

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

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

3  
4 BRENTA PRUSINOWSKI,  
5 Representing Brookhaven Town Supervisor Edward  
6 Romaine

7 SARAH LANDSDALE, Representing Suffolk County  
8 Executive for Supervisor Steven Bellone

9 JOHN PAVACIC, Member

10 SEAN WALTER, Member

11 ANNA E. THRONE-HOLST, Member

12 DAN McCORMICK, ESQ.  
13 Attorney, Town of Riverhead

14 JOHN MILAZZO, ESQ.  
15 Attorney, Town of Riverhead

16 JULIE HARGRAVE,  
17 Senior Environmental Planner  
18 Central Pine Barrens

19 Present:

20 David Sloane, Esq.  
21 Christopher R. Nicolia, Esq.  
22 CERTILMAN BALIN ADLER & HYMAN, LLP  
23 100 Motor Parkway - Suite 156  
24 Hauppauge, NY 11788

25 David Wortman, Director of  
Environmental Services Long Island  
VHB

1  
2 CHAIRMAN SCULLY: I will read directly  
3 from the public notice into the record:

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

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

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

16 Suffolk County Tax Map Numbers  
17 600-138-1.62 and 1.71.

18 Project description is as follows:  
19 Applicant requests a Core Preservation Area  
20 hardship permit to expand and redevelop an existing  
21 animal shelter on a 2.138 acre project site in the  
22 Residence B-40 Zoning District. The site contains  
23 8,913 square feet of existing structures. The  
24 project includes the removal of three existing  
25 buildings totaling 5,323 square feet and the

1  
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

1 Romaine.

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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

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

4  
5 Exhibit D is the landscape plan, and  
6 that shows the building and all of the landscaping  
7 in the wetland buffer.

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

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

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

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

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

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

25  
K is the part of the site that fronts

1  
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.

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

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

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

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

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

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

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

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

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

1  
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

1  
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

1  
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.

1  
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

1  
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

system.

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

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

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

1  
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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2                   MR. MILAZZO: I am not sure.

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

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

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

17                  MR. NICOLIA: Understood.

18                  The first factor for a hardship  
19 exemption is whether there is no beneficial use for  
20 the present use, and as the Supreme Court discussed  
21 in the matter of Long Island Pine Barrens Society,  
22 Inc., Richard Amper as Executive Director against  
23 the Central Pine Barrens Joint Planning and Policy  
24 Commission and American Physical Society, Inc., the  
25 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

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

15

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

23

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

1  
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

their business.

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

CHAIRMAN SCULLY: You will be sworn by the Reporter.

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

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

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

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

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

1  
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

1  
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,

1

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

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

1  
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

1  
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

1

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

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

14

15            MS. GREEN: We probably have about 130  
16        animals there. We only have 25 kennel runs.

17

          MR. NICOLIA: Are you at capacity?

18

19            MS. GREEN: Oh, yes, all the time. All  
20        the time.

21

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

24

          MS. GREEN: There was no time.

25

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

1  
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

nothing new.

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

MR. McCORMICK: Thank you.

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

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

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

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

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

MR. NICOLIA: It is bigger, but the area

in use will be smaller.

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

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

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

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

1

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

5                   MR. NICOLIA: Yes.

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

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

10                  MR. NICOLIA: That's the footprint.

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

13                  MR. NICOLIA: Right.

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

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

25                  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

1  
2 agreeing on?

3 MR. MILAZZO: It's a bigger building.

4 MS. THRONE-HOLST: By what percentage?

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

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

10 MR. MILAZZO: Go ahead.

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

24 The first one, "The proposed  
25 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

public benefits from your proposed use of Kent.

MS. GREEN: I did.

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

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

MR. WALTER: Other than?

MS. GREEN: Kent.

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

MS. GREEN: It is.

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

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

1  
2                   MR. WALTER: Are there any other better  
3                   alternatives that are available to you from the  
4                   county than the facility that you have now?

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

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

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

1  
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. Nicolia 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

1

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?

1  
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

1  
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.

1  
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

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

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

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

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

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

15 That concludes my presentation.

16 MR. MILAZZO: Questions for Mr. Wortman?

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

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

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.

1

2 CHAIRMAN SCULLY: Any other questions?

3 Thank you.

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

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

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

11 MR. WALTER: What year was it built?

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

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

15 MR. NICOLIA: We can certainly follow  
16 that up.

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

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

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

1  
2                   MR. MILAZZO: I don't know what that  
3 means.

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

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

9                   MS. GREEN: Spay and neuter only.

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

12                  MS. GREEN: Yes.

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

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

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

20                  MR. MILAZZO: Of course.

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

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

1 necessarily --

2  
3 MS. THRONE-HOLST: Okay. Total  
4 population. I mean, are you doubling it?

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

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

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

12 CHAIRMAN SCULLY: You have to be sworn,  
13 sir.

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

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

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

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

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

1  
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

1  
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

1 that were?

2 DR. TIMPONE: Cost prohibitive.

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

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

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

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

11 DR. TIMPONE: Into Brookhaven.

12 MS. THRONE-HOLST: Into Brookhaven as  
13 well.

14 MS. GREEN: I mean, the original plan,  
15 the original mission, the original founders of the  
16 shelter wanted to create something on the north  
17 fork because there wasn't anything there, and for  
18 47 years we have served the north fork and branched  
19 out to the south fork, to all of Long Island.  
20 People will come from Brooklyn to get their animals  
21 spayed or neutered because it's so cheap, because  
22 they can't afford to pay \$400 to get their cat or  
23 dog spayed. It's very unique and there isn't  
24 anything else like this.

1

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

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

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

15                  CHAIRMAN SCULLY: Any other questions of  
16    the applicant?

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

19                  CHAIRMAN SCULLY: Okay.

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

1  
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

1  
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 respect  
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

1  
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

1  
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

1  
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

1

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

1

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

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

16

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

1  
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

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

Same thing for removal of buildings.

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

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

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

1

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

1  
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

1  
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.

1  
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

1

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

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

20

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

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

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

Thank you.

CHAIRMAN SCULLY: Thank you, Ms. Hall.

( Applause. )

Does anyone else wish to speak?

Mr. Sloane?

Please identify yourself for the record  
porter knows who you are.

MR. SLOANE: Yes.

1  
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

1

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

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

1  
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?

1

2                   MR. LATO: I do, yes. Thanks.

3                   My name is Leonard Lado.

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

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

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

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

1  
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.)

1  
2                   Just by a show of hands, how many are in  
3 support of shelter?

4                   Thank you very much.

5                   Any questions of staff?

6                   (No response.)

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

9                   Thank you very much for your patience  
10 today.

11                   There needs to come before the  
12 Commission?

13                   (No response.)

14                   If not, a motion to adjourn.

15                   MR. WALTER: Motion to adjourn.

16                   CHAIRMAN SCULLY: Second.

17                   All in favor?

18                   (Unanimously in favor.)

19                   (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