

THE STATE OF NEW YORK
NYS CENTRAL PINE BARRENS COMMISSION

In the Matter of

Artist Lake Plaza Development of Regional
Significance

Location: The project site is located on the north
Side of New York State Route 25 (Middle Country
Road) east of Currans Road, opposite Artist Lake,
In the Compatible Growth Area of the
Central Pine Barrens, in the Hamlet of
Middle Island, Town of Brookhaven, Suffolk
County, New York

Suffolk County Tax Map Number
200-379-1-3.1,5.1, and 12

Riverhead Town Hall
200 Howell Avenue
Riverhead, New York 11901

Wednesday,
September 15, 2010

The above entitled matter came on for
hearing at 4:35 p.m.

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

CENTRAL PINE BARRENS JOINT PLANNING AND POLICY
COMMISSION

PETER SCULLY, CHAIRMAN

MARTY SHEA, Representative of Town of South Hampton
Supervisor

JOHN TURNER, Representative of Brookhaven Town
Supervisor

SEAN WALTER, Riverhead Town Supervisor

BRENDA PRUSINOWSKI, Representative of Town of Brookhaven
Supervisor

JILL LEWIS, Town of Riverhead.

ANN THRONE HOLST, Member

JULIE HARGRAVE, Environmental Planner

JOHN MILAZZO, Pine Barren Commission Attorney

JOHN PAVACIS, CPBC Director

I N D E X

EXHIBITS	DESCRIPTION	PAGE
Pine Barrens A	Staff Report	4
B	Aerial of Site	4
C	Aerial Overview	4
D	Guidelines Review	4
E	Master Plan	4
F	Clearing Limit Plan	4
G	Copies of Photographs	4
H	Slope Map	4
I	Resource Mapper	4
Applicant's 1	Documents/maps	18



P R O C E E D I N G S

(Pine Barrens Exhibits A-I were pre-marked
For Identification.)

CHAIRMAN SCULLY: We'll move to open this
public hearing. I'll read from the notice that will be
supplied to the reporter. Pursuant to New York State Law
Article 57-0121 (9) and 57-0123 notice is hereby given
that the Central Pine Barrens Joint Planning and Policy
Commission will hold a public hearing on September 15,
2010 on the matter of an application for a Development
of Regional Significance (DRS).

The name of the project is Artist Lake
Plaza Development of Regional Significance. The owner
is Breslin Realty Associates LLC and Colin Realty Co.,
LP. The applicant's representative is Nelson Pope and
Voorhis, care of Charles Voorhis.

The location of the project site is located
on the north side of New York State Route 25 (Middle
Country Road), west of Currans Road, isn't it east of
Currans Road?

MS. HARGRAVE: You are right.

CHAIRMAN SCULLY: Opposite Artist Lake, in
the Compatible Growth Area of the Central Pine Barrens,
in the Hamlet of Middle Island, Town of Brookhaven
Suffolk County, New York.



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 The project description, the project
2 consists of the construction of 379,411 square feet of
3 commercial uses with individual on site septic systems
4 to manage 15,436 gallons per day of sanitary waste
5 water, 29 acres of paved surfaces, 2,021 parking spaces,
6 internal roadways, recreational athletic fields, and
7 open space on 74.24 acre project site in the A-1
8 residential and J-2 business Zoning Districts.

9 Applicant requests a change of zone from an
10 A-1 residence to J-2 business on 32.89 acres of the
11 project site.

12 The hearing will be held at 3 p.m.
13 September 15, 2010 at Riverhead Town Hall, 200 Howell
14 Avenue, Riverhead, New York. I ask the representatives,
15 Commission members, to put their names on the record.

16 MR. TURNER: John Turner on behalf of the
17 Supervisor Mark Lesko for the Town of Brookhaven.

18 MS. PRUSINOWSKI: Brenda Prusinowski,
19 representing Brookhaven Town Supervisor Mark Lesko.

20 MR. WALTER: Sean Walter, member.

21 MS. THRONE-HOLST: Anna Throne-Holst,
22 member.

23 MS. LEWIS: Jill Lewis, Town of Riverhead.

24 MR. SHEA: Marty Shea of Southampton Town.

25 CHAIRMAN SCULLY: Peter Scully representing

1 the Governor of the State of New York. We'll hear first
2 from staff who will put in context explaining to the
3 Commission what makes this a development of regional
4 significance unique.

5 MS. HARGRAVE: Okay. To answer that
6 question, it is a development of regional significance
7 because the project involves the development of more
8 than 300,000 square feet of commercial uses, space.

9 You have a staff report and exhibits before
10 you. The staff report and the exhibits include an aerial
11 of the site, an overview of the area, standards and
12 guidelines review by the applicant, the conceptual
13 master plan, the Pine Barrens clearing limit plan the
14 applicant submitted, photographs of the site, slope map
15 and a printout of the environmental resource map of the
16 environmental resources around the site from the DEC
17 website.

18 The staff report goes through all the
19 standards and guidelines that apply for the project.
20 Basically there were a few questions just left at the
21 end for discussion and I'll just turn to that page 12. I
22 will just go over the questions and applicant is here to
23 present also.

24 All of the information came out of the EIS
25 that the applicant submitted, so, that is where it came

1 from. To clarify whether the installation of an
2 additional test hole is planned, if additional test hole
3 data is forthcoming, because that seemed to be something
4 that was open in the EIS; discuss potential
5 environmental or health impacts and mitigation measures,
6 if any, that will be taken to reduce or remediate the
7 elevated concentrations of metals and nitrates detected
8 in ground water.

9 Explain any additional, if any additional
10 sampling will be performed since one of the samples
11 contained common laboratory contaminant, compound bis
12 (2-Ethylhexyl) phthalate.

13 The SONIR model submitted by the applicant
14 lists the nitrogen and water supply amount as two parts
15 per millimeter, based on the data provided by the
16 piezometer (ph) tests that the applicant performed.
17 Discuss whether the model needs to be run with ambient
18 detection levels. Explain whether any proposed uses such
19 as a garden center will store quantities of chemicals
20 that meets or exceeds the amount regulated by the health
21 department.

22 Explain if the road widening, potential DOT
23 recharge basin 100 land bank parking spaces will effect
24 the clearing limit.

25 The applicant indicates approximately a

1 half acre on the east side of the site will be
2 re-vegetated to natural and also there is a mention of
3 1.9 acres to be re-vegetated; just to clarify the total
4 amount of the re-vegetation. If that's going to be
5 included in the landscaping or if that's actually
6 vegetation. I'll let the applicant present.

7 CHAIRMAN SCULLY: The applicant?

8 MR. VOORHIS: Yes.

9 CHAIRMAN SCULLY: Put your name of the
10 record.

11 MR. VOORHIS: Charles Voorhis, Nelson Pope
12 and Voorhis, for the applicant.

13 Whereupon,

14 CHARLES VOORHIS,
15 after having been first duly sworn testified as follows:

16 MR. VOORHIS: Thank you. Once again,
17 Charles Voorhis. I have been involved with this
18 application over a fairly long period of time. We were
19 contracted to assist with the environmental and planning
20 approvals as well as Pine Barrens approvals.

21 In terms of environmental assessment that
22 also included a Full Draft Supplemental Environmental
23 Impact Statement. I'll describe in a little bit of
24 detail as it pertains to this Board's decision.

25 The site is 74.24 acres in size. It is



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 located in Middle Island at the north east corner of
2 Currans Road and Middle Country Road north of Artist
3 Lake. You may know the site. It is the former K Mart
4 building. There was an area of pavement that is now not
5 being used and weeds are growing up through it. The K
6 Mart building has abandoned. There is a water tank on
7 the property that served that former facility. There are
8 un-vegetated areas on the property.

9 There was a recharge basin that was
10 constructed years ago; maybe a remanent of a portion of
11 Artist Lake but was truncated when Route 25 was put in
12 many years ago. The gas station on the corner is an out
13 parcel, not part of the project.

14 The property does extend up to the north,
15 and the current zoning of the abandoned building site is
16 J-2. About 16 acres. That is out of the full 74.24 acre
17 site.

18 The application before the Town Board is to
19 change the zoning on a portion of the site, leaving
20 roughly 26.16 acres to the north that would be dedicated
21 to the Town for recreational purposes and rezoning the
22 balance of the south part of the site in order to
23 construct a site plan that you have before you. That's
24 the premise.

25 A little bit on the background. Best we can

1 tell the building was built around 1965. My client
2 assembled the properties around 1985. In 1988 the Town
3 Board changed the zoning on the western portion of the
4 property from overall zoning J3, left this at J3 and
5 rezoned this -- I am sorry, rezoned the southern portion
6 of the property to D 1. D 1 we talked about pertains to
7 another project before you, mixed use category, it
8 allowed B residence side uses and allowed by special
9 permit before the Town Board a combination of individual
10 uses involving multi family, residential development,
11 office use, commercial use, as a mix. Predecessor to the
12 Town's PDD, that occurred in 1988.

13 CHAIRMAN SCULLY: Does this entire parcel
14 extend to the north, is it zoned commercial?

15 MR. VOORHIS: This 16 acres is zoned J-2.
16 The rest of the property is zoned A-1. That occurred in
17 2003 when the Town Board rezoned this back to A-1.

18 CHAIRMAN SCULLY: Prior the north portion
19 was also commercial?

20 MR. VOORHIS: Prior the northern portion
21 was J3 prior to '88.

22 CHAIRMAN SCULLY: The northern was --

23 MR. VOORHIS: 3.1.

24 CHAIRMAN SCULLY: All zoned commercial?

25 MR. VOORHIS: That is my understanding. We

1 have a full zoning chronology in Attachment D of the
2 document.

3 Also, in terms of background and
4 chronology, in 2006 the Town came up with the Middle
5 Country Road Land Use Plan, that talks about this
6 property as well.

7 It did envision utilization of the site,
8 talked about commercial recreation, talked about ties to
9 recreational enhancement in connection with Artist Lake.
10 It talked about several buildings as well as pad sites
11 that could be used as restaurants but the dominant deem
12 was commercial recreation. It also talked about
13 connection through Woodville Road, to the shopping to
14 the east to facilitate traffic circulation in the area.

15 So I described what the pending application
16 is for the change of zone. The plan, which has been in
17 the works for quite some time now, I can say that it's
18 been prepared with a great deal of input from the
19 community; we have had numerous community meetings
20 throughout the process. I want to acknowledge the
21 project attorney who is here John LaMaura and he has
22 been conducting routine meetings with the Middle Island
23 Civic Association.

24 Tom Talbot is here from that association,
25 he may wish to speak, and they have been involved



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 through the evolution of the plan.

2 Also when the new Commission of Planning
3 and Land Management came to the Town, the Town came more
4 proactive active in looking to evolve plans with
5 consensus internally within the Town, and there were a
6 number of meetings that John and Brenda participated in
7 in order to get input into the derivation of a plan
8 right from the start. That is always beneficial so we
9 can anticipate problems and address them early on.

10 So that's what happens with this plan. I
11 can tell you the original plan had a recreational
12 facility up here to the north, detached, not
13 consolidated. There was not quite a good a theme or
14 connection for pedestrians through the parking lot
15 areas. It didn't relate as well south on Artist Lake
16 and there were a number of issues. There was actually
17 consideration of modification on the site recharge basin
18 which does have wetland vegetation and harbor species.
19 So the plan has evolved a great deal through that
20 period.

21 That's what you have before you now. Julie
22 described the plan as square footage. I will just add
23 we will be connected to public water supply. We will be
24 using innovative storm water methods to contain and
25 recharge overflow storm water that will be reviewed by



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 Town engineering. It would require a SWIP, have to
2 conform to the Chapter 86, involving erosion and
3 sedimentation control and all of those measures.

4 There would be on site sanitary systems. So
5 it is a fairly simple application in terms of sanitary.
6 We have to conform to Article Six, there is really no
7 change in nitrogen load; so no matter what would happen
8 on the property you have to conform to Article Six.

9 We did go into a good bit of detail for the
10 purpose of the environmental impact statement in the
11 Pine Barrens application to look at the nitrogen loading
12 and that was not only with respect to the site but also
13 its proximity to surface water which is one of your
14 guidelines requiring nitrogen and recharge of less than
15 2.5 milligrams per liter.

16 We performed the same analysis that this
17 Board reviewed on prior developments of regional
18 significance; that is included with the documentation.
19 That is included, I believe, attachment A of the
20 submission you have.

21 A couple of other points that are somewhat
22 clarification. The boundaries of the project site are
23 shown here. We plan to dedicate the 25.16 acres to the
24 Town of Brookhaven. The Town pushed the applicant for
25 benefits for this project.



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 One of the benefits was to construct actual
2 recreational facilities. The applicant has agreed to
3 construct a soccer field and parking and basically turn
4 over the land to the Town of Brookhaven.

5 There is talk, there have been ongoing
6 discussion with the Supervisor's office to look at tax
7 increment financing to assist in paying for other future
8 improvements, but at minimum this and the parking would
9 be constructed by the applicant if other methods are not
10 able to be accomplished.

11 There is a mitigation built into the
12 project. That involves restoration of the north part of
13 Artist Lake using probably bio logs and re-vegetation to
14 the tune of about 3,000 square feet. There would be --
15 as opposed to eroding banks of the lake it would involve
16 wetland recreation. That is not on this project site.
17 It is what we're calling mitigation just for the storm
18 water influences that the project may have and it is
19 subject to obtainment of permits; but it would have to
20 occur on off site property.

21 Also there are improvements shown within
22 Artist Lake. These are not proposed as part of this
23 application at this time; but we have included them in
24 the environmental impact statement so the Town would
25 have a head start on SEQRA requirements if and when they



1 choose to install those facilities. That defines what
2 is the role of the applicant and what would be deferred
3 but facilitated through this project.

4 There will also be off site transportation
5 improvements that are identified in detail in the
6 environmental impact statement; that would be the
7 responsibility of the applicant.

8 There is a supplemental Draft Environmental
9 Impact Statement, staff has it. It was supplied to them.
10 It's been accepted by the Town. In fact, the public
11 hearing was held August 17th that was a joint public
12 hearing for the change of zone as well as Draft
13 Supplemental EIS. That document does include the traffic
14 impact study, there was an archeological investigation
15 in the site and that is one of the standards we
16 reflected in our analysis for you.

17 It does include all the ground water
18 analyses, ecological assessments as well as economic
19 projections and market study to determine the market
20 absorption of the proposed facilities on the subject
21 site.

22 One of the reasons for the supplemental
23 environmental impact statement is because the project as
24 proposed is not directly consistent with the 2006 Middle
25 Country Road land use plan. If you deviate from that

1 guidance document its advantageous, it is good practice
2 to cover that in a draft supplemental impact statement.
3 Actually the DIS cover, refers to it being a supplement
4 to the Middle Country Road Land Use Plan, GEIS. So that
5 would allow the Town to consider this site specifically,
6 and what would be done in the Middle Country Road Land
7 Use Plan GEIS, and consider all the factors that are
8 included in that document. That is pending before the
9 Town at this time.

10 The project is in the compatible growth
11 area. It is of developmental regional significance as
12 indicated; therefore we have to comply with all of the
13 standards and all of the guidelines.

14 There are 35 of them. We did include an
15 attachment in tabular form that I believe Staff has
16 reviewed at this time and have isolated a couple of
17 items for further follow up. I'll just touch on those. I
18 don't think it is productive to go through all 35
19 standards and guidelines particularly since they have
20 been reviewed.

21 We designed this project to conform to all
22 of them. We are not seeking relief; this is not a
23 hardship; we're not seeking variance criteria under 267
24 B. We designed it to comply. So I'll go through a few of
25 the key elements.

1 One that typically comes up is the amount
2 of clearing allowed. As indicated at a prior hearing we
3 looked at the zoning in effect in 1993. We did a
4 computation and graded it based on the zoning that
5 existed at that time. The blended rate would allow
6 66.8 percent clearing on the property.

7 We have designed the project to comply with
8 that. In fact what I'll do is hand you a table as well
9 as some figures I am referring to consistent with prior
10 documents that indicates we were 6.14 percent less than
11 what is allowed under this computation. That translates
12 to 4.73 more acres of open space than what is required.

13 So we believe we conform to that. I did
14 note in the staff report there seems to be a discrepancy
15 in our tabulation of the numbers because Staff was
16 indicating we were less than an acre over on clearing.
17 We would like to resolve that. We believe our numbers
18 are correct. I'll submit a table that clarifies that
19 this evening.

20 The derivation of the clearing and the
21 zoning history is included in the attachment of your
22 package. The basis for our conclusion that we conform is
23 included in attachment C, which is an open space plan
24 that identifies large shaded areas. A,B,C,D, and E,
25 these total the amount that I referred to before, which



1 is 24.68 acres of allowed clearing; these total 29.14
2 acres which is 39.61 percent of the site. The reverse of
3 that is the disturbance required other than the shaded
4 areas is 60.39 percent of the site and that's how we
5 conclude that we are 6.41 percent less than the 66.8
6 that is allowed. It's quite evident when we pass up this
7 package. The last page includes that table.

8 CHAIRMAN SCULLY: If that's an Exhibit, can
9 we figure out what --

10 MR. MILAZZO: We can mark that as
11 Applicant's 1.

12 (Applicant's Exhibit No. 1 was so marked
13 For identification.)

14 MR. VOORHIS: The next highlight, I'll be
15 able to highlight, is fertilizer dependent vegetation.
16 Because of the nature of the project, it is not a
17 residential project, you don't have the typical
18 landscaping around residential buildings, we can really
19 tighten up on the amount of the fertilized vegetation.

20 As you know the standard is 15 percent; we
21 are less than 15 percent fertilizer dependent
22 vegetation. It will be supported by a full landscape
23 plan through the site plan review process. As I said
24 we will employ creative storm water retention methods as
25 part of those landscape areas. We will be using species

1 from the Pine Barrens plan in order to insure we comply
2 with that.

3 Another highlight is there is a Tiger
4 Salamander breeding pond to the north of the property.
5 This was known early on, and all of the development
6 plans have respected a 1,000 foot set back around the
7 Tiger Salamander breeding pond.

8 We also went further in this case and
9 submitted a copy of our plan to the State DEC, the
10 Wildlife Unit and have a letter from Michael Clark that
11 this does not represent a take under Article 11 of the
12 ECL. That's included as attachment E of your package. We
13 believe we have addressed that standard slash guideline;
14 that is part of the Pine Barrens plan.

15 The highlight that the existing recharge
16 basin will be retained, as I indicated before which will
17 allow an existing wetland feature to continue, the
18 project conforms to Article Six and as I indicated we
19 will comply with the 2.5 milligrams per liter.

20 Also, the final figure in your package as a
21 Attachment F is slope analysis, factored into the design
22 of the project. Most slopes on site are less than
23 15 percent and does not effect the vast majority. Only
24 limited areas are greater then that. They are shown in
25 the figure and that has been considered in the design.



1 So without going out through all 35
2 standards and guidelines, I would refer you to our
3 February 2010 package, the Exhibit that was passed to
4 you this evening and the testimony I am presenting
5 tonight.

6 I have nothing further to add. This is
7 fairly straightforward as I see it. We would like to
8 work with staff to resolve the clearing numbers to be
9 sure we comply. In any case we will not be seeking
10 relief.

11 CHAIRMAN SCULLY: Thank you, Mr. Voorhis.
12 Questions for the applicant from Commission or staff?

13 MR. SHEA: Just a question Mr. Voorhis, for
14 comparison purposes, can you clarify what the applicant
15 is entitled to under existing zoning? How that compares
16 to proposed zoning? Especially with regards to how it
17 relates to Pine Barrens protection, clearance et cetera?

18 MR. VOORHIS: Sure. The existing zoning is
19 what we used as a basis -- I am sorry, the 1993 zoning
20 is what we used as a basis for the clearing. The
21 existing zoning -- bear with me one moment. The
22 existing zoning --

23 MR. SHEA: It's not just a question of
24 clearing, it is a question of the extent of development
25 in square feet of space variance.



1 MR. VOORHIS: There is an alternative
2 section of the Draft Supplemental EIS that includes an
3 existing zoning alternative; alternative one, in that
4 document and it would involve approximately 50
5 residential units, and 123,275 square feet of commercial
6 building.

7 CHAIRMAN SCULLY: This is pending change of
8 zoning application?

9 MR. VOORHIS: Correct.

10 CHAIRMAN SCULLY: From what classification
11 to what classification?

12 MR. VOORHIS: A-1, on a portion of the
13 property, it is 32.89 acres actually to J-2.

14 CHAIRMAN SCULLY: That's the only change of
15 zoning required?

16 MR. VOORHIS: Yes. The north part of the
17 property would be dedicated and would remain A1.

18 CHAIRMAN SCULLY: Thank you.

19 MR. VOORHIS: So we did analyze that as an
20 alternative and that alternate I have in the EIS. I
21 have the building coverage. Maybe it would be best if I
22 submit a copy of that table which is table 5-1, page
23 5-2, of the draft supplemental EIS. It provides full
24 breakdown of what could be done under existing zoning.
25 We analyzed it, weighed it, you can read



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 the narrative, that would be not be consistent with the
2 Middle Island Land Use Plan. It would place single
3 family development on this part of the property where we
4 don't believe it is appropriate, that would create a
5 land use compatibility issue with the use of this
6 building which would be the highly and best use of this
7 part of the property, and the clearing would in my mind
8 be the same because we still would be applying the
9 allowable clearing that would have been permitted in
10 1993.

11 It wouldn't change Pine Barrens Protection.
12 And it still would have to confirm to Article Six of the
13 sanitary codes. So the nitrogen loading, the sewage
14 generation would be the same. It didn't make a lot of
15 sense, again, we provided the narrative from a Pine
16 Barrens standpoint and we think it's about the same.

17 From a land use standpoint we think its
18 counter productive proposal for this property.

19 MR. SHEA: In the west section of the
20 property, where it is filled out residential, would that
21 have to be clustered as of the requirements of the
22 Brookhaven Town Code?

23 MR. VOORHIS: I think more than that you
24 have to be clustered in order to conform to whatever
25 clearing is required; we'd be required to leave open

1 space.

2 MR. TURNER: There is residential to the
3 west?

4 MR. VOORHIS: Correct, this shows
5 residential to the west. There are multiple family
6 developments in the area. This is an existing shopping
7 center and there are a number of multi-family
8 communities to the south; Fairfield, Lake Pointe
9 townhomes, a mix of development in the area.

10 MR. TURNER: Could you just address the
11 issue of the fragmented open space standard? Perhaps if
12 you could put it back up on the board.

13 MR. VOORHIS: I have an additional figure
14 that may be helpful.

15 MR. TURNER: The layout of the proposal of
16 the space. I certainly recognize that the large area to
17 the north is a fairly large block of open space; the
18 same is the case with the parcel down on the southeast
19 corner near the pond; but it looks like three parcels
20 that I think are letters B, C, D. On the western side
21 they are proposed to be preserved as open space. Do you
22 think that those specific parcels really represent
23 un-fragmented open space?

24 MR. VOORHIS: Well, that's kind of a loaded
25 question. My answer would be yes, I do.



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 MR. TURNER: Not loaded, your obviously,
2 suggesting that they are. To me they look highly
3 fragmented.

4 MR. VOORHIS: This is what I indicated
5 before as the open space plan. The two largest
6 established blocks are the northern part of the property
7 and eastern part of the property. This development is a
8 given; this is already disturbed and a parking lot. This
9 will remain open space. This has the wetland feature
10 which will remain and it really becomes ineffective for
11 retail use.

12 These areas are existing woods; so the Pine
13 Barrens Act would have us retain those areas. As you can
14 see there is fragments of vegetation along this side we
15 are retaining.

16 I would submit to you that based on two
17 factors, number one, we do conform to the calculation of
18 allowable clearing, Number 2, we have totalled areas,
19 areas A and E, separately to indicate that these provide
20 the largest block of contiguous open space. We included
21 some additional areas in the calculations because there
22 is really no other way to configure the development in
23 order to make them as contiguous as you might like.

24 They are linked. There are some
25 interruptions but those exist currently based on

1 existing barren areas, existing roads that pass through
2 those areas; but we believe we met the spirit of that
3 guideline and certainly the intent and its application
4 for the purpose of this project.

5 Now, I did want to indicate that from a
6 regional prospective, we also have aligned our open
7 space to achieve a continuum of open space in the area.
8 There is the RCA property (ph) to the north, Town
9 property to east, other Town open space properties and
10 this allows for an open space continuum throughout the
11 area and that is one of the intents of the design as
12 well.

13 MR. SHEA: So there is no opportunity to
14 shift the building and the park further south so that
15 that open space you are proposing on the west side that
16 could be shifted to the north area to provide one
17 contiguous block?

18 MR. VOORHIS: No.

19 MR. SHEA: Why is that?

20 MR. VOORHIS: For the reasons I just
21 explained. There is existing vegetation and there are
22 parameters in the logical development plan that allows
23 for the use of the property that restricts us from doing
24 that.

25 MR. SHEA: But you are already clearing



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 vegetation at the north end of the project?

2 MR. VOORHIS: Yes, this is part of the
3 dedication area not part of the change of zoning and we
4 factored that in the clearing calculations.

5 MR. SHEA: So you are indicating the reason
6 you can't use that area for development and shift that
7 amount of open space to the north is because that is
8 existing natural vegetation; but why couldn't you
9 protect the greater area of natural vegetation at the
10 north end of the site and use that area for development
11 in order to allow for a more contiguous block of open
12 space?

13 MS. LEWIS: Do you mean the western portion
14 or the eastern portion?

15 MR. SHEA: I mean the western. These
16 three areas is what is being discussed.

17 MR. VOORHIS: I can indicate to you that we
18 have done our best to make all of the open spaces
19 contiguous as possible; that we are less than allowable
20 clearing by four somewhat acres and that this does
21 provide for a plan that lays out and basically achieves
22 a balance.

23 We separately tallied areas A and E and
24 that is by far the largest block of open space on the
25 property. There are a couple of other areas retaining

1 existing vegetation. One of the observations was there
2 are single family residences in the area.

3 It provides some buffering. It certainly
4 retains existing vegetation and habitat and if you
5 scrunch the development down and push everything over
6 the property line you would need more variances and
7 could potentially impact other properties in the area,
8 and I just don't see it as the best way to lay this out
9 in balance of the factors we're talking about.

10 I don't know if you have -- I know the
11 intent has always been to get as much contiguous open
12 space as possible; I believe we achieved that. I know
13 there have been other projects approved that don't have
14 every scrap of open space contiguous.

15 However, we do have linkages throughout
16 this area and I would submit it is contiguous to the
17 extent that we can balance those issues.

18 MS. THRONE-HOLST: It raises the question,
19 again, based on current zoning, what is your as of
20 right, actual building development, rather than
21 clearing, that is one thing, what's your coverage of the
22 building envelope you would be entitled to?

23 MR. VOORHIS: If we did an as of right
24 project I would anticipate the development area would be
25 roughly the same because we know that is the allowable

1 clearing area. We wouldn't want to have residences
2 directly on Currans Road. You would not want to have
3 them directly on 25. I don't think the recreational
4 facilities would be on the table at that point, I am not
5 saying that as a -- it is a fact, as of right you
6 wouldn't get this benefit; so this would be part of the
7 development area and we would try and place the
8 residential development in a manner that would not
9 conflict with this, would roughly occupy the same
10 clearing areas and I don't think it's the best use for
11 this properties.

12 MS. THRONE-HOLST: In terms of square
13 footage to square footage?

14 MR. VOORHIS: We have those factors in terms
15 of building coverage. It certainly is less. Buildings
16 cover 8.71 acres of the property currently. Under the
17 residential scenario, the as of right scenario, it would
18 be 4.55 acres. So there is more building coverage. You
19 would be shifting a lot of this coverage to either
20 landscaped areas that would go up to the 15 percent
21 fertilizer dependent vegetation and other landscaping
22 that would not require fertilization. You would shift
23 some pavement over to landscaped areas.

24 CHAIRMAN SCULLY: You mentioned briefly the
25 project doesn't conform to the Middle Country Road Land



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 Use Plan. Describe the basis in which it doesn't?

2 MR. VOORHIS: The Middle Country Road Land
3 Use Plan did not anticipate all retail development on
4 this property. If you familiar with the Old Sports Plus
5 facility on Nesconset Highway, which is no longer there,
6 but it envisioned more that type of use. The actual
7 plan it showed two boxes and those were intended to be
8 interior commercial recreation. That designation allows
9 bowling alleys, golf driving ranges, indoor complexes,
10 skating rinks, a number of those type of things.

11 I can tell you those are just not
12 economically viable. If the Town stuck to that, this
13 property wouldn't be developed.

14 CHAIRMAN SCULLY: So the Middle Country Road
15 plan was suppose to have recreational uses on this
16 parcel and the only way this project does not conform to
17 that is those are uses that are contemplated in that
18 plan and not contemplated here?

19 MR. VOORHIS: Correct. However, the Middle
20 Country Road Land Use plan, did contemplate separate
21 pads for, perhaps, restaurants and other areas which
22 were very consistent with it. We incorporated as many
23 elements of this plan into the project as we could.

24 As I said, the connection to Woodville
25 Road. A promenade, relation to Artist Lake. Landscaping



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 throughout the site that links north and south. And we
2 do have a significant recreational component in the
3 facility that will be placed on the north part of the
4 property. So again, in working in concert with the Town
5 and their professionals we incorporated those elements.

6 MS. PRUSINOWSKI: The commercial and
7 residential located on the western portion of the
8 property, not the entirety of it is the J-2.

9 CHAIRMAN SCULLY: In the interest of moving
10 things along other questions?

11 MR. SHEA: Mr. Voorhis, how does the septic
12 impacts compare if you look at what is permitted as of
13 right as compared to the proposed zone change?

14 MR. VOORHIS: As I indicated before I
15 anticipate this property would be built up to Article
16 Six levels. Let's just take a scenario where it's not a
17 development of regional significance. For less than a
18 hundred residential homes, less than 300,000 square feet
19 before, there is no limit on nitrogen other than to
20 conform to Article Six; because of this assembled
21 development and the square footages, we are held to a
22 higher standard or lower concentration that being 2.25
23 milligrams. So if you went to Article Six there is
24 potential you could have a greater impact on nitrogen
25 and recharge and greater impact on Artist Lake.



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 I can also tell you we did some very
2 detailed studies of the potential impact on Artist Lake
3 in terms of nitrogen and pounds of loading. That is
4 included in the draft DEIS; it is not one of the
5 guidelines you look at, you are looking at
6 concentration, but we projected there will not be a
7 significant increase in the loading to Artist Lake that
8 is in the DEIS as well.

9 So in this case we believe there could be a
10 benefit, again, in holding this to the higher standard
11 under the DEIS.

12 CHAIRMAN SCULLY: Other questions for Mr.
13 Voorhis?

14 MR. VOORHIS: If there aren't, before we go
15 to the public can I just add a couple of things?

16 CHAIRMAN SCULLY: If you could, briefly.

17 MR. VOORHIS: Yes. This goes to John's
18 question before. The areas, when we totalled them up,
19 just areas A and E alone are greater then 35 percent of
20 the open space on this property. So, again, I think
21 we're conforming with the spirit of that requirement;
22 you know, conglomerating contiguous open space areas.

23 MR. TURNER: I wasn't speaking of the
24 vegetation clearing standards. I am talking about the
25 open space standard.



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 MR. VOORHIS: I understand. Also there were
2 a couple of points that Julie mentioned in the staff
3 comments. Number one was would additional test holes be
4 done? We put in two caterized (ph) soil on the property
5 for the EIS. The soil looked good at those locations.
6 We will be doing additional test holes as required by
7 Health Department and the Town for sanitary and drainage
8 purposes. Installation of the sanitary system will
9 require test holes so the answer to that is yes.

10 There were some elevated letters of arsonic
11 chromium, and this Ethyl hexyl phthalate, that bad
12 stuff, in one ground water sample we took. We believe
13 that is from parking lot run off over a period of time.
14 Any drainage systems would have to be tested, remediated
15 if they come up in excess of the requirements, actually
16 the county SOP 995 requirements and back filled, prior
17 to installation of new systems. That would be addressed
18 through the approval process.

19 One of the Staff comments was to look at
20 the SONIR model because we used 2 milligrams per liter
21 of existing ambient concentration of nitrogen in the
22 water supply. That was questioned in relation to higher
23 elevation, higher elevated level of nitrogen, in one of
24 the ground water samples. I believe we have done it
25 correctly by using the water supply nitrogen and we can



1 certainly check that and clarify that back for the Board
2 as necessary.

3 There may be chemicals stored by facilities
4 that occupy these building pad sites; they would have to
5 comply with Article 7 of the Suffolk County Sanitary
6 Code that restricts driveway compounds to less than
7 2000 pounds; less than 250 gallons of liquid materials
8 and there are certain exemptions for retail container
9 items. So I believe that there is a law in place that
10 would address any retail sale of chemicals. And
11 typically that is not a big concern with regard to
12 ground water contamination, as reflected in the sanitary
13 code Article 7 they allow you to store up to certain
14 amounts.

15 There was a request to add information on
16 the facilities in the lake. As I indicated before those
17 are conceptual. Those are facilities the Town may
18 consider in the future. The EIS is out there for
19 comments if DEC or other agencies wish to comment on
20 that but we can't provide additional details at this
21 time because we don't know what the Town will do there
22 in the future.

23 Lastly, was vegetation clearing and
24 resolving that Staff determination that we're less than
25 one acre over on clearing, we believe we have the



1 correct numbers and indicate we are under. There was one
2 other fairly minor question about will the road widening
3 effect the clearing limits. Will any future DOT recharge
4 effect clearing limits? And would land banking effect
5 clearing limits? I can tell you that based on this plan
6 it would not effect our compliance with the clearing
7 limits. There is a possibility that in the future DOT
8 may want to use part of this property for additional
9 drainage containment to prevent additional drainage
10 going into Artist Lake. That is very conceptual at this
11 time. The applicant is willing to consider it. No plans
12 have been designed at this point so we don't know what
13 is going to happen; but it is not part of our clearing
14 area. In fact it would remain natural, landscaped with
15 non fertilizer dependent vegetation but would not be
16 part of our clearing.

17 CHAIRMAN SCULLY: To clarify, you indicated
18 DEC would be commenting on the improvements on the
19 Artist Lake site within Article 24 jurisdiction, they
20 are not part of the pending application?

21 MR. VOORHIS: Correct.

22 CHAIRMAN SCULLY: That's why there was no
23 coordination, we didn't get a coordination letter,
24 because there is nothing within --

25 MR. VOORHIS: Right, there is no application

1 pending; just through the SEQRA process, compliance
2 received a copy of the DEIS. That's all I have.

3 CHAIRMAN SCULLY: Anybody from the public
4 wish to be heard on the application?

5 MR. AMPER: Richard Amper.

6 Whereupon,

7 RICHARD AMPER,
8 after having been first duly sworn and testified as
9 follows:

10 MR. AMPER: I'll be succinct. I know we
11 are all tired. This is one of the biggest projects that
12 has ever come before this body in 17 years. I can only
13 look at three developments of regional significance and
14 this project has been described by Supervisor Lesko as a
15 green project.

16 I just want to caution all of you as you
17 get into the beginning of an arduous process that you
18 are looking at something few of us ever contemplated
19 when we wrote the Pine Barrens Act.

20 This is a really big thing that we didn't
21 expect to see a lot of in the Pine Barrens. So we are
22 asking you to be particularly mindful. This is not road
23 front exemption that didn't get picked up 15 years ago.
24 This is something that portends great environmental
25 impact for the Pine Barrens.

1 You need to know there are more than 60
2 proposed change of zone proposals in Brookhaven as we
3 speak. We really must take this project into
4 consideration with all that is going on there especially
5 those projects that are in the compatible grown area of
6 the Pine Barrens. We ask that you do that.

7 We ask that you require un-fragmented open
8 spaces as discussed here, and that it meets the
9 comprehensive land use plan requirements adopted by this
10 Commission. We need you to examine carefully the
11 proposal to remediate existing contamination; we have
12 stuff on the site at present that is having an impact
13 and it's important that we not merely look at what is
14 being proposed and saying that the new stuff being
15 proposed by itself is not harmful; we have to consider
16 that in combination with what you know already is
17 existing there.

18 We do want you to insure that the total
19 development and the impacts include both the impacts
20 created by the new development in combination with what,
21 I think, Julie described as the ambient circumstance;
22 what is there, what will be there, after this is gone
23 and the new one has replaced it.

24 We have not had cumulative impacts issues
25 before with this Commission but we do think the

1 Commission is obligated to consider the cumulative
2 impacts of this project in combination with other known
3 and reasonably contemplated projects in the Middle
4 Country Road corridor in the Town of Brookhaven, in the
5 Central Pine Barrens and Pine Barrens Ecosystem.

6 It is a huge project and we have to be
7 careful looking at it but we have to go beyond that and
8 say this project is not occurring in isolation. There
9 are other changes of zones and more than a 100 projects
10 proposed for the Carmen's River water shed even at a
11 time when this Commission is taking a lead in proposing
12 the preservation of that water body.

13 We think the proposal so far inadequately
14 considers the impact of the water shed on the Carmen's
15 River which is so important to this Commission; that
16 needs to be part of your deliberations as well.

17 The Commission must require alternatives
18 that reflect the development permissible without
19 variances. Apart from the SEQRA requirement for a no
20 action alternative, it seems to be the Commission ought
21 to require some proposal that says if we didn't get the
22 variances we are seeking from Riverhead what would the
23 resulting environmental impact be relative to what the
24 applicant says makes economic sense for him.

25 The Commission needs, unfortunately, not to

1 do Brookhaven's business for them but to look at the
2 process by which the Middle Country Road Land Use Plan
3 was adopted, approved and possibly not amended. I
4 understand that the applicant indicated he acknowledges
5 that this does not conform with that plan but that plan
6 is important to the consideration of what is and isn't
7 appropriate in that corridor.

8 We would point out as we have in previous
9 applications the sewage treatment plan discharges within
10 the Pine Barrens and not without as preferred. We would
11 reiterate a study by the Suffolk County Department of
12 Health Services indicated as many as 70 percent of these
13 sewage treatment plants do not function properly. The
14 DEC knows when they exceed these SPEDES permits in many
15 cases.

16 The project has been criticized or opposed
17 by dozens of environmental and civic associations. I
18 heard the applicant describe the Middle Island Civic
19 Association had encourage the project but that group is
20 one of the handful to endorse this proposal. The
21 over-whelming majority of people come out and express a
22 very serious concern.

23 We think the public benefits are not
24 commensurate with the value of the density being sought.
25 Frequently we hear applicants say that they are

1 providing public benefits and in some cases they are
2 things like Belgian block driveways for the development
3 or green building standards that benefit the purchaser
4 of homes or the applicant themselves but not the public
5 at large.

6 Recently in Huntington the proposal was the
7 public benefit constituted a grant of money to the
8 school district. But the grant of money to the school
9 district was an impact fee; it had to do with the cost
10 of providing new government services and was not a
11 public benefit that accrued to those people who were not
12 associated exclusively with the development.

13 Extraordinarily adverse impacts are
14 anticipated with ground and surface water, the habitat,
15 air quality and traffic that need to be thoroughly
16 considered. The Suffolk County Planning Commission
17 raised concerns of its own; that ought to be something
18 that this Commission should look at.

19 The clearing and zoning history provided in
20 a particular exhibit in this proposal must be reconciled
21 with the standards and guidelines contained in the land
22 and use guidelines adopted by this Commission.

23 I would point out re-vegetation of the Pine
24 Barrens has an extremely poor record of success. We all
25 hope that we can restore the ecosystem when damaged; it

1 does well on its own but our efforts to go out and
2 re-vegetate with pitch pine and scrub oak has been a
3 terrible disappointment and we need to consider that
4 record before we place any significant importance on the
5 willingness of the applicant to re-vegetate.

6 We ask the Commission to require adequate
7 consideration of this project in conjunction with all of
8 the applications which have been or currently now before
9 this Commission because the Commission is being asked to
10 look at projects like Sandy Hill and Competition Toyota,
11 as though they were individual, as though not near one
12 another, as though they are not on the Carmen's River
13 watershed, as if they were not in the compatible growth
14 area. This is a big, big, big challenge.

15 I think as Commissioner Turner indicated
16 the applicant needs to distinguishing between the open
17 space requirements and the clearing standards. They are
18 not one and the same. I ask the Commission to do this.

19 I'll conclude by suggesting something that
20 must sound terrible at this time of day, it seems
21 unlikely to me that this Commission is going to properly
22 address the legitimate interests of the applicant and
23 legitimate interests of the public let alone the
24 requirements of the Pine Barrens Act and the State
25 Environmental Quality Review Act without some sort of

1 extraordinary procedure or process.

2 I would suggest you talk among yourselves,
3 John Pavacis knows how difficult it is to review these
4 projects. We have seen it on every level. I am thinking
5 that there may be a need for a work session, an actual
6 roll up your sleeve work session, like the Towns use
7 because this is a very in depth, significant project; it
8 is not like saying this conforms with this rule or
9 doesn't conform with this rule. This will require an in
10 depth analysis and it is important to the applicant and
11 those of us in the environmental community that we get
12 this right.

13 Finally, I ask that the record be kept open
14 for addition submissions and written comments which we
15 will supply.

16 CHAIRMAN SCULLY: Thank you. Anybody else?

17 MS. LYNCH-BAILEY: Gail Lynch Baily. I am
18 vice-president of the Middle Island Civic Association.

19 Whereupon,

20 GAIL LYNCH-BAILEY,
21 after having been first duly sworn, testified as
22 follows:

23 MS. LYNCH-BAILEY: Vice President of the
24 Middle Island Civic Association and President of the
25 Longwood Alliance.



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 Mr. Talbot had to leave to go to his litter
2 meeting which he does so well for us at Brookhaven, so
3 he asked me to speak in his stead. Middle Island Civic
4 Association is fully in support of this project. We
5 worked very hard to get some of the things you see
6 before you on this plan. The Burchwood Civic
7 Association, also part of the Middle Island Civic
8 Association with 1,500 residents is very much in support
9 of this project.

10 Over the weekend Mr. Talbot and I attended
11 the Town of Brookhaven Country Fair. Newsday estimated
12 that 10,000 people attended this wonderful event. Tom
13 and I spoke to not all 10,000 of them but several
14 hundred of them and without exception, including the
15 lady from the Sierra Club, everyone was in support of
16 this plan as we explained it.

17 We had the drawing and also had the drawing
18 from the Middle Country Land Use Plan which showed the
19 two boxes and some other buildings, some smaller
20 buildings across the front of Middle Country Road and
21 some ideas of where ball fields could be placed.

22 Since the adoption of this plan the Town
23 has happily established a recreational use on this
24 parcel in the form of a dog a park; important to note. I
25 want to give the Commission and staff a little bit of



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119

1 history about the intended use of the fields in the
2 northern portion. These would be dedicated for initial
3 use, primary use by the Longwood Youth Sports
4 Association. A bit of history on LYSAs pursuit of their
5 own fields way back in 1994, LYSA had succeeded, in
6 putting forward a plan for fields at the your Fireman's
7 Field Park in Ridge.

8 The Commission granted it, a ruling of
9 non- development for the plan. LYSA rejoiced. The Pine
10 Barrens Society sued four years later we had no fields
11 in Ridge. That was in the core. This is in the
12 compatible growth area.

13 Perhaps rather than do all the things Mr.
14 Amper has asked the Commission, we really need to define
15 what is compatible growth? Isn't that the part where we
16 are suppose to have stuff happening? This is a terribly
17 blighted parcel in Middle Island, an awful eyesore
18 opposite a beautiful jewel of a lake. Everybody would
19 like to see something lovely here. Everyone recognizes
20 this is preferable to the 50 as of right single family
21 homes with unchecked individual cesspools.

22 Let's just for the record mention the
23 wonderful tax advantage the Longwood School District,
24 \$1.5 million with absolutely no impact to the schools.
25 No kids, more money; we think it is a win win on all



1 fronts. We hope you will too. Thank you very much.

2 CHAIRMAN SCULLY: Thank you, Ms. Bailey.
3 Does anybody else wish to be heard on the application?
4 Any questions from Staff for the applicant?

5 Mr. Voorhis, good to see you again.

6 MR. VOORHIS: Yes, of course, I'll be very
7 brief. I just heard a couple of things I have to comment
8 on. First thing is there is no sewage treatment plant
9 proposed. Mr. Amper referenced a proposed sewage
10 treatment plant that doesn't exist.

11 I heard him reference re-vegetation and we
12 are probably going to talk about that a little on the
13 next discussion; but we're not proposing re-vegetation,
14 we are proposing that all the areas shaded are existing
15 natural vegetated areas and re-vegetation will occur in
16 terms of landscaping, as it would with any project and
17 it will be less than 15 percent fertilizer dependent and
18 the balance will be native species.

19 We are very sensitive to what's going on
20 with project in the Carmens River watershed; that is
21 ongoing discussion but most of you by now are familiar
22 with this map that has been generated, and generally
23 recognized as the best information available.

24 It is the Suffolk County Ground Water Flow
25 Model created by Camp Dresser and Key (ph) many years

1 ago. They have been refining it over the years,
2 calibrating the model. As far as the comprehensive water
3 resources management plan update the County asked them
4 to look at recharge, discharge areas. That was referred
5 to as -- one of the comments that Carrie Gallagher carry
6 made is that the County is looking at these
7 relationships.

8 The southern extent of Artist Lake is up
9 here. The blue area is the 25 to 50-years ground water
10 contributing area. Our project is north of 25. We don't
11 expect any adverse impact on the Carmens River. I
12 appreciate your consideration of that. This is
13 scientific information that is available.

14 There was reference to the benefits not
15 being commensurate with what is being sought. This
16 project has a mixed zoning history. I don't think any
17 one in the Town expected that it was going to be A-1 use
18 based on the existing property, abandoned building, the
19 old parking fields, and that in my mind is one of the
20 reasons why the Town has proactively worked with the
21 applicant to come up with a plan that meets the needs of
22 the community as expressed here and put this site to
23 productive use.

24 Supervisor Lesko had his blight to light
25 conference a couple of weeks ago, maybe months ago now,

1 and this was one of the sites identified as a blight to
2 light site. I think that Gail said it best in terms of
3 the substantial benefits; I didn't go into for this
4 Commission but it is part of our DEIS, job creation.
5 Ripple effect on the economy. Tremendous tax revenue.
6 There are tremendous benefits to this project that I
7 don't think you need to consider but if we introduce it
8 as part of your thought process look at the DEIS and
9 understand that.

10 And finally I would urge you to stick with
11 the standards and guidelines. As Gail said this is an
12 area contemplated for use. You got the law that allows
13 you to look at it. You got the land use plan, the Pine
14 Barrens Act, land doctrine, including the GEIS, it
15 anticipated development. I think the reason there were
16 only three other ones in the history of this Commission
17 is because it was never anticipated there would be that
18 many, but when they do come in, consider them under the
19 standards and guidelines that you have and act
20 accordingly. I hope we provided you enough information
21 to do that.

22 CHAIRMAN SCULLY: Thank you, Mr. Voorhis.

23 Anyone else to be heard? Mr. Amper,
24 briefly.

25 MR. AMPER: Yes. It is going to be important

1 as we go through this process that we be as accurate as
2 we can. I think it is important for this Commission to
3 understand that your members have not always heard this
4 controversy previously with the CDM map to which he is
5 alluding is one of a total of five that purport to
6 examine the watershed of the Carmens River. All of those
7 other studies disagree with that conclusion and CDM has
8 itself indicated its limited capacity to measure the
9 ground water or watershed impacts on the river north of
10 Route 25.

11 So, it's going to be important in the give
12 and take on this to make sure the Commission is aware we
13 don't take things out of context or don't allow things
14 to be misrepresented. The record needs to show the
15 overwhelming evidence concerning the Carmens River
16 watershed refutes CDM data.

17 CHAIRMAN SCULLY: Thank you for that. The
18 Commission staff has been working actively with the
19 Town to try an advance a cooperative approach on the
20 Carmens River and we are well aware, the Staff have be
21 communicating with the Town about those issues. You
22 could be assured we'll be aware of that.

23 The only observation I would make, this is
24 a situation where you have a site already developed and
25 vacant, the goal of having it redeveloped and an

1 economic benefit to the community is why I think we can
2 all agree is a worthy goal and objective, and it's just
3 a question of how. That is where this process is likely
4 to end up.

5 Any other comments for the record? Any
6 questions from anyone? I suggest we probably should
7 keep the record open.

8 MR. PAVASIC: I would suggest close the
9 hearing, keep the record open. You can accept written
10 public comments to a date certain; two weeks from now
11 would be September 29th. I would also suggest that --
12 Mr. Voorhis did provide verbal testimony responding to
13 Staff comments. I would ask that that be committed to
14 writing and provided within three weeks.

15 That would include the information
16 regarding Artist Lake, contained on page 6 of the staff
17 report. Also the 7 questions on page 12 of the staff
18 report. And in addition a detailed enumeration of the
19 breakdown of the clearing that was provided.

20 Staff had done a more detailed calculation
21 of the clearing; I would ask that Mr. Voorhis include
22 that, provide that information how he derived those
23 numbers and that would include such things as cleared
24 areas including the recreation ball field, the areas to
25 be re-vegetated, existing cleared areas that will remain



1 cleared, landscaped areas and paved and built areas and
2 put that into a tabular form and also a written
3 narrative so staff can evaluate that for the Commission.

4 CHAIRMAN SCULLY: Okay. Mr. Amper?

5 MR. AMPER: Very briefly. If you have seen
6 the Environmental Impact Statement you would not suggest
7 that that in combination with this is something that any
8 non for profit organization or community group could
9 possibly respond to in that limited period of time.

10 We would ask the Commission to keep written
11 comments open for a minimum of 60 days.

12 MR. VOORHIS: In this one case I can
13 definitely say I agree with Mr. Amper; from my
14 standpoint it is a tremendous amount of information, we
15 don't have any written record yet and we'll want to look
16 at the transcript very carefully and it will take time
17 to do that and get back to you.

18 CHAIRMAN SCULLY: Thank you. The question
19 has been raised whether or not it makes sense to close
20 the hearing or the record or keep the hearing itself
21 open. We should discuss that briefly; if we discuss it
22 for any extended period of time --

23 MR. PAVASIC: The decision deadline for the
24 Commission is November 29th. I would ask the Commission
25 to keep that in mind. You might want to ask them at this

1 point that an extension of time be granted; perhaps
2 through December at minimum. Possibly we may be looking
3 into January at this point.

4 CHAIRMAN SCULLY: Are the representatives of
5 the applicant able to agree on an extension?

6 MR. VOORHIS: Let me just indicate we're in
7 SEQRA process at this time. The Town Board did close the
8 hearing of the Draft Supplemental EIS on August 17th.
9 There will be a 10-day written comment period.

10 I received comments and we are actively
11 working on the final EIS. It is very difficult at this
12 time to put when exactly that will be accepted and as
13 you know this Board can't make a decision until the
14 10 days after --

15 CHAIRMAN SCULLY: Cut to the chase. Can you
16 agree with the extension?

17 MR. VOORHIS: I am reluctant to go beyond
18 November because we can always do an extension at that
19 time. It gives us two months. We'll know better at that
20 time where we are in the process.

21 MR. MILAZZO: You gave him 60 days. You are
22 having it both ways. If it's 60 days, 60 days from today
23 is November 15th.

24 MR. AMPER: You had it right the first time.

25 MR. VOORHIS: Realistically you won't make a

1 decision before December. My client isn't here. The
2 attorney is here.

3 VOICE: I think John's suggestion is fine.
4 If you think there is something other than that they
5 probably won't make a decision.

6 MR. VOORHIS: If ready before then a
7 decision could still be made. Correct?

8 CHAIRMAN SCULLY: Sure.

9 MR. VOORHIS: Why don't we agree to it just
10 to get things moving.

11 CHAIRMAN SCULLY: You agree to what
12 specifically?

13 MR. VOORHIS: I think we were asked to agree
14 on an extension to the December meeting.

15 MS. THRONE-HOLST: Motion.

16 MR. TURNER: Seconded.

17 CHAIRMAN SCULLY: Okay. Motion made by Ms.
18 Throne-Holst, Seconded by Mr. Turner. All in favor? Any
19 opposed? Extension through December is granted.

20 The other issue, John, you addressed I am
21 not sure if you want that in the form of a resolution
22 with regards to submission deadlines and all that sort
23 of stuff, is that what you are looking for?

24 MR. PAVASIC: Yes.

25 MS. THRONE-HOLST: Can we open --

1 MR. MILAZZO: All you have done is accepted
2 a decision extension deadline to December 15th. Now you
3 need to decide --

4 CHAIRMAN SCULLY: Hearing open or closed --

5 MR. MILAZZO: And what the deadline is for
6 comments and so forth.

7 CHAIRMAN SCULLY: Hearing open or closed is
8 something we need to discuss. The other thing is
9 listening to the executive director saying that sort of
10 stuff makes sense, probably support it and ask them for
11 reducing it to writing. Open or closed is the issue now
12 and why? Thoughts?

13 MR. MILAZZO: You can always close the
14 hearing and re-open if necessary just as a month cycle.

15 MR. AMPER: If it stays open, its easier for
16 us to collect open and scientific information.

17 CHAIRMAN SCULLY: Should we leave it open
18 and move on?

19 MR. TURNER: Leave it open.

20 MR. MILAZZO: So you will leave it open.
21 Will you be having and receiving public comment at your
22 October meeting or receive public comment in your
23 November meeting.

24 MR. AMPER: Within 60 days.

25 CHAIRMAN SCULLY: Probably the November

1 meeting.

2 MR. MILAZZO: This will not be on the agenda
3 next month then is what I am hearing?

4 CHAIRMAN SCULLY: We will be waiting for
5 submission of information. He'll reduce it to writing
6 and he verbalized it on the writing.

7 MR. PAVASIC: I suggested a deadline of
8 October 6th for the submission of written responses from
9 the applicant to the information I just enumerated.
10 That is three weeks.

11 CHAIRMAN SCULLY: So moved. Is there a
12 second?

13 MS. THRONE-HOLST: Seconded.

14 CHAIRMAN SCULLY: All in favor? Opposed?

15 MR. VOORHIS: I thought we had that
16 discussion; I hate to interrupt because I never do that
17 but it is not possible to review the transcript --

18 MS. PRUSINOWSKI: We talked about 60 days --

19 MR. VOORHIS: That is why we talked about 60
20 days.

21 CHAIRMAN SCULLY: Okay, 60 days from today.

22 MR. PAVASIC: I was talking about
23 specifically Staff comment. The Staff comments
24 enumerated, not the public comments.

25 MR. VOORHIS: My recollection of your

1 narrative before is that most of that information is
2 readily available.

3 MR. PAVASIC: You enumerated it verbally but
4 it has not been reduced to writing.

5 MR. VOORHIS: Okay, so you'll provide a
6 written list of those items?

7 MR. PAVASIC: You already got it in the
8 staff report.

9 MR. VOORHIS: I thought something beyond
10 that.

11 MR. PAVASIC: No, it's the Staff report, the
12 questions on page 12. The ones at Artist Lake and then
13 the more detailed elaboration of the clearing that you
14 just provided.

15 MR. MILAZZO: So you will have that by
16 October 6.

17 MR. VOORHIS: Not a problem.

18 CHAIRMAN SCULLY: So we're clear. We will
19 close the hearing.

20 (Time Noted: 6:10 p.m.)
21
22
23
24
25

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

I, Marie DiMarco, a Shorthand Reporter and
notary public, within and for the State of New York, do
hereby certify:

That transcript is a true record of the
proceedings has set forth herein.

I further certify that I am not related to
any of the parties to this action by blood or marriage,
and that I am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this _____ day of _____, 2010.

Marie DiMarco



ESQUIRE
an Alexander Gallo Company

AR-TI Recording

Telephone: 212.349.9692
Facsimile: 212.557.2152

One Penn Plaza
Suite 4715
New York, NY 10119