

PINE BARRENS COMMISSION
Public Hearing

Wednesday, April 20, 2011

Southampton Town Hall
116 Hampton Road
Southampton, New York 11968

Wednesday, April 20, 2011
3:00 P.M.

PETER SCULLY, Chair

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

Members Present:

Mark Lesko

Anna E. Throne-Hoist

Sean M. Walter

Brenda Pruscinowski

Daniel McCormick

Brian Culhane

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1 CHAIRMAN SCULLY: I am going to read
2 from the Notice of Public Hearing:

3 "Pursuant to the New York State
4 Environmental Conservation Law Article 57-0121(10)
5 and the Central Pine Barrens Comprehensive Land Use
6 Plan, notice is hereby given that the Central Pine
7 Barrens Joint Planning and Policy Commission will
8 hold a public hearing on Wednesday, April 20, 2011,
9 on the matter of a Core Preservation Area
10 Extraordinary Hardship Waiver."

11 The name of the project is JCJC Holding
12 Company, Inc. Core Preservation Area Extraordinary
13 Hardship.

14 Owner/Applicant is James A Calise,
15 President, JCJC Holding Company, Inc., c/o Timothy
16 McCulley, Esq., c/o Burke & Sullivan, PLLC.

17 The project location is 105 Flanders
18 Road, 167.32 feet south of Bellows Pond Road,
19 Hampton Bays, Town of Southampton, Suffolk County,
20 New York.

21 The project description consists of a
22 change of use from a New York State Police Barracks
23 to office use for a landscape contractor and two
24 tenant offices which will occupy 336 square feet of
25 the existing office space. No expansion or

1 renovation of the existing building or parking lot
2 is proposed. The 40,372 square foot project site
3 is in the Country Residence 120 zoning district and
4 is developed with a 3,354 square foot brick
5 building and 34 parking spaces. The natural area
6 of the site encompasses approximately 11,202 square
7 feet.

8 I would ask the Commission and
9 representatives to put their names on the record,
10 Mr. McCormick?

11 MR. MCCORMICK: Dan McCormick, Town of
12 Riverhead designee.

13 MR. CULHANE: Brian Culhane for Suffolk
14 County Executive, Steve Levy.

15 MR. WALTER: Sean Walter, member.

16 MR. LESKO: Mark Lesko, member.

17 MS. PRUSCINOWSKI: Brenda Pruscinowski,
18 alternate representative from Brookhaven Supervisor
19 Mark Lesko.

20 CHAIRMAN SCULLY: Peter Scully,
21 representing the Governor of the State of New York.

22 MR. TURNER: John Turner, alternate
23 member of the Board of Supervisors, Mark Lesko.

24 CHAIRMAN SCULLY: Ms. Hargrave?

25 MS. HARGRAVE: Thank you.



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1 Good afternoon. I am going to just read
2 the list of exhibits into the record and then give
3 a brief overview of the project, and the applicant
4 is here to present the project.

5 The list of exhibits from the staff are:

6 A is the staff report.

7 B is the aerial of the project site and
8 surrounding area.

9 C is the site plan prepared by Squires,
10 Holden, Weisenbacher and Smith, dated August 12,
11 2010.

12 D is the town code list of uses in the
13 CR 120 zoning district.

14 E is the town code list of uses in the
15 highway business district.

16 F is the photographs of the project
17 site.

18 G is the topographic map of the site and
19 surrounding area.

20 H is the core hardship criteria, and.

21 L is the hardship petition submitted by
22 the applicant.

23 And the Commission office received
24 yesterday an additional analysis from the
25 applicant, so I am going to pass that around as

1 well.

2 According to this application --

3 MR. MILAZZO: Exhibits A through H, then
4 I will give out --

5 MS. HARGRAVE: We already did that.

6 MR. MILAZZO: Then I will give out the
7 April 14 letter, A will be the April 14th letter
8 that I just handed over. Thank you.

9 MR. LESKO: Mark it.

10 MS. HARGRAVE: From 1970 until
11 approximately 2008, the site was leased by New York
12 State Police. This site is in the core
13 preservation area again, so the government,
14 municipal use of the site was a permitted use in
15 the creation of a residential zoning district that
16 the society is located in.

17 In 2003, the current owner purchased the
18 site and they are currently occupying the site
19 while they obtain the permits to legalize the use.
20 The site, again, is in the three-acre residential
21 zoning district and the proposal is for a change of
22 use to a commercial office for a landscaper
23 contractor business. The owner also proposes to
24 lease office space in the building to other
25 tenants, and the building is 3,354 square feet and

1 it has 34 parking spaces.

2 MR. WALTER: How big is the building?

3 MS. HARGRAVE: It's 3300 square feet.

4 It's an interesting building. There is
5 no proposed extension of the building or no
6 proposed clearing of vegetation on the property.
7 Approximately 28 percent of the site remains
8 vegetative, which is approximately 11,000 square
9 feet.

10 There needs to be a SEQRA determination
11 on the project. The Town of Southampton
12 coordinated the application with the Commission
13 and, as per the land-use plan, the Commission is
14 needing this too because the site is in the core.

15 So the town deferred to the Commission,
16 but the applicant will need a use variance because
17 the use, again, is not permitted in the residential
18 zoning district. Also, they'll need planning board
19 approval, site plans. So the town ZBA cannot
20 override the Commission as far as granting a
21 waiver, so the applicant needs to come to the
22 Commission because the development will need a use
23 variance from the zoning board because the use,
24 again, is not permitted in the residential zoning
25 district and, also, they will planing board

1 approval, site plan approval.

2 So the town, again, the town ZBA can't
3 override the Commission as far as granting a waiver
4 to our 57. So the applicant needs to come to the
5 Commission because the project development and use
6 variance constitutes development in the Pine
7 Barrens Act.

8 You have the staff report and if you
9 have any questions about it, I am here to answer.

10 MS. PRUSCINOWSKI: Is there a
11 certificate of occupancy on the building?

12 MS. HARGRAVE: Not for the current use.

13 MS. PRUSCINOWSKI: I understand that,
14 but there is one? Do you know how it reads?

15 MS. HARGRAVE: Yes. It was for the
16 police barracks that was in 1979.

17 MS. PRUSCINOWSKI: Do we have that
18 here?

19 MS. HARGRAVE: No. It was in the
20 application. It was issued for Florence Ceravolo,
21 who is not the current owner. It was for a New
22 York State Police Barracks. Municipal government
23 use is a permitted use in the zoning district.

24 CHAIRMAN SCULLY: For municipal use?

25 MS. HARGRAVE: Yes.

1 CHAIRMAN SCULLY: The reason, as I said
2 before, it's for non-municipal use, which, for our
3 purposes, under the section of part 57010713a
4 states that change in the type of use in the
5 structure or the land or the ordinance of rules
6 changing from one class to another class is
7 considered development. It's that phrase and that
8 phrase alone that extends to us today.

9 MR. WALTER: Do we know the status of
10 the use permit application, the variance of the
11 zoning board?

12 MR. MILAZZO: Change of zone.

13 MS. HARGRAVE: It's on hold. I believe
14 it's pending with the Commission chair.

15 CHAIRMAN SCULLY: This is one of those
16 rare occasions where the Board of Zoning Appeals is
17 awaiting the determination of the Commission.

18 Are there questions for staff?

19 If not, will the representative of the
20 applicant, Mr. McCulley please come up and
21 introduce yourself.

22 MR. McCULLEY: For the record, Timothy
23 S. McCulley, Burke & Sullivan, 41 Meeting House
24 Lane, in Southampton.

25 The applicant came to us after he was



1 occupying the building, and there is nothing in our
2 application that we're requesting that changes
3 anything on the building, on the grounds,
4 whatsoever. The building has been the way it's
5 been substantially since 1970 when it became the
6 police barracks, and that's the way it is right now
7 and he has been there for three years.

8 Basically, as far as hardship goes, and
9 I know I have to show you that, we are in a
10 situation where it's a three-acre residential
11 parcel. We don't even meet the current zoning, in
12 terms of area, and it's a stand-alone parcel.
13 Whatever is done here today, if you should choose
14 to approve, in the future will not affect any
15 property in the vicinity other than this. It's a
16 stand-alone parcel that is all by itself on a major
17 road. There is no other residential area around
18 there, except down on Bellows Pond Road. The
19 nearest area for this development is the Town of
20 Southampton's Police Department, recreation area,
21 transfer station, et cetera.

22 So, in terms of that, again, we are not
23 going to affect anything by this continuing. It's
24 not due to anything that either the prior owner or
25 we have done in terms of the building or the



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1 facility, it was already there. In 1970 there was
2 -- the zoning code was not as comprehensive as it
3 is now, after 1972; therefore, municipalities were
4 not a permitted use at that time. So you had to go
5 to the town board and get this permission and
6 that's how they got the C of O for the police
7 barracks. It continued on when my client bought it
8 in 2003. It was due to the understanding that the
9 police barracks would be moving. They ran into a
10 problem with their new riverside headquarters; in
11 the construction there was a lot of problems and it
12 got delayed, so they actually stayed in two years
13 beyond their lease.

14 Again, this property has been
15 substantially the way it's been since 1970. There
16 were no transfers of any property that made it
17 smaller or anything, so all we are asking for is
18 the right to use this particular building.

19 As far as the Zoning Board of Appeals
20 goes, we have started the hearing on that. I put
21 in the background information. They're awaiting a
22 decision from this board. We had an appraisal done
23 of the property, which I provided to this board,
24 and I think it clearly shows that none of the uses
25 -- even though there's a number of uses that could

1 be for residential or for this property -- when you
2 go through the whole list, this property is really
3 not adaptable to any of it. Even the special
4 exceptions, all of them have certain criteria as to
5 size of parcel, number of parking spaces,
6 configuration of the building -- we can't meet
7 these special exception uses.

8 MR. WALTER: Do you have a good feeling
9 with the Zoning Board of Appeals?

10 MR. McCULLEY: I do. I mean, they are
11 looking for me to give them written reports on each
12 and every use. I don't -- under the law and cases
13 that have been decided, I don't think I have to do
14 that with every one, but I've done it. It's not
15 complete yet, but if we get to finish the hearing,
16 it will be complete, but I do have a good feeling.

17 They are not rolling over and saying
18 "it's no problem," I mean they are challenging me.

19 MR. WALTER: They shouldn't roll over,
20 earn the money sometimes.

21 MR. McCULLEY: They are challenging me,
22 you know, to put my proofs together, which I feel
23 confident that I can do.

24 I think what we are asking for is the
25 minimum variance necessary to relieve the hardship,

1 and the reason I say that now, they are back and
2 forth in the staff report. They are talking about
3 a change of use, why we didn't go for a change of
4 zone versus a change of use, but if you go for a
5 change of zone, that's a whole other animal and it
6 opens up a large avenue which I don't think this
7 board or the zoning board or the town board would
8 be in favor of, because once it becomes a change of
9 use, now all the permitted uses in highway business
10 then could come in there as a right, and we are not
11 asking for that, we are asking for minimal relief
12 in terms of just let us use the building and the
13 parking lot.

14 MR. WALTER: It becomes a change of
15 zone, not a change of use, correct? If it became a
16 change of zone, all of the uses --

17 MR. McCULLEY: Yes, then all of the
18 uses that would be in the highway business if that
19 was the change of zone would then be permitted,
20 which opens up a whole other --

21 MR. WALTER: I think your application
22 is the correct application to make to the Zoning
23 Board of Appeals, I would agree.

24 MR. McCULLEY: It's just the simplest
25 one and it gives not only this board, should you be

1 disposed to granting a waiver with conditions, or
2 whatever, but also the zoning board can condition
3 it and then it's a tightly controlled application
4 rather than just something -- and I think that one
5 of the problems is when I made the application for
6 the offices, you have to tie it to something. You
7 just can't say, willie nillie, offices, when you
8 are asking for a change of use.

9 It is a landscape business, but there is
10 no -- we are not intending to retail there. We are
11 not intending to put flowers out there. We are not
12 intending to put any chemicals there. All he does
13 is strictly the office. There are some trucks that
14 come back and forth to pick up orders, you know,
15 paper orders from the office upstairs, and he has
16 some dumpsters that are in transit from one end of
17 the place to the other. He has another office in
18 East Hampton. There is never any debris in those
19 dumpsters, they are completely clean.

20 MR. WALTER: So there is outdoor
21 storage?

22 MR. McCULLEY: There is some outdoor
23 storage, but it's minimum. We would be willing to,
24 if you see fit again, to grant the waiver to take
25 whatever conditions you deem necessary to control

1 that, in terms of the environment. We have no
2 problem with that, that's why I am saying, it's a
3 very confined application, just trying to use the
4 facilities that are there. If we go for a
5 residence, we have to knock down everything, take
6 the parking lot out and then you have a family
7 living in the middle of 1,000 acres of pristine
8 forest.

9 MR. WALTER: Some might like that.

10 MR. McCULLEY: That sounds real nice
11 until you look at the traffic coming by.

12 MR. WALTER: We want the supervisor's
13 mansion set back a little.

14 MR. LESKO: Under the current zoning,
15 what are the acceptable uses?

16 MR. McCULLEY: Basically the acceptable
17 uses are municipal uses, residents, just a one-
18 family residence; then there are some special
19 exception things that are sort of tied to the
20 municipal uses, which would be a care and nursing
21 care facility, that type of use, that would be
22 permitted. Community-type things and we don't have
23 either the property size or the location that fits
24 any of them. We are all -- there's a block
25 someplace on almost all of them.



1 So we are really limited to what we can
2 do here.

3 CHAIRMAN SCULLY: Are there other
4 questions for Mr. McCulley?

5 Ms. PRUSCINOWSKI: Who are the two
6 additional tenants that you mentioned earlier?

7 MR. McCULLEY: That's, again, you will
8 appreciate this, it's a 3,000 square foot building,
9 but it has, the footprint is about 16,000 square
10 feet. He has some rooms downstairs. When this was
11 a police barracks, they had jail cells in there and
12 that type of thing. He is entitled, on that size
13 of property, if it were in the highway business, he
14 would be entitled to a couple of extra small
15 offices downstairs, and so I asked for that in the
16 application. It's not crucial to what my client
17 wants, but it seemed like there was some wasted
18 space down there and I thought two small offices
19 would not be harming anything.

20 MR. WALTER: You are not changing
21 bathrooms or anything?

22 MR. McCULLEY: Nothing. There is no
23 kitchen in here. We are not changing any
24 bathrooms. They did do some interior renovations,
25 honestly, because when they came in there, there

1 were holes in the wall, you know, it was a jail.
2 So they cleaned it up in that fashion. There are
3 some offices upstairs.

4 When you ride by, I don't know if you
5 have seen it, but when you drive by, you can't tell
6 that the operation is not truly in there.

7 CHAIRMAN SCULLY: Any questions for Mr.
8 McCulley?

9 Sir, in considering the hardship
10 application before us, the Commission has a right
11 to certain town law provisions which would be
12 reported for you to address as part of the record.

13 MR. MILAZZO: If you want to go back to
14 the requirements that the particular physical
15 surroundings, the 1.8 provisions --

16 MR. McCULLEY: The physical
17 surroundings?

18 MR. MILAZZO: Yes. It's that
19 restrictions don't apply to any other property in
20 the immediate vicinity.

21 MR. McCULLEY: I thought I covered
22 that, but I will cover it more precisely.

23 MR. WALTER: It's in the application,
24 it's in your petition to us.

25 MR. McCULLEY: It's in my petition, but

1 as I say, if you look at the tax map, this parcel
2 is really like an out parcel of all of the property
3 that has been acquired by the town and in the town,
4 in this entire corridor. And I don't think that
5 anything we are proposing could possibly have an
6 impact on any property in the vicinity.

7 CHAIRMAN SCULLY: We will let the
8 papers speak for itself.

9 Does anybody wish to be heard on this
10 application?

11 MR. AMPER: My name Richard Amper. I am
12 Executive Director of the Long Island Pine Barrens
13 Society.

14 Do I need to be sworn?

15 CHAIRMAN SCULLY: Yes.

16 Whereupon,

17 RICHARD AMPER,

18 after having been first duly sworn by
19 the Notary Public, was examined and testified as
20 follows:

21 MR. AMPER: This is another one of these
22 uncomfortable applications where I sympathize with
23 the Commission about applicants coming to you and
24 asking you to use your discretion and ask you to
25 make judgments about whatever impact the proposed

1 development or waiver they are seeking would have
2 on the drinking water quality or habitat when the
3 statute is very clear as to what can and can't
4 happen, and gives the Commission very limited
5 latitude.

6 Here, again, the applicant is obliged to
7 meet all of the requirements of the core
8 preservation area hardship waiver; unable to do
9 that, we have spent a considerable amount of time
10 listening to all the uses contained in the town
11 law, and so the notion that there is no beneficial
12 use, for example, is raised again. My
13 understanding, if I heard correctly, is that this
14 land was purchased in 2003, is that correct? That
15 would raise the issue of self-creative hardship as
16 provided under the statute. It's very, very
17 difficult for the applicants to understand why the
18 law was written as it was and why I need to
19 strictly interpret who is entitled or not equally.

20 We would certainly agree that what the
21 proposed use is, is not going to be enormously
22 detrimental, but it is creating enormous threat to
23 these folks and buying property after the Pine
24 Barrens Act was enacted, knowing what the
25 requirements were and then seeking a hardship when



1 they have created that hardship, and so long as the
2 applicant has beneficial use of the property, then
3 it's not appropriate or legal for the Commission to
4 grant it, as much as many of you may very well like
5 it.

6 CHAIRMAN SCULLY: Does anybody else wish
7 to be heard?

8 MR. McCULLEY: May I respond quickly to
9 Mr. Amper's comments?

10 CHAIRMAN SCULLY: Quickly.

11 MR. McCULLEY: I would just say that
12 whether or not the property was purchased and then
13 we are coming here trying to bootstrap ourselves
14 into a hardship, that is really not the case,
15 because the building exists; it existed before we
16 bought it and it exists now in the same situation.
17 So somebody, at some point, was coming here -- had
18 to, in order to use this property in an appropriate
19 manner. So I don't think it's a situation where
20 we bought a piece of vacant land and now we are
21 coming to build a building or something like that,
22 then I would have to agree that that would be kind
23 of bootstrapping, but I don't think that applies
24 here.

25 Would the board like me, I don't know if



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1 the board wants to keep the hearing open and I'll
2 give you a written report on each and every use in
3 this thing, would that be helpful to you? I'd be
4 willing to do it if it would be helpful.

5 MR. WALTER: I think it would be
6 helpful.

7 CHAIRMAN SCULLY: Mr. Walter?

8 MR. WALTER: I think it would be
9 appropriate.

10 CHAIRMAN SCULLY: It's your
11 application. If you want to supply that you
12 should, but it's not necessary.

13 MR. McCULLEY: Well, I have to do it for
14 the Zoning Board and it's almost done. If you want
15 to give me a little bit of time to do it, I will do
16 it.

17 CHAIRMAN SCULLY: Other questions for
18 the applicant?

19 MR. MILAZZO: I have a question:
20 Joseph Ceravolo, is he part of the Flocee Estates
21 or is that a family? It seems like there are a
22 common series of names.

23 MR. McCULLEY: Yes, I think that that
24 was part of the Flocee Estates.

25 MR. MILAZZO: Does he have an interest

1 in the Flocee Estate.

2 MR. McCULLEY: I am not sure, but I can
3 find that out and I can give you that information.

4 I know that Flocee -- that group of
5 people, I think they did the pond, the Bellows Pond
6 subdivision, but I am not certain.

7 MR. MILAZZO: It seems that there are
8 some common names running throughout.

9 MR. McCULLEY: Okay.

10 MR. LESKO: Let's say that the applicant
11 decided that he wanted to tear down the building
12 and build residential property. It's procedural
13 with that, that he would have to submit a site plan
14 application to the township; would that then
15 necessitate a hardship application or would they be
16 able to --

17 MR. McCULLEY: I think he would have to
18 do the hardship application.

19 MR. LESKO: Let's say they wanted to
20 build a 12,000 square foot --

21 MR. MILAZZO: They may not because the
22 way the definition for development reads, it's in
23 the existing zone categories, staying within the
24 category is not development, ironically.

25 CHAIRMAN SCULLY: Page two of the staff

1 report and this specific excerpt in the law, it
2 attributes it as a change-of-use and it's permitted
3 under one zoning classification and not the other.
4 It's a trigger for the definition of development.

5 MR. MILAZZO: There is a provision of
6 the law that says development does not include uses
7 when they stay within the same category.

8 The change in use of environmental
9 structure from the use within a class sensitizing
10 an ordinance to another use in the same class. So
11 if I have something in CR 140 and you want to do
12 something else in CR 120, the argument is the
13 applicant would not -- it's non development.

14 MS. PRUSCINOWSKI: Also under the --
15 section.

16 CHAIRMAN SCULLY: Because you have this
17 apparent exemption from the municipal uses in a
18 residential zoning classification which allows the
19 barracks, it doesn't allow an office use.

20 MS. PRUSCINOWSKI: It's a very unusual
21 situation.

22 MR. MILAZZO: Because he is going from
23 one class, CR 120, to another class for its use.
24 That's the jurisdictional trigger for the
25 Commission. If it was within the category from one

1 use of CR 120, police barracks, to a house, it may
2 not be a development as defined by the law.

3 If they had another use in the CR 120
4 class, you don't have to have the appearance
5 because it would be permitted. Again, I will go
6 slower: The definition that matters to the
7 Commission is whether something is a development.
8 The development doesn't include changing from one
9 use of a zoning category to another use in that
10 same zoning category. So if it is permitted in the
11 CR 120 schedule, if you go from one to the other,
12 as long as it's on the CR 120, you don't need to
13 see it. If it goes from a use in CR 120 to the
14 highway business or a different category, that
15 becomes a development, which is why it is in
16 Article 57. That's the definitional trigger for
17 your jurisdiction, which is why the applicant is
18 before you today.

19 CHAIRMAN SCULLY: Thank you.

20 MR. LESKO: Why, and again, I don't
21 have the case notes in front of me, but why
22 wouldn't the township have a compelling public
23 meeting to see a former municipal building or a
24 building used for governmental purposes reviewed in
25 a way, whatever positive economic effect on our

1 community that may need a development? Why
2 wouldn't that qualify as a compelling public
3 meeting?

4 MR. MILAZZO: Because the compelling
5 public need typically -- if you are making the
6 argument that you would have to make a criteria
7 under that, the Commission has granted one staff
8 record which was for a purpose, with the LIPA
9 application being the only compelling application
10 that has been approved. There were amendments to
11 Article 57 to limit government --

12 MS. HARGRAVE: The property has not
13 never been covered -- a private one, but it was
14 leased.

15 MR. McCULLEY: By the state police and
16 that that's another thing about this application
17 that makes it unique, is that back in -- now in the
18 1972 ordinance, that if you established a municipal
19 use and you were coming in and out of there 24
20 hours a day with the police cars and whatever goes
21 on in a police station, I probably could make the
22 argument now that I am asking the zoning board to
23 give me another non-conforming use, which is less
24 intensive. But I am precluded from doing that
25 because this was not a non-conforming use for it or

1 put in the ordinance. In other words, it was a
2 stand-alone. Back in the 70's they had to go to
3 the town board to get permission, nobody provided
4 for it. So there is no way for me to try to argue
5 that we are going from one intensive use, police
6 24-hours a day, back and forth traffic, et cetera,
7 to something less intensive that is only performed
8 in business hours.

9 MR. LESKO: Was this, during the
10 property acquisition process, during the due
11 diligence associated with that, was this made aware
12 to the property owner?

13 CHAIRMAN SCULLY: That's a good question
14 for the applicant.

15 MR. McCULLEY: It was before our time,
16 you mean?

17 MR. LESKO: I am saying when the
18 property owner bought the property, this issue did
19 not come up?

20 MR. McCULLEY: He was not aware of this
21 at all.

22 MR. WALTER: It comes under the header
23 of good lawyering. When you're a real estate
24 lawyer, these are the things that you are telling
25 clients.

1 MR. McCULLEY: He was totally unaware.

2 MR. LESKO: My point is under the issue
3 of a self-created hardship, if there was actual
4 ignorance, then it's a result of some malpractice
5 by an attorney or some misleading statement by
6 anybody involved in that transaction. To me, that
7 might give rise to some type of hardship
8 application. I think it's an entry point well
9 taken. If there was knowledge and the applicant
10 went ahead and purchased the property with the
11 knowledge that this issue was present, then I don't
12 think that we have much sympathy for the applicant
13 and the "buyer beware" principal applies, but if
14 there was some actual ignorance that wasn't the
15 fault of the applicant, I, for one, would have some
16 more sympathy.

17 MR. McCULLEY: Then I would like you to
18 keep in mind the purpose of the statute, and think
19 that if I came to you before I purchased it, I
20 would still be arguing the same thing that I am
21 arguing now. So in terms of the environment and
22 the purpose of the law, I don't see that that would
23 make a difference. Maybe I am wrong, maybe I am
24 being too much of an advocate, but you know what
25 I'm saying. In other words, you would still have

1 to make the same decision.

2 MR. LESKO: Or you would tell the
3 applicant, "Don't buy the property. Because it has
4 this issue, you can only redevelop it for
5 residential purposes or for municipal purposes."

6 MR. McCULLEY: The horse is out of the
7 barn now, and I didn't represent him when he bought
8 it, let's get that on the record. I was just
9 thinking maybe I should have that on the record.

10 MR. LESKO: I think you have said as
11 much already.

12 CHAIRMAN SCULLY: Other questions for
13 the application?

14 MR. AMPER: Well, for the record, just
15 so that it is on the record, the notion of self-
16 created hardship does not obligate the state or
17 this Commission to provide specific information to
18 somebody who is involved in a real estate
19 transaction that is by law the due diligence
20 required of them.

21 CHAIRMAN SCULLY: Anything further?

22 If not, we will close the hearing and we
23 will keep the hearing open as suggested.

24 MR. MILAZZO: For two weeks?

25 MR. McCULLEY: Two weeks is fine.

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Thank you for your time.

CHAIRMAN SCULLY: Thank you very much.

(TIME NOTED: 3:50 p.m.)



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Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

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 April 20, 2011, at Town Hall, 116 Hampton Road, Southampton, New York, and that to the best of my ability, the above proceedings are an accurate transcription of what transpired at that time and place.

IN WITNESS WHEREOF, I have hereunto set my hand this day of , 2011.

MONIQUE CABRERA,
Shorthand Reporter



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New York, NY 10119