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2 PUBLIC HEARING NOTICE
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5 CENTRAL PINE BARRENS
6 JOINT PLANNING & POLICY COMMISSION
7

8 EASTERN SUFFOLK DEVELOPMENT CORPORATION
9

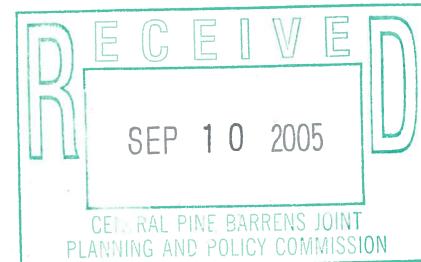
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12 Brookhaven Town Hall
13 One Independence Hill
14 Farmingville, New York
15

16 August 10, 2005
17 3:00 o'clock P.M.
18

19 APPARENCES :
20

21 PETER SCULLY - Chairman
22 BRENDA PRUSINOWSKI - Town of Brookhaven
23 JOHN TURNER
24 MARTIN SHEA
25 JOHN PAVACIC
RAY CORWIN
CHRISTOPHER KENT
MICHAEL DEERING
JUDY JAKOBSEN

JOHN C. MILAZZO, ESQ.
Attorney for Central Pine Barrens
Joint Planning and Policy Commission
P. O. Box 587
3525 Sunrise Highway - 2nd Floor
Great River, New York 11739



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CHAIRMAN SCULLY: I'd like to call this hearing to order and ask the members of the Commission to put their appearances on the record.

MICHAEL DEERING, representing Suffolk County Executive Steve Levy.

CHRISTOPHER KENT, representing the Town of Riverhead Supervisor Phil Cardinale.

MARTIN SHEA, representing
Southampton Town Supervisor Patrick
Heaney.

BRENDA PRUSINOWSKI, representing Brookhaven Town Supervisor John J. LaValle.

JOHN TURNER, representing
the Town of Brookhaven.

PETER SCULLY, representing

CHAIRMAN SCULLY: I'll read from the notice of public

2 hearing. This is an application
3 for a Compatible Growth Area hard-
4 ship. The subject of the hearing
5 is Eastern Suffolk Development
6 Corporation requesting a hardship
7 permit to construct a proposed
8 shopping center/office center con-
9 sisting of three separate buildings
10 totaling 17,731 square feet, an
11 onsite septic system on a 2.3 acre
12 site zoned RB80. The prior zoning
13 was Business CR. The applicant is
14 seeking relief from the clearing
15 standard.

22 (At this time, cover
23 sheet was marked Staff Exhibit 1.

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staff using an Olympus model 2020 digital camera. The photos were processed using Olympus Camedia Master Version 1.2 software was marked Staff Exhibit 2.

Staff report prepared
8-8-05 was marked Staff Exhibit 3.

Site plan - proposed shopping center East Suffolk Shoppes, Route 25 and Kay Road, Sheet S-1.1, Wading River, New York, sheet prepared by Searles, Stromski, Associates, dated 10-4-04, revise date 10-8-04. **Does not conform to clearing standard**, was marked Staff Exhibit 4.

Site plan - proposed
shopping center East Suffolk
Shoppes, Route 25 and Kay Road,
Sheet S-1.2, Wading River, New
York. Sheet prepared by Searles,
Stromski, Associates, dated 10-4-04,
revise date 10-8-04. **Does not**
conform to clearing standard, was

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marked Staff Exhibit number 5.

Site plan - proposed

shopping center East Suffolk

Shoppes, Route 25 and Kay Road,

Sheet S-1.3, Wading River, New

York. Sheet prepared by Searles,

Stromski, Associates dated 10-4-04,

revise date 10-8-04. This site

plan conforms with the clearing

limit, was marked Staff Exhibit 6.

MRS. JAKOBSEN: I have

already had stamped and marked in

six staff exhibits and I basically

just want to go over some of the

information that I provided in the

staff report that contains a number

of the exhibits, but also the appli-

cant has submitted three different

site plans, Exhibits 4, 5 and 6, an

they are known as 1.1, .2 and .3

which are in front of you. Basi-

cally I want to mention the sheet

S-1.1 site plan, from what I under-

stand, is what the applicant orig-

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12 CHAIRMAN SCULLY: Any
13 indication why there is more than
14 one site plan?

15 MRS. JAKOBSEN: Well, it
16 sort of goes to the heart of why
17 they are here and what happened to
18 them in terms of applying through
19 the Town, and so if I can just kind
20 of get through this part, and bear
21 with me, I'm sure the applicant
22 will cover the process.

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to the clearing standards, the third site plan that was prepared by the applicant varies a little bit in terms of size of building and a little in terms of layout, meets the clearing standards.

That's site plan S-1.3.

CHAIRMAN SCULLY: That
wouldn't require a hardship?

MRS. JAKOBSEN: This would not require a hardship under normal circumstances. I just wanted to highlight and skip to my staff report basically to go over the current area. You can see by the attached to your staff report, photos of the site and also aerials and the site is currently vacant with some disturbance in the interior and there is residential development to the north and the south. The Grumman facility is to the south of the site and generally there is vacant land to the west

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of the site and also east of the site is Wading River Motel.

The applicant purchased this site in 2002 and basically this is an unlisted action for the Commissioner of SEQRA and we are performing an uncoordinated review.

On the second page of the staff report I have provided a chronology of events based on the applicant's application that explains the process of what happens in terms of the application before the Town Board. Basically they started through the Town, got ZBA approval and ended up at some point because there was a master plan in process, they ended up at some point not being approved by the Town, which I'm sure the applicant will go into more detail. Then, because that master plan would have rezoned that property to a different zoning that would not allow the proposed

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use and the Town turned down this
project and then basically an
Article 78 proceeding occurred and
Justice Oliver made a determination
where he annulled the Town Board's
determination and substitute appro-
val subject to attaining approval
from the Pine Barrens Commission
and subsequent to that the property
was changed from Business CR to
RB80 which does not allow the pro-
posed commercial use.

CHAIRMAN SCULLY: Subsequent to the court's decision?

MRS. JAKOBSEN: I'm sure
the applicant will explain.

MR. KENT: I think it was prior to.

MRS. JAKOBSEN: I'm sure
the applicant can clarify it.

MR. KENT: That's all right.

MRS. JAKOBSEN: Basically what happened was they submitted

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2 to the Town, according to the
3 applicant's application, they sub-
4 mitted to the Town a site plan that
5 conformed to the standards, the Town
6 would not entertain it because they
7 considered it a new site plan not
8 the one the judge had made, had
9 approved, and therefore the Town
10 said no, that is a new plan and
11 that is not allowed under the cur-
12 rent zoning, you need to go to the
13 Commissioner for a hardship.

CHAIRMAN SCULLY: Was that by vote or administratively?

16 MRS. JAKOBSEN: I don't
17 know, the applicant can fill that
18 in for you. Then I go on to make
19 a comparison of the site plans.
20 Like I said before, the 1.1 and
21 1.2 do not conform to the clearing
22 limit. Basically we would recom-
23 mend the Commission consider a site
24 plan 1.3 that conforms to standards
25 as the preferred site plan for

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consideration and basically I'm going to, subsequent to the hearing, be able to complete the SEQRA process so we can't make a decision today on this.

Attached to your packet are two aerials, one that shows the site up close. You can see some disturbance in some of the interior, there is some dumping present. Then there is another aerial which is more like a bird's eye view of the property, and that's all I have.

CHAIRMAN SCULLY: Any questions from the staff? Is there a representative of the applicant present?

STEPHEN R. ANGEL, ESQ.:
Essex and Angel, Riverhead, New
York on behalf of the applicant.

CHAIRMAN SCULLY: You are an attorney?

MR. ANGEL: That's correct, and I have never been here before.

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Should I address you standing or
take a seat, which would you prefer?

CHAIRMAN SCULLY: Why
don't you stand, most people do.

MR. ANGEL: Okay. The difficulty is I have bad eyes.

This is an unusual hardship application and we are sort of forced to come before you under circumstances that were briefly alluded to in the staff's report and ultimately culminated in an order by Judge Oliver granting a site plan approval on map S1 that you have before you in May of 2004. I know that there were some discussions by the Chairman of whether that decision was before the rezoning and the answer is it was. I believe the first rezoning in Riverhead occurred in June.

MR. KENT: There is an attachment to the handout from staff that shows the zone was amended

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13

3 June 22, 2004.
4

5 MR. ANGEL: And it's a
6 May 20 something or 27 order, but
7 it's in the packet I submitted.
8

9 Of course the lawsuit
10 was submitted substantially before
11 that, before the court made its
12 order, but what we have here -
13

14 CHAIRMAN SCULLY: Can I
15 ask a question, what is the zoning
16 of the site today?
17

18 MR. ANGEL: RB80.
19

20 CHAIRMAN COLSON: The zone
21 doesn't permit this use?
22

23 MR. ANGEL: No, it permits
24 the siting of one house on this lot.
25

26 CHAIRMAN SCULLY: Your
27 application is still viable because?
28

29 MR. ANGEL: We take the
30 position, and I don't believe that
31 the Town would disagree, that our
32 application would be viable since
33 the judge directed approval of that
34 site plan and we have to satisfy
35

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14

3 that condition.
4

5 CHAIRMAN SCULLY: You have
6 a preexisting grant for the setbacks
7 from the Zoning Board of Appeals?
8

9 MR. ANGEL: Yes.
10

11 CHAIRMAN SCULLY: But you
12 don't have a grant for the com-
13 mercial use.
14

15 MR. ANGEL: We have a
16 grant for commercial use on this
17 property when it was commercially
18 zoned as directed by the judge, it's
19 a court order.
20

21 CHAIRMAN SCULLY: But prior
22 to rezoning.
23

24 MR. ANGEL: Correct.
25

26 CHAIRMAN SCULLY: What is
27 the authority for the commercial use
28 on residential property?
29

30 MR. ANGEL: Just that it
31 was a direction by the judge that
32 we have an approved site plan sub-
33 ject to the approval of this
34 Commission.
35

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2 CHAIRMAN SCULLY: Techni-
3 cally you would have a nonconforming
4 use then.

5 MR. ANGEL: Technically we
6 have an order we seek to compel but
7 I'm not sure we need to compel it.

8 CHAIRMAN SCULLY: Sorry to
9 interrupt.

10 MR. ANGEL: I don't believe
11 that - it's part of this digression,
12 there has been no litigation and no
13 firm position with respect to the
14 submission except that the Town
15 Attorney did advise me that the
16 only way that she would entertain
17 the application currently is with
18 your approval because that was a
19 condition expressed by the board, so
20 let me get back to where we were
21 and explain the whole situation.

22 So, the property is
23 located in your Compatible Growth
24 Area, it's on the north side of
25 Route 25 in Calverton. It's, as

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indicated beforehand, the client
bought the property in 2002, I think
November of 2002, and at the time
the property was zoned Business CR
which would permit this small
commercial professional development
that you see on the plans. The
purpose of the purchase and one of
the principals of the company,
Mr. Kaywood is here, was to create
a small commercial professional
series of offices and stores for
their family, for their extended
family, one is an accountant, one
wants to open a grocery story, and
they went forward with their appli-
cation, a fully conforming applica-
tion at the time. They were not
aware nor were their advisors at the
time nor were they advised by the
Town of Riverhead that the area
that the particular property was in
the Compatible Growth Area and so it
was processed. It was processed

through the Zoning Board of Appeals,
through the Town of Riverhead
Planning staff, through the Town
Board on site plan approval, all the
way through this relatively long
process and the architect who ran
it through is here today. It took
him many, many months, without any
acknowledgment of this particular
problem and it went forward and
finally was presented while the
zoning was still in effect to the
Town Board in the form of the S1
application, the S1 site plan. I
should point out a public hearing
was held on the variance, no
opposition, no opposition from the
Riverhead Town staff, no opposition
from the community. One community
member spoke in favor of it, some-
body from either the Calverton or
Wading River civic association, I
have to look at the record to tell
you which one. The Town Board

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2 opted to hold an optional public
3 hearing on the site plan applica-
4 tion because under the Riverhead
5 code on a conforming application
6 it's not mandated there be a public
7 hearing, but the Riverhead policy
8 in this case when there was a pos-
9 sible proposed master plan change
10 was to hold a public hearing. The
11 public hearing went forward again
12 with no opposition from staff or
13 the public. The resolution appro-
14 ving it was presented to the Town
15 Board and there was one person who
16 wasn't there, one abstention, and
17 it didn't pass 2 to 1 in favor so
18 in effect though it was 2 to 1 it
19 resulted in a denial because of the
20 requirement of an at least three
21 affirmative votes. That's when I
22 got into the picture and it seemed
23 to me like a reasonable Article 78
24 because it was a conforming appli-
25 cation and there was nothing,

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absolutely nothing in the record
2
that would justify a denial. There
3
wasn't even an attempt by staff to
4
indicate there was some problem
5
with traffic or any other police
6
power concern, so we brought the
7
Article 78 proceeding and Judge
8
Oliver agreed with me, but the Town
9
pointed out, at that point the Town
10
realized an error of its ways and
11
that it was in the Compatible Growth
12
Area.
13

14 CHAIRMAN SCULLY: Only in
15 the context of litigation?

16 MR. ANGEL: Yes, only in
17 the context of litigation. So, what
18 happened was I commenced the action
19 based on the record before us. We
20 had a return, we submitted it. The
21 Town then took the position oh, it's
22 in the Compatible Growth Area, our
23 approval is invalid, so the Town
24 raised that issue for the first
25 time, and it's correct, the Town

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3 is correct. Unfortunately, we're
4 suffering for the Town's in effect
5 own mistake. I believe that the
6 statutory provision that created the
7 Pine Barrens do put the obligation
8 on the towns to at least somehow
9 enforce or bring to the public's
10 knowledge through their zoning codes
11 the necessity of complying with
12 Compatible Growth standards, but in
13 this particular situation I don't
14 think it was malicious, it was just
15 that nobody thought about it, they
16 only thought about it in the context
17 of the litigation, so the result of
18 the litigation was Judge Oliver felt
19 there was nothing to stop the denial
20 of the site plan application and
21 granted and order/judgment approving
22 it, not even submitting it back, but
23 making it subject to Pine Barrens
24 approval.

25 CHAIRMAN SCULLY: Approving

S1.1?

2
MR. ANGEL: Yes.3
CHAIRMAN SCULLY: Speci-
4
fically S1.1?5
MR. ANGEL: He approved
6
what was submitted and what was
7
submitted was S1.1, correct. So
8
the architect, now, he approved that
9
in May of 2004 and the zoning did
10
change as Mr. Kent indicated on June
11
22nd, and then soon thereafter the
12
architect did prepare a conforming
13
plan and submitted it to the Town
14
for consideration and there was no
15
formal rejection of that plan, the
16
plan is still sitting there, the fee
17
is still sitting there on the second
18
application, but there's been no
19
formal reaction to it other than a
20
conversation I had with the Town
21
Attorney raising the issue that she
22
didn't think that the Town Board
23
would consider a new site plan in
24
conformance with the Code submitted
25
now with a different set of plans

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than was submitted and approved previously. She expressed to me that I should go here and here I am seeking an approval of either S1 or S2 would be our preference obviously or an approval subject to some reasonable conditions so we have an approval of that prior plan so we can go back to the Town of River-head.

Now —

18 MR. ANGEL: No, just the
19 clearing standards, well -

20 CHAIRMAN SCULLY: You are
21 right on point.

22 MR. ANGEL: Well, an
23 approval related to that plan is
24 what we need from this board, some
25 sort of approval related to that

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2 plan, an approval of the clearing
3 standards would be something we
4 would want actually, that would be
5 satisfactory.

6 CHAIRMAN SCULLY: Relief?

7 MR. ANGEL: Relief.

8 CHAIRMAN SCULLY: You sub-
9 mitted another site plan which
10 staff finds meets the clearing
11 standards.

12 MR. ANGEL: That site plan,
13 can I consult with the architect
14 briefly. I believe that site plan
15 was the one that was submitted,
16 that was submitted to the Town but
17 I think there is another site plan
18 that shows a removal of certain
19 conditions. Yes, we did prepare
20 a fourth site plan that shows
21 compliance with your conditions,
22 but it does not involve a redesign,
23 it involves a removal, eliminating
24 one of the buildings, so if we were
25 to, if you were to consider, if you

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were not considering granting us relief for the clearing restrictions that we sought, we would ask it be relief in conformance with this other site plan where there is no requirement for a full redesign, there is just a reduction of the number of buildings.

MR. KENT: What is the percentage of clearing on that?

MR. ANGEL: I believe
it's 65 -

(Discussion off the record.)

(ROBERT STROMSKI, architect, was duly sworn by the stenographer.)

MR. STROMSKI: I am with Searles Stromski Associates and our offices are in Rocky Point.

MR. ANGEL: There was some consideration you may want to consider relief in various alternatives. There are gradations of

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relief and what I asked Mr. Stromski
to prepare at some point was a plan
showing the configuration of the
project as previously approved with
elimination, without redesign in
order to meet the Commission's
clearing restrictions.

9
10 CHAIRMAN SCULLY: In which
11 case you need no relief from us.
12

13 MR. ANGEL: Our problem is
14 we need some relief in conformance
15 with the order, we need some
determination. The fact no relief
is necessary is not the answer.
16

17 CHAIRMAN SCULLY: Counsel
18 wishes to be heard.
19

20 MR. MILAZZO: So we have,
I think there are four plans on the
table today?
21

MR. ANGEL: Correct.
22

23 MR. MILAZZO: If my under-
standing is correct you have one
24 approved by Justice Oliver which
25 didn't conform to the clearing

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26

3 standards?
4

5 MR. ANGEL: Correct.
6

7 MR. MILAZZO: You submitted
8 that to the Town and the Town did
9 not accept that pending and they
10 forced you to come to the Commis-
11 sion?
12

13 MR. ANGEL: No.
14

15 MR. MILAZZO: Let me try
16 again. The Town, you got an order
17 approving it by the judge subject
18 to Commission approval?
19

20 MR. ANGEL: Correct.
21

22 MR. MILAZZO: You then made
23 a second plan or a third plan that
24 would conform, one doesn't and you
25 said I'd like to submit these to the
Town and the Town said we won't
accept those because those were not
the ones approved by the judge, go
to the Commission to get the relief.
26

27 MR. ANGEL: Correct.
28

29 MR. MILAZZO: Now, for
30 whatever reason you have introduced
31

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2 a fourth plan which you believe con-
3 forms to the clearing standards by
4 removing a building. The issue, the
5 issue for the Commission is what
6 plan do you want relief from for
7 and what relief are you seeking. Is
8 it simply an order saying that a
9 determination from the Commission
10 saying this complies with the clear-
11 ing standards and conforms, would
12 that be sufficient for you to go to
13 the Town because in that case you
14 don't need a hardship relief, or is
15 it your intention to give the
16 Commission a plan that needs relief
17 because it doesn't conform to the
18 65% clearing standards, and in that
19 case you need to go through the
20 elements of Town Law 267 and show
21 why the Commission should be in-
22 clined to grant that relief.

23 MR. ANGEL: I understand
24 that and I made a submission in
25 conformance I believe with the 267B

25 || CHAIRMAN SCULLY: This may

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2 be a semantic argument because for
3 the purpose of this discussion if
4 the Commission made a determination
5 that the site plan conforms with
6 the clearing standards is something
7 we find favorable and made a deter-
8 mination it required no relief per
9 se but just determined it was in
10 compliance with standards that would
11 probably be okay by you as long as
12 it's represented in some sort of
13 written form that might ultimately
14 find its way before the judge.

15 MR. ANGEL: Again, the
16 semantics that I would like best
17 is the Commission's stamp of
18 approval subject to the following
19 conditions, but yeah, I don't want
20 to be in a position because of the
21 unusual trap we fell into unknow-
22 ingly of having to leave here with
23 no relief knowing that I could
24 apply because I can't. I need some
25 approval related to that order.

CHAIRMAN SCULLY: Understood, I think you have done a pretty good job of explaining a very complex situation.

MR. MILAZZO: Do you have any correspondence from the Town indicating this should be considered under the zoning that was in effect during the pendency of your lawsuit?

MR. ANGEL: I have nothing.

MR. MILAZZO: You have a statement from the Town Attorney who said get Commission approval.

MR. ANGEL: Yes, but I
don't have, I don't have a commit-
ment from the Town.

MR. MILAZZO: You don't?

MR. ANGEL: No, but I am not in a position where I have forced the issue because in my professional judgment it would behoove me to force the issue only after I appeared before this board, Judge Oliver having made it con-

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ditioned upon my seeking relief from this board.

MR. DEERING: Did you submit a copy of the judge's decision?

MR. MILAZZO: Yes, I have it.

MRS. PRUSINOWSKI: Have you had a chance to review it?

MR. MILAZZO: I've reviewed it.

MRS. PRUSINOWSKI: Is it required we consider the prior zoning because the clearing under the present zone would be limited to 35%.

MR. MILAZZO: That's the issue I see as needing some additional research. The court, when it made its decision, only had the BRC zoning in front of it and the question there was whether the Town followed Town law in denying this and he made a motion to compel them to approve it and they were con-

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32

3 sidering a zoning question applica-
4 tion in light of BRC zoning. Sub-
5 sequent to the court decision the
6 zoning has changed and that's the
7 issue for the Commission that has
8 not been addressed yet and that's
9 why I asked if there was a letter
10 from the Town. Is the zoning BRC
11 or residential R80 and those stan-
12 dards would apply, so the question
13 is what is the relief being granted
14 from and how do you apply the
15 Commission's clearing standards to
16 this application, so you really
17 have been caught.

18 MR. ANGEL: There are more
19 catches here, you have come up with
20 another catch.

21 MR. MILAZZO: I'm not
22 coming up with another catch, I'm
23 just pointing out what the Commis-
24 sion's obligation is under the law.
25 We want to make sure the Commission
understands.

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MR. ANGEL: I understand what your concern is. Needless to say, I haven't done research and, secondarily, I'm not so sure we'll find anything clear on it having looked for annotations on the Pine Barrens Act, not on this issue anyway. Needless to say, we can take only one position, I think the 65% standard, that would be another way to terminate the project. I should point out something for people who have not seen that. This is an observation I have made as a zoning lawyer who occasionally transcends his bounds and makes statements as if he was a planner or - . I was driving along there on a couple of occasions and I don't know whether it will weigh in your deliberations, but as of right you can put one house on this property and I can envision, it would be very marginal for a house.

2 It is in an inappropriate position
3 as far as I'm concerned for a house,
4 it's now and on a road, a 50 mile
5 per hour speed limit and next to
6 marginal, not a very good residen-
7 tial community immediately to the
8 north and what would happen is you
9 probably would build a house that
10 would be rented and within five, six
11 years it would turn into probably
12 an illegal commercial establishment
13 anyway the way much of Long Island
14 has developed over the years. I
15 think this is the appropriate use,
16 I'm stuck in a situation where I
17 have to try to get some relief for
18 the client and I think that's our
19 position.

20 CHAIRMAN SCULLY: Any
21 questions for the applicant?

22 JOHN PAVACIC: New York
23 State DEC. A question as to when
24 was the original commercial zoning
25 put in place on the property?

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MR. KENT: There is an attachment which gives you the date, February 25, 1986. This was given to us by staff, that's the Business CR.

MR. ANGEL: It might have been a different type of commercial before the CR.

CHAIRMAN SCULLY: Any other questions?

MR. ANGEL: I should point out to you and the staff that Mr. Kaywood, one of the principals, is here and if he were to be called he would affirm the statement as far as the dollars. There is a sworn affidavit in your file regarding the hardship application and if you or staff in your deliberations want us to submit anything further or any potential revegetation plans in conformance with this application, we'd be pleased to do so.

CHAIRMAN SCULLY: Thank

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you. Seeing there is nothing
further, we will close the hearing.

MR. MILAZZO: Are there any
other uses in the RB80 zone?

MR. ANGEL: Yes, there was
a horse academy and I addressed that
in the affidavit, it's only resi-
dential and what I should reflect
for the record clearly is that I
did mark this one A, I'd like to
leave this with you. I should state
for the record if any relief is
granted and the relief is going to
be related to the 65% clearing, 35%
natural state, I would request you
consider the S1.3A rather than the
other plan.

CHAIRMAN SCULLY: I apolo-
gize, we became so intrigued with
the complexities of the case I
neglected to ask if there were any
members of the public that wish to
comment on the application.

RICHARD AMPER: Let's talk

about what's worth considering and what isn't. The fact that the applicant did not know this was in the Pine Barrens is not only not germane from your past experience, it's obviously not germane from the court. The court did not decide that you had no jurisdiction because they didn't know, so that's off the table.

The second thing the court did decide was that he was allowed to have this despite what the Town had done with respect to project proposal number 1 what was before him was if you can get approval from the Pine Barrens Commission for proposal number 1, then you may have it despite what the Town did. We suggest that you ought not give that variance for project number 1 or proposal number 1 because the property was acquired after the Pine Barrens Act and it's

1 a self created hardship, we have
2 been down this road before and you
3 have regularly where the application
4 occurs after the Pine Barrens Act
5 this is a self created hardship so
6 you may not, in our judgment, grant
7 him the hardship and if he did not
8 have a hardship for project number
9 1 so much for what the court
10 ordered. Now we are dealing with
11 a separate piece of zoning and it
12 doesn't conform to the local zoning,
13 so it seems to me even if it con-
14 formed to the standards you would
15 be in no position to take a position
16 other than the position the Town is
17 asking you to do, so with respect
18 to what the court ordered you need
19 not grant the hardship, I propose
20 you cannot grant it because of the
21 date of the acquisition of the
22 property and should not do so and
23 the rest is not germane to the
24 approval of the project because
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it's not the subject of a court
order.

CHAIRMAN SCULLY: Thank
you.

MRS. PRUSINOWSKI: In
regard to the original drawing that
presumably is the one under consid-
eration based on this court order,
what is the actual clearing limit
the applicant is looking for?

MR. ANGEL: The clearing
limit would be the amount of natu-
ral, 24%.

MR. STROMSKI: 76 would
be the clearing.

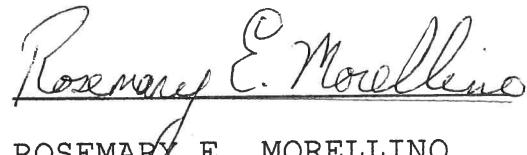
CHAIRMAN SCULLY: We will
close the hearing for the delibera-
tion of the Committee. Thank you
very much.

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C E R T I F I C A T I O N

I, ROSEMARY E. MORELLINO, do hereby
certify that the within transcript is a true,
accurate and complete transcript of the
proceedings which took place in the above
matter.


ROSEMARY E. MORELLINO