counted them,
22 but I believe them to be on the order of
23 approximately eight trees, eight trees within that
24 lawn area that would need to be removed by the
25 proposed builder.

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CHAIRMAN SCULLY: Any other questions?
Thank you.

MR. MILAZZO: Does the current facility
have a C/O or did it preexist?

MR. WALTER: I don't believe I am the
right person to answer that, I encourage counsel to
reply, if possible.

MR. NICOLIA: I believe that we
preexist, however --

MR. WALTER: What year was it built?

MR. NICOLIA: 1969 or '68, I was a kid.

MR. WALTER: Well, you may or may not
have one.

MR. NICOLIA: We can certainly follow
that up.

MR. MILAZZO: So see if you can provide
that, that would be helpful.

On page 1 of 10, from Mr. Butler, his
drawings, I just want -- one of the notes in the
box, there are two boxes labeled notes, one of them
reads: "There are no veterinarian uses on this
site." Is that accurate?

MS. GREEN: No, that is not accurate.
What does that mean?

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MR. MILAZZO: I don't know what that means.

MS. GREEN: It's a spay and neuter clinic. It's not a full facility.

MR. MILAZZO: So that is there veterinary services or uses or not or is it spay and neuter only?

MS. GREEN: Spay and neuter only.

MR. MILAZZO: Has the clinic been unable to spay cats because of space constraints.

MS. GREEN: Yes.

CHAIRMAN SCULLY: Let's get Pam back up to the podium so she can answer questions.

MS. GREEN: The truth is that if we had more space and if we had more cages, we could take more cats and spay and neuter more cats. We are limited by space constraints everywhere.

MS. THRONE-HOLST: Can I ask a question?

MR. MILAZZO: Of course.

MS. THRONE-HOLST: How many more cats do you think you would be able to spay under your new construction, a year?

MS. GREEN: I haven't calculated that. We spay dogs as well, you know, it's not

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necessarily --

MS. THRONE-HOLST: Okay. Total population. I mean, are you doubling it?

MS. GREEN: We spay more cats and neuter more cats than dogs.

MS. THRONE-HOLST: But can you give me a sense, are you doubling your capacity or what are you doing?

MS. GREEN: Dr. Timpone, Chuck Timpone, President of our Board.

CHAIRMAN SCULLY: You have to be sworn, sir.

C H A R L E T I M P O N E, having been first duly sworn by the Notary Public, was examined and testified as follows:

THE REPORTER: Can you state your name and address for the record, please.

DR. TIMPONE: Dr. Charles Timpone, T I M P O N E, 43 Coral Avenue, Riverhead, New York.

DR. TIMPONE: If you could repeat that question, please.

MS. THRONE-HOLST: I was interested to know about the increase in your capacity, your spay, neuter capacity, that you expect?

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2 DR. TIMPONE: Easily, considering the
3 reproductive rate of feral cats, we can probably
4 spay another 1,000 cats every breeding season,
5 every year.

6 MS. THRONE-HOLST: And are there
7 correlating numbers on how that then decreases a
8 population?

9 DR. TIMPONE: A significant percentage
10 of those cats that are trapped and spayed we hope
11 to place. Unfortunately, a lot of them go back
12 into the environment and feral cats are a
13 significant detriment to the environment. Around
14 the world over 80 billion birds are killed by feral
15 cats, so they have a significant detrimental impact
16 on the environment of bird populations and other
17 indigenous species on the Island.

18 MS. THRONE-HOLST: I assume that by
19 their natural roaming that they, too, are adding to
20 the nitrogen loading in ground water?

21 DR. TIMPONE: Not only that, but
22 probably of more significance is, they have the
23 potential for transmitting zoonotic diseases to
24 people; probably the most devastating is something
25 called toxoplasmosis. It's transmitted to humans

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2 through contact with cat feces. It's responsible
3 for a significant number of birth defects in young
4 children and reproductive disorders in pregnant
5 woman. So it does meet the criteria for helping to
6 maintain public health on the east end.

7 CHAIRMAN SCULLY: Are there other
8 questions for the applicant?

9 MR. WALTER: What is rabies? I know
10 what it is, what a lawyer knows of what it is, but
11 what is rabies and do you inoculate the cats
12 against rabies?

13 DR. TIMPONE: All cats that come into
14 the clinic to be spayed and neutered and sterilized
15 are inoculated against rabies, which is a very good
16 point. We haven't had a case of human rabies on
17 Long Island in well over a hundred years and that's
18 because of services like ours, that's why that is.

19 MR. WALTER: Since you actually live in
20 the Town of Riverhead, I will ask you this
21 question: Are there any other facilities within
22 the Town of Riverhead that are doing what Kent
23 Animal Shelter is doing?

24 DR. TIMPONE: No.

25 MR. WALTER: Do you consider it, as a

1
2 veterinarian, that there is a compelling need to
3 have a facility like this in the Town of Riverhead?

4 DR. TIMPONE: Without a doubt.

5 MS. THRONE-HOLST: Would you consider a
6 revegetation plan for the trees that you are
7 proposing to remove?

8 DR. TIMPONE: Absolutely.

9 I mean, the bottom line is this: We are
10 taking a very delapidated facility that is under
11 serving the public right now. We can be doing a
12 lot more for the public if we had this space and
13 the wherewithal to do it.

14 In an ideal world we would love to take
15 the shelter, buy five acres someplace else, and
16 build a state-of-the-art animal shelter, but we
17 cannot do that economically. Our average donations
18 are \$25. We are not getting the \$500,000,
19 \$2,000,000 donations that are in RAIN's pocket,
20 Bideawee, North Shore Animal League; Mr. and
21 Mrs. Stern are not on our board of directors.

22 MS. THRONE-HOLST: Have you explored
23 alternative sites that --

24 DR. TIMPONE: Yes, we have.

25 MS. THRONE-HOLST: And the results of

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that were?

DR. TIMPONE: Cost prohibitive.

MS. GREEN: Also, we need a special use permit no matter where we go.

MS. THRONE-HOLST: And there are no existing parcels with the applicable zoning?

MS. GREEN: No. None available. I mean, there isn't any, period.

MS. THRONE-HOLST: Have you looked both in Riverhead and beyond Riverhead?

DR. TIMPONE: Into Brookhaven.

MS. THRONE-HOLST: Into Brookhaven as well.

MS. GREEN: I mean, the original plan, the original mission, the original founders of the shelter wanted to create something on the north fork because there wasn't anything there, and for 47 years we have served the north fork and branched out to the south fork, to all of Long Island. People will come from Brooklyn to get their animals spayed or neutered because it's so cheap, because they can't afford to pay \$400 to get their cat or dog spayed. It's very unique and there isn't anything else like this.

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MS. THRONE-HOLST: One more question:
Would you consider a waste water treatment plant or
system that meets a higher standard than the one
you are proposing here, if there was such a thing
available and if it met your cost constraints?

DR. TIMPONE: If it is economically
feasible, absolutely.

MS. GREEN: There is and it's part of
the plan. The amount of phosphorus nitrogen that
will be decreased into the Peconic River and out
into the bay is equal to about six single-family
homes. That's pretty huge. This is the system
that we are planning.

CHAIRMAN SCULLY: Any other questions of
the applicant?

MR. WORTMAN: May I make one brief
statement regarding the compelling public need?

CHAIRMAN SCULLY: Okay.

MR. WORTMAN: As part of the criteria,
there is a threshold that the compelling public
need must override the detriment to the resources
of the core preservation area. We believe that in
this particular case, that is an extremely low
threshold, being that the proposal would actually

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2 improve, in our opinion, resources of the core
3 preservation area, again relating to the water
4 quality related benefits and beneficially the
5 planting of additional natural vegetation.

6 CHAIRMAN SCULLY: Are there questions
7 for the applicant?

8 (No response.)

9 If not, we will open it up to the
10 public. Does anybody from the public want to be
11 heard?

12 Mr. Amper?

13 R I C H A R D A M P E R, having been
14 first duly sworn by the Notary Public, was examined
15 and testified as follows:

16 THE REPORTER: Can you please state your
17 name for the record.

18 MR. AMPER: Richard Amper, A M P E R. I
19 am Executive Director of the Long Island Pine
20 Barrens Society, 547 East Main Street, Riverhead.

21 This is extremely difficult, I think.
22 There is really no question but that this
23 organization is doing very important work. In
24 fact, I would go so far as to say the Kent Animal
25 Shelter is providing a very important service. Our

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2 problem, as you know from previous testimony before
3 this Commission, is what the implications are to
4 the protection of the Pine Barrens with represent
5 to the Pine Barrens Protection Act which would
6 suffer if this Commission were to grant an
7 extraordinary hardship for which the applicant was
8 not entitled.

9 This is not prescribed by the Pine
10 Barrens Act. The danger of that is that less
11 worthy organizations can come forward and make the
12 same claims that are being made today and if the
13 Commission takes it upon itself to say, "Well, we
14 agree that there would be some reduction in
15 nitrogen," or "We believe that they're trying to do
16 a good job of maintaining the natural habitat so we
17 want to give them the hardship waiver."

18 The hardship waiver, as you folks know
19 and as counsel explained, is different than the
20 core preservation area and that makes it very
21 difficult for these people. There have been a lot
22 of folks who would have liked to have developed
23 their property and couldn't because we made a
24 commitment 20 years ago to protect the water people
25 drink, and the place where tens of thousands of

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2 animals live themselves. So our problem is not for
3 the Kent Animal Shelter or the work that they do,
4 it's the process of defending the Pine Barrens
5 Protection Act. If one were to agree, and we are
6 not doing that today, that because they're
7 improving the nature of the site that improves the
8 Pine Barrens, that doesn't happen if other
9 applicants can use as a precedent the fact that
10 this applicant has been granted a hardship, core
11 area hardship application, without being able to
12 show that they have no, absolutely no benefit
13 whatever. That is an essential part. That's what
14 the legislature wrote.

15 When they wrote the compatible growth
16 area standard they said that you could even waive
17 strict compliance with these rules, but they
18 explicitly said that in the core preservation area
19 you had to meet a specific requirement and I want
20 to argue that because they don't, we have to find
21 some other place for them to provide this service.
22 They are never, by their own admission, going to
23 meet the full needs of the animals in the county,
24 the Pine Barrens, the Town of Riverhead, sadly; but
25 the risk to the Pine Barrens Act and to all of what

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2 it is that makes it work is that we not, on the
3 basis of our sympathies and our caring about
4 animals, that we not substitute that for the plain
5 requirement of the law.

6 Let's talk about a couple of those
7 things: The argument about public health and
8 safety, when the law was written it was explicit
9 that we were talking about the public health and
10 safety of humans. Everything is relative. It will
11 be: Gees, if they could build one twice as big
12 then there would be twice as many benefits to the
13 community, but that's not what compelling public
14 need has been found to mean, and so they don't
15 qualify for the waiver on that basis, and they
16 don't because they do have beneficial use; so they
17 don't qualify it on the other. So they don't
18 qualify, which is why we are talking to them, and
19 trying to figure out what they could do differently
20 that would not require you to violate the Pine
21 Barrens Act, which is why the Pine Barrens
22 Society's board, I don't get to make these
23 decisions on my own, there are certain things that
24 you don't have discretion to do and there are
25 things that I don't have discretion to do. You are

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2 not supposed to create a hardship if strict
3 requirements are not made, and I am not allowed to
4 decide when we litigate and when we don't.

5 Our board has determined that the
6 precedent set by the granting of the permit to this
7 applicant would be extremely prejudicial to the
8 Pine Barrens Protection Act, to the people of
9 Suffolk County in general, and Long Island in
10 particular and Long Island in general.

11 Sadly, the worthiness of the use is not
12 germane to the decision making. When the law was
13 written it said: Thou shall not say this is a good
14 use so you can build in the core and this not a
15 good use, so you can't. It's not a discretion they
16 give you. I would ask you to consult with counsel
17 on this.

18 This clearly meets the definition of a
19 development. I have passed around to you the law
20 and the definitions, it's development in every way
21 that you have ever interpreted it in the past, and
22 this, if you have ever engaged in development the
23 way some of the people that we don't appreciate,
24 especially the developers that are going on needed
25 housing, on affordable housing and other sorts of

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2 things, they are developing for a very humane and
3 decent purpose, but it's development. So you are
4 looking at development and you are looking at an
5 applicant that needs for you to determine if they
6 qualify under article 57-0107, 0121, but it's
7 absolutely black and white.

8 They can't just be providing public
9 benefits. In fact, I can think of some of the
10 worst developments ever proposed in the Pine
11 Barrens. The applicant comes and says that there
12 are public benefits to having this church here or
13 this facility there, and this is not something that
14 the Commission has felt overcame the particular
15 requirements of the consideration of the
16 application. I am concerned, and John, if I can
17 have you pay attention, the applicants obtained
18 County Health Article 6, Board of Riverhead, DEC
19 preference and so forth, all about this. We have
20 to have a better process when we are dealing with
21 core area hardship applications; that needs to be
22 taken into consideration by these agencies. This
23 should be worked out with the Commission. This is
24 not something that these people did wrong, it's a
25 process that makes the project look harmless when

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2 the expressed language of the statute makes it look
3 extremely harmful. Again, not the nature of the
4 project, but what the impact would be on stuff that
5 everybody who cares about animals also cares about
6 the environment.

7 There was a reference to more than 2000
8 letters of support for Kent being able to do the
9 good work they do. I am sorry, I am not one of
10 those that had a chance to check that, I would have
11 done that too. There are 190,000 people who voted
12 on, last November, on Prop 5, saying that the
13 programs, the Suffolk County programs for drinking
14 water protection, were worth -- they're actually
15 investing their own money and doing it.

16 We all belief in these things, but
17 there are laws that govern how we behave, the
18 decisions we make, and under, for example, the
19 comprehensive land use plan, the project needs a
20 variance. So it doesn't comply as it exists. The
21 mitigation doesn't order the requirements, the law
22 says what the requirements are that had to be made.
23 So they have a better sanitary system than what was
24 put in there 40 years ago. It's likely to generate
25 40 parts per liter of nitrogen, the county approved

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2 it, but the county -- I am sorry it's approving the
3 discharge of nitrogen and disappointing the whole
4 office, it's not adequate; so a very good question
5 from Commissioner Throne-Holst, if you could put in
6 a better one, if you could put in a better one and
7 it would work, would you do it? That would be
8 good, but it wouldn't solve the problem of not
9 qualifying for the exemption. The problem is if
10 the Commission is acting in a manner that will
11 allow other bad actors, of which I consider these
12 people none, and that is the problem before you.

13 The sanitary system is to be further
14 away than some of the existing buildings sanitary
15 systems. The time of travel would not be
16 significantly impacted by that distance and while
17 there would be less contamination on that site, it
18 would be contamination that would compromise the
19 river one way or the other. Even if they could
20 improve the actual environmental situation on those
21 particular acres, the danger of the core being
22 developed in ways not contemplated by the people of
23 the State of New York, it's a much greater danger,
24 really. Is it a disadvantageous decision,
25 convenient, and does it hurt them and the work they

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2 are doing? Yes, I think so, but I don't know how
3 you get around it.

4 Same thing for removal of buildings.
5 It would vegetate buildings; commendable. They set
6 out to do better job than a lot of people to
7 develop a plan, but they have beneficial use and
8 they are not providing for the public health and
9 the welfare of the people. They don't qualify for
10 that.

11 The fact that this predated the Act,
12 again, is not germane. There are a lot people who
13 intended to building on the areas of the core
14 preservation area that can't be developed, who
15 wanted to built something different, something they
16 thought was better, something they though was good
17 for the public in the CGA but couldn't do that
18 because of the Pine Barrens Act, but the water
19 beneath the Pine Barrens is the cleanest in the
20 State of New York. We have a habitat that boasts
21 the greatest diversity of plants and animals
22 anywhere in the State of New York; Adirondack's,
23 Catskills, it's a Wonder land.

24 The previous expansion is not germane,
25 relocation efforts have been sought, it's a pain in

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2 the neck, and if there isn't a zoning for these
3 things it's considered a nuisance in so many places
4 that municipalities won't -- if they could do this
5 someplace else, I have the feeling that the Town of
6 Riverhead, as difficult as they can be, would
7 accommodate them because of the importance to the
8 town of that particular service.

9 Our board spent several hours trying to
10 decide how to deal with this application. We
11 talked to some very good people associated with
12 Kent, and I think their intentions are extremely
13 good, but we couldn't find a way around the problem
14 that permitting this project as it's proposed would
15 violate one of the most important tenets of the
16 Pine Barrens Protection Act and that is: What can
17 be built, and other than that, had the law been
18 able to say it, would have said, cannot have
19 anything built on it for any purpose, under any
20 circumstances. You can't do that, but you can set
21 up and the legislature did set up a series of
22 inarguable rules that say that you can only permit
23 that as a Commission if they meet the letter and
24 spirit of the law.

25 I will not give up after this. I ask

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2 you to disapprove the application and I will not
3 give up trying to figure out how to make certain
4 this kind of service is continued, whether it's my
5 job or not, because I think it's important and I
6 don't want the Pine Barrens Act to hurt people who
7 are doing good things, but I don't want abuse of
8 the process. I don't want well-intentioned actions
9 by this Commission to jeopardize the Pine Barrens
10 Protection Act, it's too important to too many
11 people.

12 Thank you very much.

13 CHAIRMAN SCULLY: Any others want to be
14 heard? Ma'am?

15 A P R I L P O K O R N Y, having been
16 first duly sworn by the Notary Public, was examined
17 and testified as follows:

18 THE REPORTER: Can you please state your
19 name and address for the record.

20 MS. POKORNY: April Pokorny, A P R I L,
21 P O K O R N Y, 2267 River Road, Calverton, New
22 York.

23 Thank you for the opportunity to speak.
24 I live on the property adjacent to Kent Animal
25 Shelter, and I don't want you to assume that means

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2 that I am here to support it or oppose it; I have
3 very mixed feelings about it.

4 We moved into our house about 12 or 13
5 years ago, so the kennel already existed. I knew
6 the condition that I was moving into and to be
7 quite honest, probably a new building would be, I
8 don't know how many times quieter than the one that
9 is there now, which is an echo chamber in that
10 cement block building, it's very, very loud, but I
11 am concerned and I see it says it does not apply to
12 affect other property in the vicinity, but it would
13 affect not only my house, but it's not a heavily
14 developed area, and I would be the most directly
15 affected by the construction.

16 As I said, it has a good point to it
17 for me, it will be quieter, but I would ask you to
18 consider, and I don't even know truly if this is
19 part of the process, the traffic, the additional
20 traffic on River Road, which is a busy road
21 already. County buses go down it. I have an
22 eight-year-old grandson who stands at the end of my
23 driveway waiting for the bus every day and the cars
24 come down very fast early in the morning to get to
25 Kent to drop off animals.

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2 It's a concern to me that the road is
3 going to be much busier. When I moved into my
4 house, the kennel had probably 24 runs and now they
5 want to make it 60 runs, so it's going to bring
6 much more traffic, but please believe me when I say
7 I have mixed feelings, because I know that in my
8 heart it's going to make my house quieter, but I do
9 have other concerns that I think need to be thought
10 about, and so I am just asking you to think about
11 those.

12 Thank you.

13 CHAIRMAN SCULLY: Thank you.

14 Any others who which to be heard?

15 J A N E H E L D, having been first
16 duly sworn by the Notary Public, was examined and
17 testified as follows:

18 THE REPORTER: Can you please state your
19 name and address for the record.

20 MS. HELD: Jane Held, 31 Dumar Drive,
21 Sag Harbor.

22 My name is Jane Held and I am here
23 today to voice my support for the Kent Animal
24 Shelter. Much can be said about the obvious need
25 for animal shelters out here. They provide an

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2 invaluable service to homeless pets. Under Pam
3 Green's leadership, she has committed herself and
4 the organization to raising the needed funds to
5 upgrade the shelter. I have visited the shelter
6 numerous times and it's obvious that it's ready for
7 a much needed facelift in order to provide better
8 care of the shelter animals.

9 Last night on the news I listened to
10 Mr. Amper's comments regarding the shelter and what
11 struck me most significantly was his concern, which
12 I heard today again, for an approval on this
13 application becoming precedent setting. Kent
14 exists as a preexisting non-conforming use and also
15 as a non-profit organization. I do not believe the
16 Pine Barrens Commission will ever see another
17 application of a similar nature as this one.
18 Sometimes an exception needs to be made to
19 overrule.

20 The Kent application takes a permitted
21 preexisting, non-conforming use and it has made an
22 application to upgrade and improve the existing
23 sanitary conditions. If the approval is granted on
24 this application, they will move their existing
25 sanitary system, which is now located in close

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2 proximity to the river, to a new location 300 feet
3 away.

4 Everything in this application is
5 directed towards improving the conditions at the
6 Kent Animal Shelter, but equally important, it is
7 geared towards improving the environmental
8 conditions there. If the Pine Barrens Commission
9 is committed to being a leader in environmental
10 leadership, I would ask that they give their full
11 support to the Kent application, as they have
12 clearly demonstrated their commitment to creating
13 environmental improvement on their site. I ask
14 that you please support this very worthy
15 application. Please do not make them spend
16 wasteful dollars trying to fight an approval that
17 they clearly deserve.

18 Thank you.

19 CHAIRMAN SCULLY: Thank you, Ms. Hall.

20 (Applause.)

21 Does anyone else wish to speak?

22 Mr. Sloane?

23 Please identify yourself for the record
24 so the Reporter knows who you are.

25 MR. SLOANE: Yes.

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2 Mr. Chairman, Members of the Board, my
3 name is David Sloane. I am a partner with
4 Certilman Balin Adler & Hyman, 100 Motor Parkway,
5 Hauppauge, New York, representing Kent Animal
6 Shelter.

7 My apologies for being late today,
8 however, I had to get my dog cremated. Talk about
9 irony, last night at 1:00 in the morning, I have a
10 12-year-old bull dog and he just went to sleep. It
11 was painless, thank God, but this is why I was
12 late. Again, my apologies.

13 Is Mr. Amper still here? That was
14 probably the calmest I have ever seen him and it is
15 appreciated, it really is, but I really do have an
16 issue with the precedent setting, and I understand
17 that's his issue, and this is an issue I deal with
18 as a land-use attorney constantly within
19 municipalities because municipalities do not want
20 to establish a precedence which others could
21 follow, unless it happens to be a good precedent.

22 Now, just a couple of very minor
23 points, I know it's been a long day, but this is a
24 2.1 acre site which is on the very edge of the core
25 area. It contains two oak trees; there are no pine

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2 trees on the property. There's 55,000 acres of
3 core area within the Pine Barrens in the three
4 towns; how this, basically meaningless from the
5 standpoint of the Pine Barrens' application, could
6 create massive types of precedence that's going to
7 overrun the core area of the Pine Barrens, just
8 isn't there. However, I understand this concern.

9 There are compelling public needs.
10 Like I indicated, it's the edge of the core, it's a
11 substantial environmental improvement over what is
12 there at the present time, not only from the
13 standpoint of ground water quality, but the impact
14 on the river, air quality, any type of
15 environmental issue, including the core area.

16 As indicated, there is no Pine Barrens'
17 vegetation whatsoever, there's, I think, two oak
18 trees on the property. There is a limitation with
19 the site from the standpoint of the archeological
20 study because they've asked that -- I don't know if
21 this came up because, again, I wasn't here, but a
22 portion of the property they requested stay vacant,
23 which we are doing, and that's why the odd shape of
24 that building. As I indicated, you are talking
25 about 2.1 acres on the extreme edge of the core,

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2 between River Road and the river, out of 55,000
3 acres in the core area; this is not going to
4 establish a precedent. I think it's a very worthy
5 cause. I understand that this isn't -- I know how
6 some people feel, but I think any statute, any law
7 has to be interpreted with reason.

8 Thank you very much.

9 CHAIRMAN SCULLY: Anybody else?

10 MR. WALTER: Can I just ask you a quick
11 question?

12 MR. SLOANE: Sure.

13 MR. WALTER: I do apologize. Would you
14 folks be willing to brief that issue of compelling
15 public need? Because I am looking at the statute
16 and they absolutely gave a relief point, as opposed
17 to trying to make the extraordinary hardship and
18 compelling public need, and I would love to see a
19 written brief on compelling public need.

20 MR. SLOANE: I will give you any brief
21 that you want.

22 MR. WALTER: Thank you, sir.

23 MR. SLOANE: Absolutely.

24 CHAIRMAN SCULLY: Does anybody else wish
25 to be heard?

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MR. LATO: I do, yes. Thanks.

My name is Leonard Lado.

L E O N A R D L A T O, having been
first duly affirmed by the Notary Public, was
examined and testified as follows:

MR. LATO: I'd like to stand at the
podium.

I am a resident of Southampton, of
Quoque, not of Riverhead. I'd rather stand at the
podium.

Now, with respect to the Kent Animal
Shelter, I think what everybody is doing here is
quibbling. I am an attorney too and I can follow
the letter of the law when I have to, but let's
talk about what is really going on here. We don't
have to really worry about precedent because we are
not talking about putting in a new community in the
Pine Barrens, we are taking an existing facility
and moving it approximately 100 yards to the north
and dismantling the old facility; so the question
is: Does the new facility, number one, damage the
Pine Barrens? If we are quibbling we can say two
or three trees will be cut down, but the existing
shelter is already a detriment to the environment

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2 when compared to the planned shelter. So although
3 the new shelter will be larger, it's larger but
4 it's also advanced. The old shelter, I think Ms.
5 Green used this phraseology when she said it is
6 antiquated or archaic.

7 The point is, if you have, say, 10 dogs
8 at a facility with a poor septic system or 30 dogs
9 and a modern system, actually the environment will
10 be better protected if you have 30 dogs and a more
11 modern facility. You are going to destroy the old
12 facility, plant vegetation; for every tree that you
13 cut down you can plant 10 new ones. The community
14 will benefit not just the animals. Obviously, the
15 animals will benefit, nobody is arguing about that,
16 but even with respect to disease in the community
17 -- toxoplasmosis, I believe somebody has already
18 talked about that. If you limit the number of
19 feral cats out there, you limit the chances that
20 some child will get infected with toxoplasmosis.
21 Fortunately, we have had no case of rabies in the
22 area, but what are we going to do? At some point
23 rabies starts to come, what are we are going to
24 say, we should have had that shelter?

25 The point is that there are always

1
2 going to be people who are going to come in and
3 say, "Well, Kent Animal Shelter got in there, what
4 about us?" The difference there is that Kent
5 Animal Shelter is already there, and we are not
6 talking about moving it three or four miles away
7 and cutting down some trees. Nobody is going to be
8 able to use this as precedent, because as a lawyer
9 I know, when it comes to precedent, you really have
10 to show that the two cases are factually
11 indistinguishable. Nobody is going to be able to
12 stand in Kent Animal Shelter's shoes at a later
13 date and say: Well, they got their way, we can't
14 because Kent Animal Shelter is there. They're
15 moving a short distance away, they are going to
16 improve -- dismantle the old facility, the impact
17 to the environment not only will be negligible,
18 there will be no impact. The environment will
19 improve, so how does Suffolk County lose?

20 The animals win, the county wins
21 because there will be less waste, less chance of
22 disease.

23 CHAIRMAN SCULLY: Thank you Mr. Lato.

24 Does anybody else wish to be heard?

25 (No response.)

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Just by a show of hands, how many are in support of shelter?

Thank you very much.

Any questions of staff?

(No response.)

We will leave the hearing open and we will reserve decision.

Thank you very much for your patience today.

There needs to come before the Commission?

(No response.)

If not, a motion to adjourn.

MR. WALTER: Motion to adjourn.

CHAIRMAN SCULLY: Second.

All in favor?

(Unanimously in favor.)

(Time Noted: 4:45 p.m.)

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 March 18, 2015, at Southampton Town Hall, 116 Hampton Road, Southampton, New York 11968 and that this is an accurate transcription of these proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of March, 2015

Monique Cabrera

MONIQUE CABRERA, Reporter