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THE STATE OF NEW YORK
NYS CENTRAL PINE BARRENS COMMISSION

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In the Matter of

American Physical Society Core
Preservation Area Extraordinary Hardship
Waiver

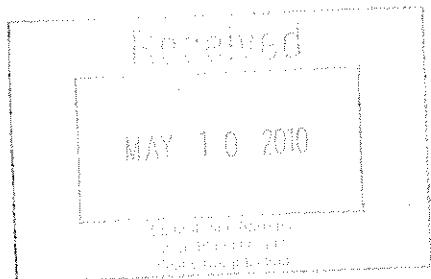
Location: One Research Road, Ridge,
New York

Suffolk County Tax Map Number
200-459-1-1.4

-----X
Town of Brookhaven
One Independence Hill
Farmingville, New York 11738

Wednesday, April 21, 2010

The above entitled matter came on for hearing at 3:00 p.m.



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

2 CENTRAL PINE BARRENS JOINT PLANNING AND POLICY

3 COMMISSION

4 PETER SCULLY, CHAIRMAN

5 MARTY SHEA, Representative of Town of South Hampton

6 JOHN TURNER, Representative of Brookhaven Town

7 Supervisor

8 BRENDA PRUZINOSKI, Representative of Town of Brookhaven

9 Supervisor

10 DAN MCCORMICK, Representative of Riverhead Town

11 Supervisor

12 JULIE HARDGRAVE, Environmental Planner

13 JOHN MILAZO, Pine Barren Commission Attorney

14 * * *

19 Received

20 MAY 10 2010

21 Central Pine Barrens
22 Joint Planning and Policy Commission
23

1	EXHIBITS	DESCRIPTION	PAGE
2	1	Commission Staff	4
3		Exhibit List with	
4		Attached Exhibits	
5		1-7	
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
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(Exhibit No. 1 was so marked in evidence)

CHAIRMAN SCULLY: I would like to call the public hearing to order. Pursuant to the New York State Environmental Conservation Law Article 57-0121.1 and the Central Pine Barrens Comprehensive Use Plan, notice is hereby given that the Central Pine Barrens Joint Planning and Policy Commission will hold a public hearing on Wednesday, April 21, 2010 on the matter of Core Preservation Area Extraordinary Hardship Waiver.

The applicant is the American Physical Society. The location is One Research Road, Ridge, New York. Tax map 200-459-1-1.4. The proposed project consists of a 51 percent expansion of existing commercial office use.

The expansion consists of a 14,989 square foot second story and 759 square foot mezzanine to an existing 31,062 square foot building for a total building area of 45,813 square on a 5 acre project site in the I-1 Industrial Zoning District.

Other modifications to the project site include clearing to expand the parking lot, reconfigure the driveway and expansion of the septic system. The project includes redemption of 3.29 sanitary waste water

5

1 credits.

2 The application is classified as an
3 unlisted action pursuant to SEQRA. The Commission will
4 seek Lead Agency status in accordance with the
5 Comprehensive Land Use Plan and SEQRA.

6 I'll turn it over to staff after everybody
7 introduces themselves for the record. Mr. Shea?

8 MR. SHEA: Marty Shea representing
9 Southampton Town Supervisor Anna Throne Holst.

10 MR. MCCORMICK: Dan McCormick representing
11 Town Supervisor Sean Walter in the Town of Riverhead.

12 MS. PRUZINOSKI: Brenda Pruzinoski,
13 representing Brookhaven Town Supervisor Mark Lesko.

14 CHAIRMAN SCULLY: Peter Scully, representing
15 the Governor State of New York.

16 We'll hear first from staff.

17 MR. TURNER: John Turner representing Town
18 of Brookhaven Mark Lesko.

19 MS. HARDGRAVE: The chairman read the
20 project description I won't go over that again. You have
21 received the staff report and the exhibits attached to
22 it and the Exhibit list. I'll just go through the rest
23 of the exhibits.

24 The staff report is Number 2. The cover
25 sheet for the exhibits is number one. Number 3 is the

1 December 12, 1994 Commission Resolution granting a core
2 hardship waiver for a 12,000 square foot building
3 expansion. Exhibit 4 is a photograph of the site taken
4 on March 10, 2010. Exhibit 5 is the environmental
5 assessment form, part one for the application.

6 Exhibit 6 the site plan drawings, existing
7 conditions and site alignment plan. And Exhibit 7 is the
8 applicant's core hardship petition.

9 So you have all those exhibits before you.
10 The applicant is here to explain the project. The
11 applicant is also provided exhibits and I have given
12 them to the stenographer and the applicant is here to
13 make a presentation.

14 CHAIRMAN SCULLY: Are you an attorney, sir?

15 MR. COX: Good afternoon. Thank you for
16 taking the time to hear our application today. For the
17 record my the Michael Cox, Weber Law Group, LLP, 290
18 Broadhollow Road, Suite 200 E, Melville, New York
19 counsel for the applicant, the American Physical
20 Society, which I will refer to as APS.

21 In attendance are Dr. Gene Sprouse, Editor
22 in Chief of APS, Kim Gennaro, certified planner from
23 VHB, Larry Kuo, a professional engineer from Sidney
24 Browne and Michael De Giglio a registered landscape
25 architect from Cameron Engineering.

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1 I am going to make a brief presentation
2 speaking to the history of the property, APS's
3 connection to the property, the application before you
4 how and how the applicant satisfies the requirements for
5 the hardship exemption.

6 The applicant professionals are available
7 to answer any questions you have. The package of
8 renderings I submitted include aerial photographs of the
9 property, architectural renderings and before and after
10 site rendering.

11 APS is non for profit tax exempt education
12 and science organization which publishes nine physics
13 journals with world wide circulation and recognition.
14 Headquartered in College Park, Maryland all the
15 editorial work for APS to produce and publish its
16 scientific journals occurs at the Ridge location.

17 The proposed project involves expansion and
18 alteration of the APS editorial office building located
19 at One Research Road in the Hamlet of Ridge, Town of
20 Brookhaven. The five acre property is situated in the
21 L-1 Zoning District of the Town of Brookhaven opposite
22 Brookhaven National Lab. The site is located at the edge
23 of the core preservation area of the Central Pine
24 Barrens adjacent to the compatible growth area.

25 In 1979 APS purchased the property and



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1 built its original 12,500 square foot office building.
2 In 1985 APS expanded its facility by adding 5,500 square
3 feet to the north side of the original building. In 1994
4 APS applied to the Central Pine Barrens Joint Planning
5 and Policy Commission for a hardship to build a 12,000
6 square foot, one story addition to accommodate
7 additional editors to handle the increasing demand for
8 APS physics journals. Much like in 1994 additional
9 editors are now required to keep up additional demand
10 for the journals APS publishes.

11 In 1994 the Commission issued a negative
12 declaration and a hardship exemption pursuant to
13 Subdivision 10 of Section 57-0121 of the Environmental
14 Conservation Law.

15 In addition to permitting the 12, 000
16 square foot expansion the 1994 Core Preservation
17 Hardship Exemption recognized APS' potential need for
18 future expansion and included the following language in
19 its exemption of approval, that "the building addition
20 shall be designed and constructed in such a matter that
21 any future expansions needs of the sponsors may be
22 accommodated by vertical expansion above the new
23 addition being the 1994 expansion.

24 The application before you proposes the
25 vertical expansion of the existing APS facility in

1 compliance with the Commissions' 1994 hardship approval.
2 The proposal is for the addition of 14,989 square foot
3 second story and a 720 square foot mezzanine located
4 above the 1997 expansion which was built specifically to
5 accommodate a second floor.

6 Other than the columns required to support
7 the second floor on the western, eastern and northern
8 side of the building the footprint of the building will
9 not change.

10 The application includes construction of
11 previously land banked parking using grasscrete pavers
12 as well as removal of the circular driveway and the
13 complete re-vegetation of that area. The proposed plan
14 also includes an outdoor roof garden for the use and
15 enjoyment of the employees. This area could be enclosed
16 and made part of the second floor for future expansion
17 if required.

18 As in 1994 the applicant is applying to the
19 Pine Barrens Commission for a hardship in development in
20 the core preservation area under the category of
21 extraordinary hardship and in compliance with the 1994
22 commission approvals.

23 The following facts and analysis will
24 demonstrate compliance with the requirements of
25 subdivision 10, Section 57-0121 of the Environmental

10

1 Conservation Law.

2 Facts supporting this application as in
3 1994 are one, the property was previously disturbed when
4 the applicant originally purchased it 1979.

5 Two, the parcel has since been
6 substantially disturbed as a result of the original
7 construction of the APS editorial building in 1979 and
8 associated expansion in 1985 and 1997.

9 Three, the subject parcel is the only
10 developed parcel in an approximately one quarter mile of
11 the radius of the parameter of the property other than
12 the Brookhaven National Lab.

13 APS is under extraordinary hardship and
14 requires this expansion. APS cannot longer make
15 beneficial use of the office building at its current
16 size. Over the past 30 years APS invested substantial
17 funds to purchase, build, furnish and to maintain the
18 editorial office building intending it to be the
19 permanent location of its editorial operations primarily
20 because of its proximity to Brookhaven National Lab with
21 which APS has significant relationship and APS editors
22 have had visiting science status.

23 The current application you are considering
24 complies with the conditions of future expansion set
25 forth in the 1994 hardship exemption approval and

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1 demonstrates that the subject property will no longer
2 have any beneficial use to APS if they remain as
3 currently constructed.

4 This inability to have beneficial use is
5 also a result from unique circumstances peculiar to the
6 subject property which do not apply to or effect other
7 properties in the immediate vicinity. It relates and
8 arises out of the characteristics of the subject
9 property rather than personal situation of the applicant
10 and it is not the result of any action or inaction by
11 the application or owner or his or her predecessors in
12 title including any transfer of contiguous lands which
13 were in common ownership on or after June '93.

14 The proposed project did not result in a
15 substantial impairment of the resources of the core
16 presentation area. The proposed expansion and
17 improvements would occur within the existing development
18 footprints and the proposal involves the establishment
19 of supplemental vegetation within and around the parking
20 area and replacement of an existing driveway with
21 additional vegetation.

22 The requested hardship exemption is
23 consistent with the purposes, objectives and general
24 sphere of the Pine Barrens Protection Act and does not
25 endanger public safety in any way.



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1 Based on the foregoing, the applicant
2 respectfully submits the proposed project is a minimum
3 relief necessary to alleviate this extraordinary
4 hardship.

5 I have one last item. For the benefit of
6 the Commission I would like to briefly address a letter
7 dated April 7, 2010 from Ms. Julie Hardgrave of the Pine
8 Barrens Commission. I would like to thank Ms. Hardgrave
9 for being available both Monday and yesterday of this
10 week to discuss the items she raised in her letter.

11 Mitch Palley and I spoke to Ms. Hardgrave
12 about the comments concerning clearing in the semi
13 circle island and the clearing where the additional
14 parking spaces are proposed on the west side of the
15 site.

16 Addressing comment number two on page 2 of
17 the letter we clarified there will be no septic system
18 expansion of the south side of the building.

19 MR. MILLAZO: Do they have the letter?

20 MS. HARDGRAVE: No.

21 MR. MILLAZO: Can you give us copies of the
22 letter that way they can understand what your response
23 is? Can you explain that letter?

24 MR. COX: Comment two on page 2 of that
25 letter, there was a misunderstanding. It appeared the

13

1 septic system was being expanded on the south side of
2 the property when in fact the septic system is being
3 expanded on the north side of the property west of the
4 existing. There is two septic systems on the property.
5 There is one directly south of the building by the main
6 entrance and to the west of the northerly entrance in
7 the parking lot. We're proposing to put a third sanitary
8 system in the parking lot area, not in the southern area
9 of the property.

10 MR. MILAZZO: So that comment was that the
11 question posed to you was whether additional clearing
12 would be required for a sanitary system? Your answer is
13 there is no additional clearing because you are putting
14 it underneath the parking lot?

15 MR. COX: Yes, sir. The comment after that
16 one in paragraph two, of that letter dealing with the
17 clearing on the west side of the property for the
18 expanded parking area, Exhibit C and D in the packet
19 that I handed to you shows the vegetation as is. What
20 the site will look like if the project is approved.

21 Our landscape architect is here to explain
22 these diagrams if need be. In brief, the only natural
23 area to be removed is .14 acres and we will be replacing
24 it with .63 acres of natural vegetation throughout the
25 property by the semi circle driveway; you see in that

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1 exhibit which will be filled in with natural vegetation.
2 That's how I wanted to address that second comment in
3 the letter. Other than that that concludes my
4 presentation.

5 CHAIRMAN SCULLY: Questions?

6 MR. SHEA: Just a couple of questions about
7 the plan expansion of the parking area.

8 First of all is the expansion needed to
9 satisfy the required number of parking spaces as per
10 Town code?

11 MR. COX: Town code will actually requires
12 306 spaces. We'll be seeking a variance from the Town of
13 Brookhaven Planning Board. We're asking for 160 spaces.

14 MR. SHEA: As relates to the parking, my
15 second question, if you eliminated the vegetation
16 parking islands proposed, would that, how would that
17 reduce the amount of new clear that are you are
18 currently planning?

19 MR. COX: If we eliminate the islands we can
20 get approximately 20 additional spaces; but it should be
21 noted those islands are rain gardens, my site engineer
22 could explain those in detail if you would like.

23 MR. SHEA: Is there currently on site
24 drainage that would handle the expansion of the parking
25 area or are those additional rain gardens needed to

15

1 address the Town's requirements for drainage?

2 MR. COX: Can I defer that question to my
3 site engineer? Lawrence Woolf.

4 CHAIRMAN SCULLY: Swear him in.

5 Whereupon,

6 LAWRENCE WOOLF,

7 after having been first duly sworn, was examined and
8 testified as follows:

9 MR. WOOLF: The rain gardens, we tried to
10 locate the rain gardens within the existing drainage
11 area but planned new gardens area as well.

12 MS. PRUZINOSKI: Which ones are which?

13 MR. WOOLF: If you look to the southern one,
14 the one within the parking lot on the northeast side and
15 the southeast side are existing and the ones to the
16 southwest are proposed. Most of the ones to the
17 northwest that's more in the curb area, behind the curb
18 area.

19 MR. MILAZZO: Can you refer to an Exhibit?
20 What are you looking at?

21 MR. WOOLF: The site plan.

22 MR. MILAZZO: Exhibit D.

23 MR. COX: Sheet C2, it's not the Exhibit set
24 I passed around. It's what Ms. Hardgrave passed around,
25 I believe.



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1 MS. HARDGRAVE: Yes. The site alignment
2 plan, the package attached to the site report.

3 This is a question for the applicant. In
4 the environmental assessment forms how many acres of
5 vegetation would be removed from the set point two now
6 it is only point one four, is that right?

7 MR. COX: There is --

8 MS. HARDGRAVE: This is on page 6.

9 There's an asterisk I don't know what that
10 means.

11 MR. COX: The point two four includes, if
12 you look on Exhibit C, the area is shaded red. The area
13 removed is 1.4 acres and the area shaded green is the
14 lawn area; I believe they are point one acres.

15 MS. HARDGRAVE: So the point one acre is
16 natural area of grass and point one four acre of natural
17 vegetation?

18 MR. COX: Yes.

19 CHAIRMAN SCULLY: Brenda?

20 MS. PRUZINOSKI: The area that is currently
21 the semi circular driveway and the grass in that
22 vicinity that you are eliminating could the new parking
23 you require or are showing, could it be located in that
24 area instead?

25 MR. COX: We could fit additional parking,

1 something there.

2 MS. PRUZINOSKI: Not additional; I mean
3 taking the expanded parking area and relocating it to
4 that area. I don't know how much you can fit in there
5 vis-a-vis as you are showing.

6 CHAIRMAN SCULLY: How much would you net
7 out, how short would you be if you utilized the area in
8 the semi circle?

9 MS. PRUZINOSKI: That whole vicinity where
10 grass or payment is.

11 MR. WOOLF: Well, the reason for removing
12 the semi circular landscape area was no longer needed.
13 Back then APS required that route as a truck routing.
14 Now there is much less paper so they don't need that
15 route any more.

16 We want to make that landscape area be
17 continuous with the other landscape areas. I haven't had
18 calculation or analyzed what parking would fit in that
19 area; again the reason behind that was to increase the
20 landscaping to be along the William Floyd Parkway.
21 That's the reason for that.

22 MS. PRUZINOSKI: I understand. But you are
23 telling us you want to remove natural areas to provide
24 parking while your simply providing landscaping in an
25 area that is already degraded in a sense. I don't know



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1 if there is some balancing or how much parking you could
2 fit in that area as an alternative.

3 MR. WOOLF: We could look into that.

4 MS. PRUZINOSKI: Thank you.

5 CHAIRMAN SCULLY: Counsel in this
6 presentation made reference to a condition in the 1994
7 hardship approval requiring that the addition authorized
8 at that time be designed and constructed and any future
9 expansion made be accommodated by vertical expansion. I
10 am looking at the resolution and indeed I see that in
11 the clause December 12, 1994 resolution. Looks like you
12 were present, I don't know.

13 So the implication there would be
14 additional expansions were contemplated at the time and
15 if the Commission included language in the approving
16 resolution to make it clear they wanted APS to go up
17 rather than out; but in the list of acquired approvals I
18 am seeing references to C and R's, to covenants and
19 restrictions that would need to be amended to allow for
20 the expansion. So, that would seem to conflict with the
21 implication that future expansions were contemplated.

22 MR. COX: When APS purchased the property in
23 1979, it was purchased from Breslin and another limited
24 partnership. The intention for that area at that time
25 was for Breslin to develop a large office park. When

19

1 they deeded the property to APS they included a
2 restrictive covenant in this not to allow the APS
3 building to go up; essentially so it wouldn't compete
4 with the surrounding areas.

5 CHAIRMAN SCULLY: That was a C and R
6 included at the instance of the seller not by the
7 municipalities, not the Town?

8 MR. COX: Correct.

9 CHAIRMAN SCULLY: Other questions?

10 MR. SHEA: I would also recommend you
11 consider options, it looks like if you look at
12 combination of taking advantage of the existing lawn
13 area and redesigning the rain gardens, there would be no
14 need to undertake additional clearing of natural
15 vegetation.

16 MR. COX: Redesigning the rain gardens and
17 semi semicircle?

18 MR. SHEA: And options with regard to
19 installing some of the expanded parking spaces in the
20 existing lawn area. That was already recommended.

21 CHAIRMAN SCULLY: Your client may want to
22 speak.

23 If you want to speak, identify yourself and
24 be sworn.

25 MR. SPROUSE: Dr. Gene Sprouse.

1 Whereupon,

GENE SPROUSE,

3 after having been first duly sworn, was examined and
4 testified as follows:

5 MR. SPROUSE: Part of the reason for the
6 moving of that roof was the entrance is going to move to
7 the left side of the building. The roof was there when
8 we had entrance in the right hand corner, southwest,
9 east corner of the building. It is no longer necessary.
10 Part of our design was to turn it into a more park like
11 state. That's why we wanted to do that. There is
12 existing grass already on a great majority of the area.

13 CHAIRMAN SCULLY: The main entrance,
14 essentially, is relocated to the rear or the western
15 side of the building?

16 MR. SPROUSE: To the center, middle, west
17 side of the building.

18 MR. MCCORNICK: Are you utilizing lead
19 building standards concerning addition to the second
20 story? What classification?

21 MR. WOOLF: At this time we're not seeking
22 lead, but we're taking that into consideration. The
23 architect is still developing the building.

24 MR. MCCORNICK: Do you know what
25 classification they are considering? What color



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1 standard?

2 MR. WOOLF: Not at this time. The architect
3 is working on it. I am not sure what he is seeking.

4 CHAIRMAN SCULLY: Are there questions for
5 the applicant?

6 MR. TURNER: Maybe for Julie. In your
7 staff report you indicate the post retired some credits
8 as part of this three point two nine based on the
9 formula indicates more than that, that raises
10 significant policy issues regarding the use of credits
11 emanating from the core project. Maybe I can ask John if
12 you can opine about that. Has the Commission done that
13 in the past? Is that something permissible, precluded,
14 is it something I can get your thoughts on that?

15 MR. MILAZZO: The credits in this instance
16 are being used to meet their sanitary. They are being
17 redeemed with the Health Department. They are not being
18 redeemed for additional density at the Commission level.
19 Neither the plan nor the law specifically prohibits at
20 this time redeeming credits in the core.

21 There is general policy which indicates
22 that if you want to transfer development from the core
23 to the CGA, and here they're not increasing their
24 development because of these, they are just doing it for
25 the Health Department. They are not using it to increase



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1 development under Pine Barrens credit and not redeeming
2 as to right of use or insensitive zoning. It is
3 complicated. It is a policy question. It has been done
4 and not prohibited.

5 MR. SCULLY: Other questions? The
6 significant issue for me is what the Commission intended
7 was in 1994 when they included the language in the
8 resolve. Why was it included when contemplated? I am
9 not sure we can provide additional detail there.

10 MR. TURNER: Brenda was here.

11 CHAIRMAN SCULLY: I see your name --

12 MS. PRUZINOSKI: I remember the site visit.
13 I remember your predecessor's great concern about the
14 minimum relief necessary specifically in this case
15 because of its location in the core. I believe that was
16 the genesis of that particular language.

17 MR. SCULLY: If you are going to expand in
18 the future make sure there is no additional clearing.
19 That was the concern of the Commission reps that they
20 might minimize the need for additional clearing in the
21 context of proposed improvement. Any other questions?

22 MR. TURNER: Clarification. I heard this is
23 an unlisted action, but in the staff report it indicates
24 a type one. Is it unlisted?

25 MS. HARDGRAVE: The Town designated it

23

1 unlisted. I think that is something I have to check on
2 again. Speaking of that, the Commission, in the letter,
3 April 7th letter back to the Town, the attorney referred
4 to the site plan to the Commissioner and indicated the
5 Commission would seek lead agency since the site is in
6 the core, and that is what the land use plan says for
7 sites in the core. We would need to get those
8 coordination letters out immediately to get consensus
9 that the Commission is lead agency and we will clarify
10 the status of the action.

11 CHAIRMAN SCULLY: Further questions of the
12 applicant? Anyone from the public wish to be heard?

13 MR. AMPER: Richard Amper, Executive
14 Director of the Long Island Pine Barrens Society, 547
15 East Main Street, Riverhead, New York.

16 Whereupon,

17 RICHARD AMPER,
18 after having been first duly sworn, was examined and
19 testified as follows:

20 MR. AMPER: As you know the Pine Barrens
21 Society is concerned about applications for a second
22 bite at the apple. This looks like a second gulp at the
23 apple with an enormous expansion; perhaps I am inferring
24 they are implying may not be the last.

25 My recollection of the issue of



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1 construction was that this was something not requested
2 by the Commission but proffered by the applicant that
3 they intended to build, design the expansion so that it
4 could be expanded vertically and not require additional
5 clearing.

6 I don't believe it was at the request of
7 the Commission, my recollection is not that it was
8 requested of this Commission, and, moreover, I don't
9 find anything in the language of the granting of that
10 waiver that suggested in any way that the Commission
11 was, in effect, permitting further expansion in advance
12 at that time.

13 So I am having concern because the
14 application demonstrates a series of unending expansions
15 which may not yet be over. There are several concerns
16 associated with that.

17 Clearly we're talking about an increase in
18 density of use. If, indeed, the granting of the waiver
19 last time out constituted the minimum relief necessary,
20 then I have to assume that the applicant also felt that
21 he could make beneficial use of the property on the
22 basis of the expansion granted so it doesn't seem
23 plausible, he may not be able to get the use that he
24 wants, he may not be able to get the additional use that
25 he wants, for his current operations; but that's

25

1 something different from what constitutes beneficial
2 use. Beneficial use of the property that existed then
3 would remain today. So I have concerns both about what
4 this Commission needs to do with respect to granting
5 minimum relief and whether it has already done that, and
6 secondly, I challenge the argument that the applicant
7 cannot make beneficial use out of -- how large is the
8 building? How large is the construction now with the
9 additional of the 12,000 acres and prior to the addition
10 of the proposed 15,000 acres in terms of square feet?

11 MR. COX: The building has current
12 footprints of 31,062 square feet, the total floor area
13 after expansion approximately 45,800 square feet.

14 MR. AMPER: From which is argued that the
15 applicant cannot make beneficial use. That was a
16 question but I'll put it on the record. It's not
17 plausible to me that this Commission could conclude that
18 an applicant with 45,000 square foot of usable space in
19 the core preservation area has no beneficial use of the
20 property.

21 It is clear to me it is a type one action.
22 I am terribly concerned about the precedent of using
23 Pine Barrens credit to develop in the core. Whether or
24 not it's not strictly prohibited, the fact of the matter
25 is the expansion is what's requiring the sanitary



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1 credits. The applicant acknowledges need for a third
2 sanitary system further adversely impacting the core,
3 which those involved in developing the statute did not
4 contemplate.

5 I would certainly not want to see Pine
6 Barren credits used to transfer additional development.
7 It is a terrible precedent. It is a type one action.
8 It's clearly a type one action. What's next Trump Tower?

9 We did not contemplate this when we wrote
10 the statute. I remember being troubled by the
11 presentation at that time. We all recognize the merits
12 of the project and the credentials of the applicant and
13 the important work he does; but after the Hampton Club
14 last time I am just wondering if my life is going to be
15 a little bit different and a little bit more problematic
16 in the last 17 years then the last 17 years and we will
17 just go back and do do overs. Now we are talking about
18 development in the core. The Pine Barrens Society is
19 very directly opposed to this.

20 CHAIRMAN SCULLY: Mr. Freleng?

21 MR. FRELENG: Andy Freleng, Vice Chair of
22 Credit Clearing House.

23 Whereupon,

24 ANDREW FRELENG,
25 after having been first duly sworn, was examined and



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1 testified as follows:

2 MR. FRELENG: I think your staff mentioned
3 the requirement of the sanitary credits. We don't know
4 what they are going to be. Commissioner Turner brought
5 up that issue. I want to mention the Credit Clearing
6 House hasn't had a chance to deliberate this; and we
7 haven't had the benefit of the staff counsel's
8 interpretation.

9 I would like to ask counsel if he could
10 reiterate what he said to Mr. Turner so I would have
11 that issue when I talk to the Credit Clearing House.

12 MR. TURNER: Repeat yourself?

13 MR. MILAZZO: I think what the answer was is
14 it is a policy question for the Commission. The plan
15 does not specifically prohibit redemption of credits in
16 the core. There's general language in the law you could
17 read to say the core is to be protected and not have
18 increased development.

19 The plan is silent as to this issue. It is
20 a policy question and has not been addressed before.
21 Only time this came up is with application of Joe Gazza,
22 (ph) who wanted to redeem credits in the Flanders area
23 and the Commission said no you couldn't use the primary
24 credits to satisfy Town of Southampton, (inaudible)
25 we'll file development map requirements. That's the only

1 time we had the issue posed to the Commission. So you
2 are correct the Clearing House hasn't addressed it, the
3 Commission hasn't addressed it. That's the same answer
4 twice.

5 MR. FRELENG: If you could appeal to the
6 Commission to -- if it's within your schedule to await
7 some sort of recommendation from the Credit Clearing
8 House so you could take that into consideration.

9 CHAIRMAN SCULLY: SEQRA isn't complete so
10 there is time. Anybody else wish to be heard? Mr.
11 Palley?

12 MR. PALEY: Mitch Palley, Counsel for APS
13 and I believe as attorneys we can waive the swearing. I
14 think attorneys should be more likely. I'll leave that
15 to the Commission rules.

16 VOICE: They waive the waive.

17 MR. PALLEY: I wanted to reinforce the
18 purpose of the presentation. This is a company, one of
19 the most scientifically evaluated companies in the Town
20 of Brookhaven and on Long Island. They have a tremendous
21 relationship with Brookhaven National Laboratory. They
22 existed before the Pine Barrens statute was enacted,
23 15 years before the statute was enacted.

24 They are working towards expanding jobs in
25 this community on a clean and friendly basis. They have



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1 had the benefit, one of the few companies on Long Island
2 being able to increase jobs. To do that they need to
3 increase the amount of space that they have in their
4 existing building. They are doing that based upon the
5 resolution offered by the Pine Barrens Commission in the
6 initial waiver. We could all be very happy if they
7 didn't increase jobs; but one of the purposes of us
8 being here today is to strike a balance between the
9 economic needs of Long Island and the environmental
10 needs of Long Island.

11 We believe the resolution preferred by the
12 Pine Barrens Commission in 1994 did just that, by
13 telling the applicant that to expand they had to go up
14 so there was no additional clearing for the building.
15 That is what they are asking the Commission to be
16 allowed to do.

17 If there are ways to reduce the amount of
18 clearing for the parking -- they are already asking the
19 Town of Brookhaven for a 47 percent variance in parking
20 spaces -- below which they are required by the code. We
21 would be more than happy to ask for more than that, I am
22 not sure the Town of Brookhaven would want us to do
23 that. We need some minimum number to cover the
24 employees.

25 We tried to put them in an area that was



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1 the most beneficial, on the area that had already been
2 land banked for the property for additional parking.
3 There was a minor piece beyond that that is impacted, if
4 we can find a place not to impact beyond the land banked
5 area we would be more than happy to do so.

6 We also believe, as was indicated, that the
7 benefit of re-vegetating point 57 acres in the entire
8 parcel, was a great benefit which is why the parking
9 loop was being eliminated and all being revegetated for
10 the small amount that was being impacted by the parking.

11 As I indicated, if we can find a way,
12 without impacting it for the parking we would be more
13 than happy to do so. We are well aware of the question
14 of Pine Barrens credits. We have had conversations with
15 the Health Department and County with regard to the
16 ability to find other sanitary credits in hydrological
17 zone three. We're attempting to do that so the issue of
18 Pine Barrens credits as a redemption would not have to
19 be considered. We have not been able to find them that
20 yet, but that does not mean we won't still try so that
21 the additional septic sewage expansion can be done in a
22 way that meets the criteria of the Health Department yet
23 does not force the Commission to issue a ruling on
24 something that may have precedent. We don't want to have
25 to set a precedent if we don't have to.

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Reviewed

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Central Pine Barrens
Joint Planning and
Policy Commission

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31

1 We believe very strongly that this project
2 is good for the Town of Brookhaven, good for Suffolk
3 County, good for Long Island, good for Brookhaven Lab
4 and good for APS and does not in any way threaten or
5 impinge upon the environmental benefits of the Pine
6 Barrens. That is why we would urge approval at the
7 appropriate time. Thank you very much.

8 CHAIRMAN SCULLY: Thank you very much. Mr.
9 Amper?

10 MR. AMPER: Mr. Chairman, it is extremely
11 difficult for us involved in the protection of the Pine
12 Barrens to listen to the unending stream of arguments
13 for the need for jobs therefore developing in the
14 compatible growth area for that purpose when we
15 understand that is not sustainable. Unending expansion
16 of jobs and construction on Long Island is not
17 plausible.

18 The notion that this act contemplated
19 protecting the core and providing simultaneously for the
20 development of the core in the interest of jobs is not
21 consistent with the purposes of the act as we recognize
22 it.

23 For the record it would be useful if we had
24 on the record Mr. Palley's connection and whatever that
25 connection might be with the Pine Barrens Credit



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1 Clearing House as long as this has come up.

2 MR. PALLEY: I am a member of the Pine
3 Barrens Credit Clearing House and have been since the
4 statute has been enacted. I have not participated in any
5 discussions related to this project. As Mr. Freleng
6 clearly pointed out the Clearing House has had no
7 conversation about it, when and if it does I obviously
8 will recuse myself under the rules of the Clearing
9 House.

10 MR. SCULLY: Thank you, Mr. Palley.

11 Anybody else wish to be heard on the
12 matter? Ms. Johnston?

13 MS. JOHNSTON: Mary Ann Johnson. I am knew
14 at this.

15 Whereupon,

16 MARY ANN JOHNSTON,
17 after having been first duly sworn, was examined and
18 testified as follows:

19 MS. JOHNSTON: Increasingly as President of
20 AMCO I attend hearings in which we are looking to
21 intensify the use of the compatible growth area and to
22 intensify it in the core. I am are concerned about that
23 trend and most concerned about it when it is always
24 about jobs.

25 There are many, many, ways in which this



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1 operation can expand without expanding at this site.
2 There are many, many, other alternatives within a short
3 distance that can be utilized for this site. So I would
4 suggest we look at other alternatives as opposed to
5 expansion at this site. I know that is part of the
6 process but that would certainly be my suggestion that
7 expanding at this particular site is not the only
8 alternative available.

9 CHAIRMAN SCULLY: Anyone else wish to be
10 heard? If not we'll close the hearing for further
11 deliberation.

12 MR. SHEA: Do we need to adjourn in order
13 to consider new information?

14 MR. MILAZZO: If there is more information
15 that is expected we should adjourn the hearing and allow
16 the record -- you can close the public portion and allow
17 documents to come in so the Commissioner has the benefit
18 of reviewing them.

19 MS. HARDGRAVE: If the Clearing House is
20 going to take up this matter the deadline is the May
21 meeting. That's the next meeting May 19th. I don't know
22 if that's --

23 MR. MILAZZO: The clearing house does not
24 have a meeting scheduled as of now.

25 MR. MCCORNICK: Can we ask the applicant to



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1 waive the deadline?

2 CHAIRMAN SCULLY: SEQRA is not completed.

3 MR. AMPER: On the matter of the closing of
4 this for the public the Advisory Committee might want to
5 join this and the public might want to comment on any
6 additional information.

7 VOICE: I would urge not to close.

8 CHAIRMAN SCULLY: We'll recess the hearing.

9 MR. MILAZZO: As long as this is an
10 adjournment.

11 MR. MCCORNICK: We need that for the record.
12 Do we do May or June?

13 MR. MILAZZO: The existing deadline
14 May 19th. I say you go to July so the hearing is open
15 next month to give you time to deliberate.

16 MR. MCCORNICK: Is that acceptable?

17 MR. COX: It is.

18 MR. MILAZZO: The deadline will be the July
19 Commission meeting. I don't have the date, Stan would
20 but he's not here. July, July 21st is acceptable?

21 MR. COX: Yes.

22 MR. MILAZZO: Can you give us another copy
23 of what you read into the record?

24 MR. COX: Yes.

25 CHAIRMAN SCULLY: Anything further? No



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1 resolution necessary on the extension.

2 MR. MILAZZO: Accepting it.

3 CHAIRMAN SCULLY: Move. We accept the
4 extension.

5 MR. SHEA: Second that.

6 MR. SCULLY: All in favor, oppose? We'll
7 move onto the next hearing.

8

9 (Time noted: 3:40 p.m.)

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

3

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

7 That transcript of said testimony is a true
8 record of the proceedings set forth herein.

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

13

14

15 IN WITNESS WHEREOF, I have hereunto set my
hand this 5th day of May, 2010.

16

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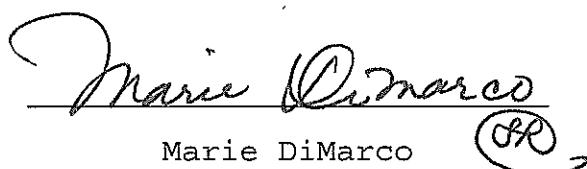
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Marie DiMarcoESQUIRE
an Alexander & Salas Company

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THE STATE OF NEW YORK
NYS CENTRAL PINE BARRENS COMMISSION

-----X
In the Matter of

American Physical Society Core
Preservation Area Extraordinary Hardship
Waiver

Location: One Research Road, Ridge,
New York

Suffolk County Tax Map Number
200-459-1-1.4

-----X
Town of Brookhaven
One Independence Hill
Farmingville, New York 11738

Wednesday, April 21, 2010

The above entitled matter came on for hearing at 3:00 p.m.

(1)

Commission Exhibits Submitted by Staff

Core Preservation Area Hardship – American Physical Society

Public Hearing April 21, 2010, 3:00 PM
Town of Brookhaven Town Hall

Exhibit 1 - Exhibit Cover Sheet

Exhibit 2 - Staff Report

Exhibit 3 - December 12, 1994 Commission resolution granting a Core Hardship Waiver for a 12,000 sq. ft. building expansion.

Exhibit 4 - Photographs of the site taken on March 10, 2010

Exhibit 5 - Environmental Assessment Form Part I

Exhibit 6 - Site Plan drawings; Existing Conditions and Site Alignment Plan

Exhibit 7 - Applicant's Core Hardship Petition

DRAFT

**CENTRAL PINE BARRENS JOINT PLANNING & POLICY COMMISSION
STAFF REPORT
for April 21, 2010**

PROJECT NAME: American Physical Society Core Hardship Waiver Application

APPLICANT/OWNER: American Physical Society, c/o Weber Law Group LLP

PROJECT TIMELINE:

- 02/17/10 Receipt
- 04/21/10 Public Hearing
- 05/19/10 Decision Deadline

PROJECT SITE LOCATION: 1 Research Road, west side of William Floyd Parkway, Ridge, Core Preservation Area

PROJECT SITE AREA: 5.0 acres

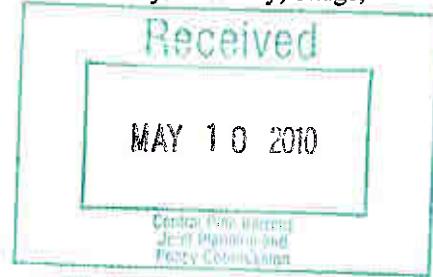
SC TAX MAP Nos: 200-459-1-1.4

ZONING DISTRICT: L-1 Industrial

PROJECT DESCRIPTION:

The proposed project involves a second-story expansion on the existing 31,062 sq. ft. commercial building for a total building area of 46,810 sq. ft. Approximately 0.24 acres (10,454 sq. ft.) of existing vegetation would be removed to accommodate additional parking on site. Ground disturbance and removal of trees would occur to reconfigure the driveway on the project site and to install an upgraded septic system to accommodate the additional sanitary flow expected as a result of the facility expansion. The applicant proposes to retire 3.29 Pine Barrens credits to satisfy Suffolk County Health Department requirements for sanitary code compliance.

The following table provides some data on the existing conditions and proposed project. Clarifications and additional information are needed to complete the record.



	Existing	Proposed	Total
Building area	31,062 sf	14,989 sf 2 nd fl + 759 sf mezzanine	46,810 sf
Developed area	?		?
Area to remain natural	1.50 acres		
Clearing	?	0.24 acres	?
Existing Parking Spaces	133	27	160
Landscaping/turf/fertilized	17.9%		
Individual onsite septic system sanitary flow	1,500 gpd (1,762 gpd ¹)	986.5 gpd	2,748.5 gpd
Credit retirement to comply with Article 6 SC Sanitary Code		3.29	?

¹ As of right is 1,500 gpd. SCDHS variance granted in 1997 permitting an increase to 1,762 gpd

SITE HISTORY

Important dates in the project site's history:

- 1979: 12,500 sq. ft. building constructed
- 1985: 5,500 sq. ft. expansion
- 1994: 12,000 sq. ft. expansion. On December 12, 1994, the Commission granted a conditional approval with the following two conditions (see Exhibit for resolution).
 1. There shall be a physical delineation in the field of the limit of clearing for the building and associated construction activities.
 2. The building addition shall be designed and constructed in such a manner that any future expansion needs of the sponsors may be accommodated by vertical expansion above the new addition.
- 2006: NJ Letter. On March 15, 2006, the Commission granted a non-jurisdiction letter, which allowed APS to "remove five (5) trees in order to permit emergency vehicle access, improve employee safety, and to protect APS services and assets."

EXISTING CONDITIONS:

The project site currently contains a 31,062 sq. ft. building, 130 parking spaces, driveway, and associated infrastructure. A portion of the road frontage contains existing native vegetation (see Exhibit for photographs of the existing conditions).

Surrounding Land Use and Zoning

The site is surrounded by undeveloped, wooded, public land (County and State) on three sides to the north, west and south. The east side of the site fronts William Floyd Parkway.

The site is in the L-1 Industrial Zoning District. It is surrounded by A-1 and A-5 Residence Zoning Districts.

SITE DESCRIPTION: See Exhibit for the EAF Part I and Site Plan.

Topography/Elevation: The project site is generally flat.

Soils: Riverhead sandy loam (RdB0, Haven loam (HaA) top soil, well graded sand with silt and gravel, coarse sand and gravel

Hydrology: Hydrogeologic Zone III

Vegetation: The site is bounded by woods and existing native pine barrens vegetation.

Rare, Endangered, & Threatened Species and Species of Concern: Obtain letter from DEC NHP.

Cultural/Archeological: By letter dated March 18, 2010, the NYS OPRHP indicated that the project will have no impact upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places.

Scenic Resources: The site is approximately within a Scenic Corridor on William Floyd Parkway north of Brookhaven Lab to Route 25, as described in Volume 2, Chapter 8 of the CLUP.

DRAFT

Sanitary Wastewater

- Sewage flow:
 - As of right = 1,500 gpd
 - Existing flow = 1,762 gpd*as per 1997 SCDHS BOR variance. No evidence that the prior BOR variance for the increase in flow over the as of right required the retirement of credits.
 - Proposed additional flow = 986.5 gpd
 - Final flow = 2,748.5 gpd
- Credits: The applicant proposes to redeem 3.29 Pine Barrens Credits. PBCs are not typically redeemed in the Core Preservation Area. Retire sanitary flow credits at the Health Department to satisfy Article 6 Sanitary Code requirements.

2,748.5 gpd (proposed) – 1,500 gpd (as of right) = 1,248.5 gpd / 300 gpd = 4.16 credits

REQUIRED APPROVALS

- SEQRA: SEQRA is not complete. The project is a Type I Action. The Commission received a Lead Agency Coordination letter, and a response was sent back on April 7, 2010 where the Commission requested Lead Agency, as the site is in the Core. Commission is waiting for concurrence from the Town on Lead Agency designation, then coordination can commence.
- Town of Brookhaven approvals/permits:
 - Zoning Board: Parking relief (47.7% variance, 306 spaces required for use)
Dimensional relief
 - Planning Board: Site Plan Amendment
 - Building Permit
 - Amend previously recorded C&Rs for maximum building size
- Suffolk County Department of Health: Article 6 Sanitary Code
- Suffolk County DPW driveway entrance modification
- Central Pine Barrens Commission Core Hardship Permit
- NYS DEC Wild and Scenic Recreational Rivers Permit

Involved Agencies include, at a minimum, Suffolk County Planning Department since the project site is on a County road.

COMMENTS

Staff may have further comments and recommendations and after the public hearing.

Central Pine Barrens Joint Planning and Policy Commission

Robert J. Gaffney, *Chairman*
John LaMura, *Vice Chairman*
Ulric S. Haynes, *Member*
Joseph F. Janoski, *Member*
Fred W. Thiele, Jr., *Member*

P.O. Box 587
3525 Sunrise Highway, 2nd Floor
Great River, New York 11739

Session of December 12, 1994 Brookhaven Town Hall

Present: Mr. Cowen (for Commissioner Haynes) Ms. Filmanski (for Commissioner Janoski), Mr. Gatta (for Commissioner Gaffney), Ms. Swick and Ms. Wiplush (for Commissioner LaMura), Commissioner Thiele.

Resolution on the Core Preservation Area Hardship Application of the American Physical Society Ridge, Town of Brookhaven SCTM# 200-459-1-1.4

Whereas, the American Physical Society, by its attorneys Allen and Allen, filed with the Commission an application for a core preservation area hardship exemption permit for an extension of an existing office structure on a five (5) acre parcel on the west side of the William Floyd Parkway, and

Whereas, a public hearing on the application was held by the Commission on October 26, 1994, and a transcript was thereafter made available to the Commission, and

Whereas, the application has undergone coordinated review for determination of lead agency status pursuant to the New York State Environmental Quality Review Act ("SEQRA"), and

Whereas, no objections were raised by Involved Agencies concerning the Joint Planning and Policy Commission's desire to assume Lead Agency status, and

Whereas, the Commission has considered the application and all related documents, including the Full Environmental Assessment Form submitted by the applicant, now, therefore, be it

Resolved, that the Commission hereby assumes Lead Agency status pursuant to SEQRA and further determines that the proposed action will not have a significant effect on the environment within the meaning of Article 8 of the New York Environmental Conservation Law, and be it further

Resolved, that the Commission determines that the application meets all requirements for extraordinary hardship pursuant to New York Environmental Conservation Law Section 57-0121(10)(a), and, be it further

Resolved, that the requested core preservation area hardship exemption permit is hereby granted, subject to the following conditions:

1. There shall be a physical delineation in the field of the limit of clearing for the building and associated construction activities.
2. The building addition shall be designed and constructed in such a manner that any future expansion needs of the sponsors may be accommodated by vertical expansion above the new addition.

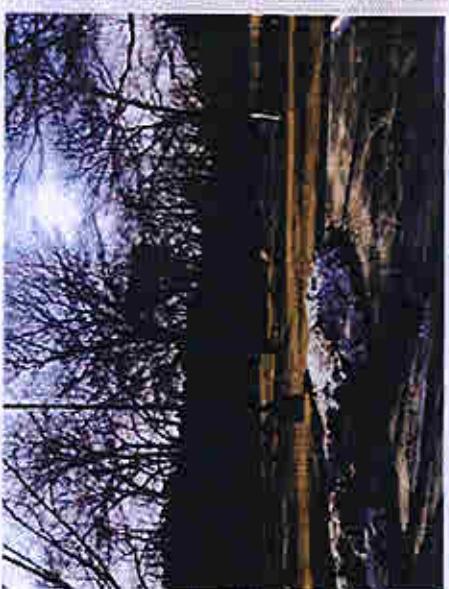
Record of Motion:

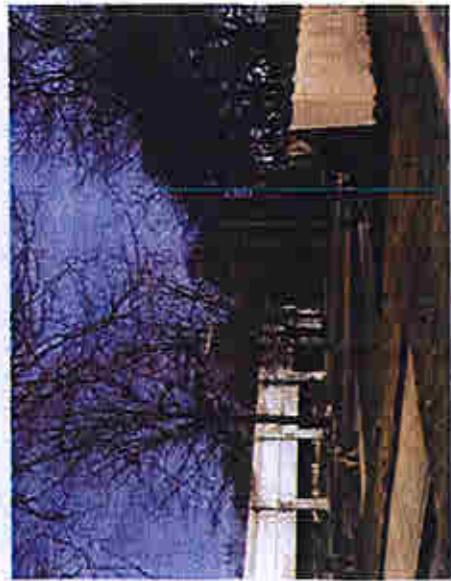
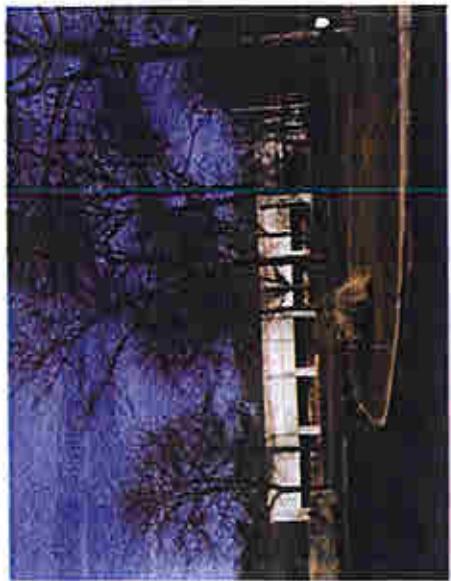
Motion by Mr. Cowen
Seconded by Mr. Thiele

Yea Votes:

Mr. Cowen
Ms. Filmanski
Mr. Gatta
Commissioner Thiele
Ms. Swick

Nay Votes: None







**TOWN OF
Brookhaven**
LONG ISLAND, NEW YORK

Board of Zoning Appeals

One Independence Hill, Farmingville, NY 11738
(631) 451-6477 FAX:(631) 451-6926

**State Environmental Quality Review Act
Full Environmental Assessment Form**

BZ-06 rev. 4/04

PLEASE TYPE OR PRINT CLEARLY

The Full Environmental Assessment Form (EAF) is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible to allow introduction of information to fit a project or action.

Full EAF Components: The full EAF is comprised of three parts:

Part I: Provides objective data and information about a given project and its site. By identifying basic data, it assists a reviewer in the analysis that takes place in Parts II and III.

Part II: Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially large impact. The form also identifies whether an impact can be mitigated or reduced.

Part III: If any impact in Part II is identified as potentially large, then Part III is used to evaluate whether or not the impact is actually important.

DETERMINATION OF SIGNIFICANCE – Type I and Unlisted Actions

1. Identify portions of EAF completed for project: Part I Part II Part III

2. Upon review of the information recorded on this EAF (Parts I, II and III if appropriate) and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one that will not have a significant impact on the environment; therefore, a **NEGATIVE DECLARATION** will be prepared.
- B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required; therefore, a **CONDITIONED NEGATIVE DECLARATION*** will be prepared.
- C. The project may result in one or more large and important impacts that may have a significant impact on the environment; therefore, a **POSITIVE DECLARATION** will be prepared.

*A conditioned Negative Declaration is only valid for Unlisted Actions.

3. NAME OF ACTION: American Physical Society application for amended site plan approval and area variances.	
4. NAME OF LEAD AGENCY:	
5. NAME OF OFFICER IN LEAD AGENCY:	
6. SIGNATURE OF RESPONSIBLE OFFICER IN LEAD AGENCY:	7. SIGNATURE OF PREPARER:
8. DATE:	
Received FEB 17 2010 Central Park Barracks Joint Planning and Policy Commission	



TOWN OF
Brookhaven
LONG ISLAND, NEW YORK

Board of Zoning Appeals

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**State Environmental Quality Review Act
Full Environmental Assessment Form**

BZ-06 rev. 4/04

PLEASE TYPE OR PRINT CLEARLY

Part I – PROJECT INFORMATION
Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form Part A through O. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts II and III.

It is expected that completion of the full EA will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

1. NAME OF PROJECT: American Physical Society application for amended site plan approval and area variances.	
2. PROJECT LOCATION: One Research Road, Ridge, New York 11961	
3. NAME AND ADDRESS OF APPLICANT/SPONSOR: One Research Road, Ridge, New York 11961	4. BUSINESS PHONE: 631-591-4019
5. NAME AND ADDRESS OF OWNER, IF DIFFERENT:	
6. S.C. TAX PARCEL NUMBER: 0200-459.00-01.00-001.004	7. PRESENT ZONING: LI Industrial
8. DESCRIPTION OF ACTION: (PLEASE BE SPECIFIC; ATTACH ADDITIONAL SHEET IF NECESSARY) To construct a 14,989 sq. ft. second story addition and a 720 sq. ft. mezzanine to the existing American Physical Society one-story facility and associated improvements to parking, sanitary and drainage.	

PLEASE COMPLETE EACH QUESTION – INDICATE "N/A" IF NOT APPLICABLE:

A. **LAND USE:** (If not applicable, check here and go to Section B) N/A
Physical setting of overall project, both developed and undeveloped areas.

1. Present land use: Urban Industrial Commercial
 Residential Suburban Rural (non-farm) Forest
 Agriculture Other (Specify) office

B. **CRITICAL ENVIRONMENTAL AREA:**

1. Is the site located in or substantially contiguous to a Critical Environment Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?
 YES NO N/A

C. **ZONING AND PLANNING INFORMATION:**

1. Does proposed action involve a planning or zoning decision?

YES NO

If yes, complete 1-13 below; if no, go to section D:

Zoning Amendment Zoning Variance Special Use Permit
 Subdivision Site Plan New (Revision) of Land Use Plan
 Resource Management Plan Other Core Preservation Area Hardship Exemption*

2. What is the zoning classification(s) of the site? LI Industrial

*In 1994, American Physical Society received a hardship exemption, on application, from the Central Pine Barrens Joint Planning and Policy Committee. Said hardship exemption specifically permitted this proposed action which is a vertical expansion of the facility. ²

3. What is the maximum potential development of the site if developed as permitted by the present zoning?
Maximum permitted floor area - 65,340 sq. ft.

4. What is the PROPOSED zoning of the site? No change

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?
n/a

6. Is the proposed action consistent with the recommended used adopted or recommended in local land use plans?
 YES NO

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?
Land Use (1/4 mile): Undeveloped, CR 46 (William Floyd Parkway)
Zoning (1/4 mile): A5 Residential, A10 Residential

8. Is the proposed action compatible with adjoining/surrounding land used within a ¼ mile?
 YES NO

9. If the proposed action is a subdivision of land, what is the number of lots proposed? n/a
a. What is the minimum sized lot proposed? n/a

10. Will proposed action require any authorization(s) for the formation of sewer or water districts?
 YES NO

11. Is the project site presently used by the community or neighborhood as an open space or recreation area?
 YES NO

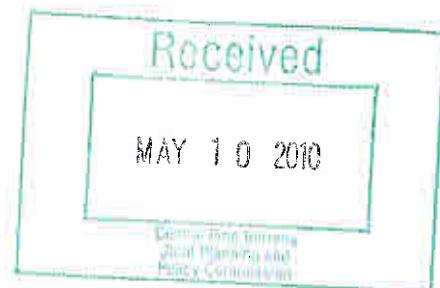
12. Will the proposed action create a significant demand for any community provided services (recreation, education, police, fire protection)? YES NO
a. If YES, is existing capacity sufficient to handle projected demand? YES NO

13. Will the proposed action result in the generation of traffic significantly above present levels? YES NO
a. If YES, are existing roads adequate to handle the additional traffic? YES NO
*see attached TIS

D. **SITE DESCRIPTION:** (If not applicable, check here & go to Section E) N/A

Total Lot Area: 5.00 square feet acres **PRESENTLY** **AFTER COMPLETION**

Meadow or Old Field (non-agriculture)	0	0
Forested (Wooded)	1.50	1.50
Agricultural (include orchards, pasture etc.)	0	0
Unvegetated (rock, earth or fill)	0	0
Roads, buildings and other paved surfaces	2.13	2.37
Beach, Dune or Bluff	0	0
Surface Water	0	0
Tidal Wetlands (as per Chapter 81 and Art. 25)	0	0
Freshwater Wetlands or 24 of the ECL)	0	0
Landscaped (Non-Fertilizer Dependent)	0	.87
Other (indicate type) Lawn/Sod	1.37	.26



E. **PROJECT DESCRIPTION:** (If not applicable, check here and go to Section F) N/A

1. Physical dimensions and scale of project (fill in dimensions as appropriate):

a. Total contiguous acreage owned or controlled by project sponsor: 5 acres square feet acres
 b. Project area to be developed: 3.5 initially; 3.5 ultimately square feet acres
 c. Project area to remain undeveloped 1.5 square feet acres
 d. Length of project, in feet and/or miles, if appropriate: n/a feet miles
 e. If the project is an expansion, indicate percent of expansion 51 %
 f. Number of off-street parking spaces existing 133 proposed 160
 g. Maximum vehicular trips generated upon completion of the project? 86 hourly
 h. Frontage along a public thoroughfare 613 linear feet
 i. If residential: Number and type of housing units:

	ONE FAMILY	TWO FAMILY	MULTI-FAMILY	CONDOMINIUM
Initially:	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Ultimately:	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>

j. Dimensions of largest proposed structure.

+/-38' Height +/-116' Width +/-175' Length

2. Will blasting occur during construction? YES NO

3. Will project require relocation of any facilities? YES NO

If YES, explain _____

F. **LAND RESOURCES:** (If not applicable, check here and go to Section G) N/A

1. What is/are the predominant soil type(s) on project site? (Please consult Suffolk County Soil Survey and Soil Conservation Service - Phone: 727-2315)

List types: Riverhead sandy loam (Rdb), Haven loam (HaA) top soil, well graded sand w/silt & gravel, coarse sand & gravel

2. Is project or any portion of project located in a 100-year flood plain?

YES NO N/A

3. Soil drainage:

Well-drained	<u>100</u>	% of site
Moderately well drained of site	_____	% of site
Poorly drained	_____	% of site

4. If any agricultural land is involved, how many acres of soil are classified within soil groups 1 through 4 of the NYS Land Classification System? (See 1 NYCRR 370 (1).) _____ acres N/A

5. Are there any dunes, bluffs, swales, kettleholes, strands or other geological formations on the project site?

YES NO If YES, Describe: _____

6. Are there bedrock outcroppings on project site? YES NO

a. What is depth to bedrock? > 1,200 (in feet) N/A

7. Approximate percentage of the project site with slopes (0-100%):

0-10% 100% 10-15% 10 15% or greater 15

8. How much natural material (i.e. rock, earth, etc.) will be removed from the site? 3,307* cubic yards
 *1,326 CY for drainage & septic

9. Will the disturbed areas be reclaimed? YES NO N/A ^{*1,981 CY for expansion}

a. If YES, for what intended purpose is the site being reclaimed? landscape areas

b. Will topsoil be stockpiled for reclamation? YES NO

c. Will upper subsoil be stockpiled for reclamation? YES NO

10. Grading: YES NO N/A If yes, complete a. through i.

a. Total area to be regraded: 1.25 square feet acres

b. Total cubic yards of cut: 3,307 cubic yards

c. Total cubic yards of fill: 0 cubic yards

d. Greatest depth of excavation or cut: 12 feet (excluding recharge basin)

e. Greatest depth of any recharge basin: n/a feet

f. Greatest depth of fill: n/a feet

g. Greatest depth of excavation or cut: n/a feet (excluding recharge basins)

h. Maximum artificial slopes after construction (check one)

2:1 or greater 3:1 5:1 10:1 or less

i. Will the project require the use of retaining walls? YES NO

j. Briefly describe method(s) to reduce erosion/runoff during and after construction: _____

During: silt fence, straw bales & stabilized construction fence.

After: drywells, rain gardens

G. VISUAL-CULTURAL RESOURCES: (If not applicable, check here and go to Section H) N/A

1. Visual:

- a. Will the project be noticeably visible from surrounding areas after its completion?
 YES NO N/A
- b. Will the project remove vegetation that currently screens the project site from surrounding areas?
 YES NO N/A
- c. Will the project partially or completely block, or contrast with, scenic views from surrounding areas or from the site?
 YES NO N/A
- d. Does the present site include scenic views known to be important to the community?
 YES NO If yes, please explain: _____

2. Cultural:

- a. Does the project site contain a building or site, and/or is it located within or substantially contiguous to a building, site or district listed on the State or the National Registers of Historic Places or Register of National Landmarks?
 YES NO N/A
- b. Does the project site contain a building or site, which is substantially contiguous to or within a Town Historic District or Town Historic District Transition Zone?
 YES NO N/A
- c. Is the project site contiguous to or does it contain a site or building which is designated a Town Landmark?
 YES NO N/A
- d. Will the project be noticeably visible from, be adjacent to, or result in the partial or complete demolition of any structures listed on the State or National Registers of Historic Places, or a Town Historic Landmark?
 YES NO N/A
- e. Will the project result in the partial or complete demolition or relocation of any structures greater than 50 years old?
 YES NO N/A
- f. Will the project result in the partial or complete removal of any documented or known Native American site?
 YES NO N/A
- g. Does the project site contain or is it located adjacent to a cemetery or gravesite?
 YES NO N/A

H. WATER RESOURCES: (If not applicable, check here and go to Section I) N/A

1. Will there be a potential discharge as a result of an approval of this application into a body of water either on or off-site?
 YES NO N/A

If Yes, please explain: _____

2. Method of handling runoff (check all that apply):

Leaching Pools Dry Wells Recharge Basin (off-site)
 Recharge Basin (on-site) Other (describe): rain gardens

3. What is the minimum depth to the water table on site? 17 feet
(Please cite date and source of information) 11/14/09 geotechnical investigation
a. Seasonal variation _____ feet

4. Are there any lakes, ponds, swamps, bogs, marshes, or freshwater wetlands within or contiguous to project area?
 YES NO N/A

a. Name of lake/pond or wetland: _____

5. Are there any streams within or contiguous to the project site?
 YES NO N/A Name: _____
a. Name of body of water to which it is tributary: _____

6. Are there any Creeks, Embayments, Harbors or tidal wetland areas within or contiguous to the project area?
 YES NO N/A Name(s): _____

a. Name of body of water to which it is tributary: _____

7. Is the site located over a primary, principal or sole source aquifer?
 YES NO N/A

8. Will surface area of an existing water body increase or decrease by proposal?
 YES NO Please explain: _____

I. **FLORA-FAUNA-AQUATICS:** (If not applicable, check here and go to Section J) N/A

1. Do hunting, fishing or shellfishing opportunities presently exist in the project area?
 YES NO N/A

2. Is the project site utilized by, or contain any species of plant or animal life that is identified as rare, threatened, endangered, protected or identified as a species of special concern?
 YES NO * UNKNOWN If yes, identify each species: _____
none observed during field inspection.

3. What wildlife species have been confirmed or would be expected to occur on site? whitetail deer,
ring-neck pheasant, gray squirrel, black-capped chickadee

4. What vegetation species have been confirmed or would be expected to occur on site? white oak, scarlet oak,
pitch pine, black huckleberry, blueberry sap, black cherry

5. Are there any rare or protected plants or unique plant communities present on site?
 YES NO * If yes, identify each species: _____
none observed during field inspection.

6. How many acres/sq. ft. of vegetation (trees, shrubs, ground covers) would be removed from site?
^{*required for} parking expansion 0.24* acres square feet N/A

7. Will any mature forest (over 100 years old) or any other locally important vegetation be removed by this project?
 YES NO N/A

J. **UTILITIES:** (If not applicable, check here and go to Section K) N/A

1. Is the site served by existing public utilities? YES NO
a. If yes, does sufficient capacity exist to allow connection? YES NO
b. If yes, will improvements be necessary to allow connection? YES NO

2. Will project result in an increase in energy use? YES NO
If yes, indicate types: electric, propane

3. What type water supply is from wells, indicate pumping capacity: n/a gallons/minute.

4. Total anticipated water usage per day: 2,748.5 gallons/day, (inclusive of the 986.5 additional gallons per day that the expansion will require)

K. **WASTE DISPOSAL:** (If not applicable, check here and go to Section L) N/A

1. Will a Safe Pollutant Discharge Elimination System (SPDES) permit be required? YES NO
If yes, for what type of material? sanitary

2. Is surface liquid waste disposal or storage involved? YES NO
a. If yes, indicate type of waste (sewage, industrial, etc.) amount and method of disposal _____

3. Is subsurface liquid waste disposal involved (including sanitary)? YES NO
If yes, please indicate:
a. Type of waste: sanitary
b. Volume of waste: 2,748.5 gallons per day (inclusive of the 986.5 additional gallons per day that the expansion will require)
c. Sanitary waste treatment
 on-site septic-system
 municipal treatment plant
 modified subsurface sewage disposal system
 community sewage disposal system
 other _____

4. Are there any point source discharges not previously described associated with this project?
 YES NO N/A If yes, explain: _____

5. Will the project generate solid waste? YES NO N/A **.75 tons - paper/cardboard - recycled
a. If yes, what is the amount per month? 1.25** tons **.50 tons - general housekeeping trash - TOB
b. If yes, will an existing solid waste facility be used? YES NO
c. If yes, give name: Brookhaven location: Yaphank
d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?
 YES NO If yes, explain: All paper and cardboard, printer toner cartridges, fluorescent lamps/ballasts, and some packing materials.

6. Will the project involve the storage or disposal of solid waste? YES NO
(If yes, please attach a list itemizing same)
a. If yes, what is the anticipated rate of disposal? _____ tons/month.
b. If yes, what is the anticipated site life? _____ years.

7. As part of the construction or use of the site will the project routinely use herbicides or pesticides?
 YES NO
If yes, describe the type, amount and method of application: _____

8. Has the site ever been used for the disposal of solid or hazardous wastes?
 YES NO UNKNOWN If yes, explain fully on a separate sheet.

9. If an industrial use is proposed for the site, describe the product and the manufacturing process involved:

10. Will any hazardous or toxic substances or waste be stored or generated on site?
 YES NO N/A
a. If yes, identify the substance, amount and method of storage or disposal. _____

11. Will project routinely project odors more than 1 hour/day? YES NO

12. Will project produce operating noise exceeding the local ambient noise levels? YES NO
If yes, source of noise: _____

L. **ECONOMICAL IMPACTS:** Completed for all commercial/industrial projects and residential projects greater than 10 units. (If not applicable, check here and go to Section M) N/A

1. Does project involved Local, State or Federal funding? YES NO

2. If single phase project:
anticipated period of construction 15 months, (including demolition)

3. If multi-phased:
a. Total number of phases anticipated: _____
b. Expected date of commencement phase 1 (including demolition): _____
c. Approximate completion date of final phase: _____ month _____ year.
d. Is phase 1 functionally dependent on subsequent phases? YES NO

4. Number of jobs generated during construction 50-60 After project is complete +/- 40-50 additional jobs

5. Number of jobs eliminated by this project: 0

6. What are the current tax revenues generated by the project site? 0 (APS is non-profit) dollars

7. What tax revenues will project generate after completion? 0 dollars

8. What is the estimated cost of construction? 10,500,000 dollars

9. How many schoolchildren is the project expected to generate? 0 N/A

10. What is the estimated cost of educating the school-age children generated by the completion of this project? 0 N/A

M. APPROVALS REQUIRED:**TYPE****SUBMITTAL DATE**

Town Board	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Town Planning Board	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Amended site plan and parking variance	
Town Zoning Board	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Setback area variance	
Town; Environmental Protection	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Town; Building Department	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
Country Health Department	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Sanitary disposal	
Local Agencies	<input type="checkbox"/> YES <input type="checkbox"/> NO		
State Agencies	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	NYS DEC SPDES Permit / WSRR Permit	
Federal Agencies	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Other Agencies	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Central Pine Barrens Core Preservation Area Hardship Exemption	

N. ADDITIONAL INFORMATION:

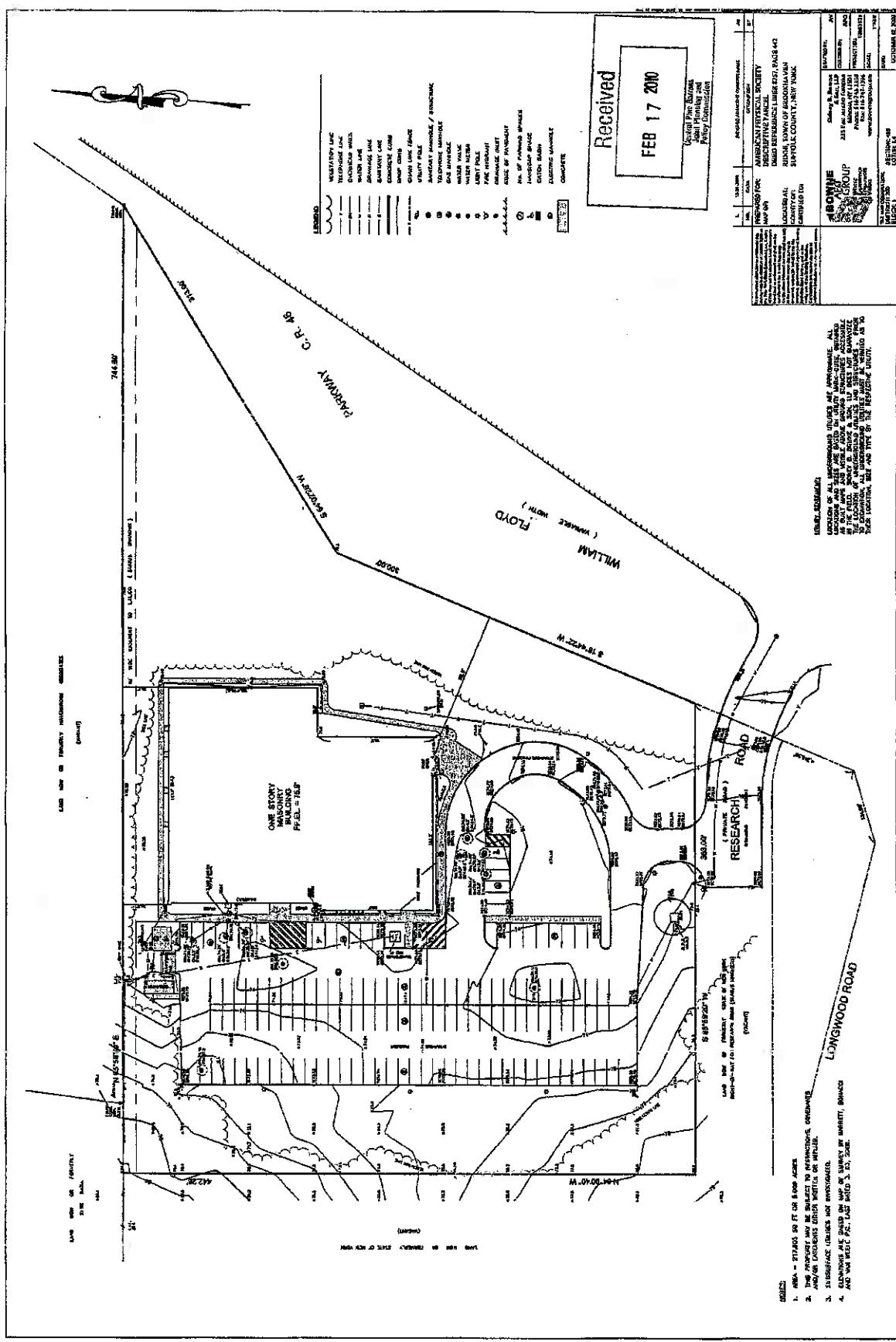
Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

O. VERIFICATION:

I certify that the information provided above is true to the best of my knowledge.

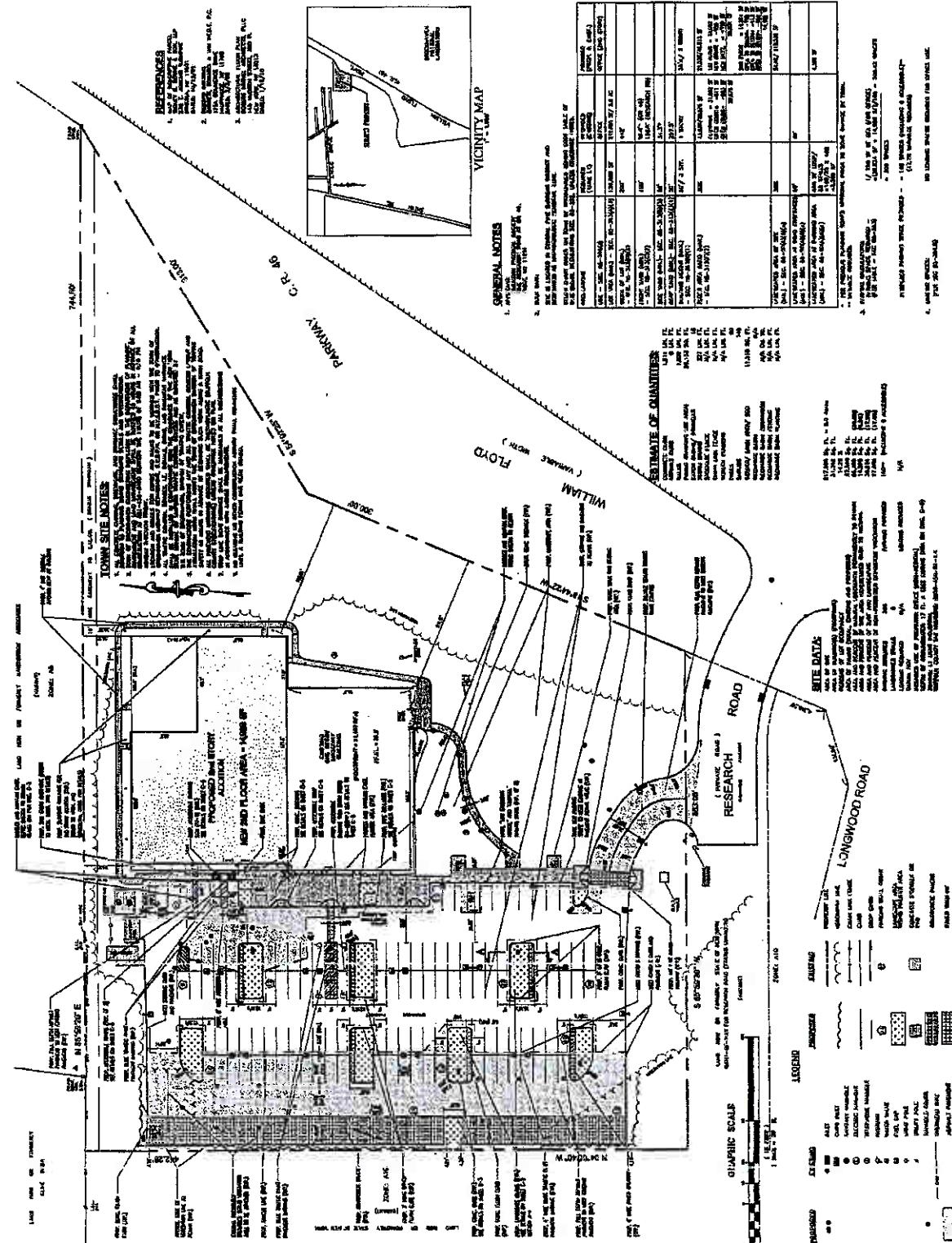
1. NAME OF APPLICANT/SPONSOR: <i>American Physical Society</i>	2. SIGNATURE: <i>Geno O. Brown</i>
3. TITLE: <i>Editor in Chief</i>	4. DATE: <i>Feb 8, 2010</i>
5. NAME OF OWNER: <i>American Physical Society</i>	6. SIGNATURE: <i>Geno O. Brown</i>
7. TITLE: <i>Editor in Chief</i>	8. DATE: <i>Feb 8, 2010</i>

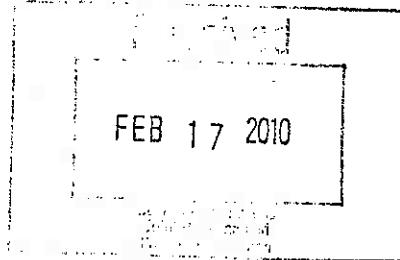
Note: If the action is in the Coastal Area and you are a state agency, complete the Coastal Assessment Form before proceeding with the assessment.



APS

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1.0

NARRATIVE APPLICATION FOR HARDSHIP EXEMPTION

1.1 INTRODUCTION

The American Physical Society is seeking a Core Preservation Area Hardship Exemption pursuant to §57-0121(10) of the New York State Environmental Conservation Law to allow the expansion and alteration of an existing office building and associated parking area. The following provides a site history and description of the project and a discussion of the requirements of §57-0121(10) and the project's consistency therewith. This application also includes a completed Town of Brookhaven Full Environmental Assessment Form and a completed and notarized Owner's Affidavit.

1.2 PROJECT HISTORY AND DESCRIPTION

The proposed project involves the expansion and alteration of the existing American Physical Society (APS) Editorial Office Building and parcel located at 1 Research Road in the hamlet of Ridge, Town of Brookhaven, Suffolk County. The 5.0-acre (217,805-square-foot) property is situated within the L1 Industrial zoning district of the Town of Brookhaven and is located on the west side of William Floyd Parkway (County Road 46), approximately 4,319 feet north of Longwood Road, opposite Brookhaven National Laboratory (BNL). The site is located on the edge of the Core Preservation of the Central Pine Barrens, adjacent to the Compatible Growth Area. The original 12,500±-square-foot office building was constructed in 1979 as the first of what was going to be a small office park. In 1985, the APS expanded its facility by approximately 5,500 square feet added on to the north side of the original 1979

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building. In 1994, subsequent to the enactment of the Long Island Pine Barrens Protection Act, the APS applied for and was granted a Core Preservation Hardship Exemption to allow for a new 12,000±-square-foot expansion of the building to accommodate its growing staff (further details provided below).

The APS is a non-profit tax exempt education and science organization dedicated to the advancement and diffusion of the knowledge of physics. The APS publishes nine physics journals, all of which have world-wide circulation and recognition. Although the main office of the APS is now located in College Park, Maryland, all of the editorial work to produce and publish the scientific journals occurs at this location in Ridge. APS has a long relationship with the research scientists at BNL. In fact, the APS chose this property due to its proximity to BNL. This proximity is important in order to tap the scientific expertise at BNL. APS's staff of scientific editors holds appointments as guest scientists, attends seminars and visits with colleagues at BNL in order to stay abreast of current developments in physics research. The APS invested its funds to purchase the parcel and build, furnish, equip and maintain the Editorial Office Building, intending it to be its permanent location. Prior to 1979, the subject site was previously disturbed, and the APS was housed at BNL.

In the early 1990s, based upon the growing number of journals that the APS was publishing and the increasing workload of its employees, APS realized it needed to hire additional employees and expand its facility once again. APS, whose parcel was now located in the Core Preservation Area of the Central Pine Barrens due to the enactment of the Central Pine Barrens Protection Act in 1993, applied to the Central Pine Barrens Joint Planning & Policy Commission (hereinafter the "Pine Barrens Commission") for a hardship exemption to build a 12,000±-square-foot, one-story addition. Subsequent to an October 26, 1994 public hearing on the proposed expansion, at its December 12, 1994 session, the Pine Barrens Commission issued a Negative Declaration, indicating that the proposed expansion would not have a significant adverse impact on the environment. The adopted Resolution, which issued a Negative Declaration, also indicated that the application met all the requirements for extraordinary hardship pursuant to New York Environmental Conservation Law Section 57-0121(10)(a) (see Attachment A). Anticipating the possibility of future expansion, the Resolution set forth two conditions:

1. There shall be a physical delineation in the field of the limit of clearing for the building and associated construction activities; and
2. The building addition shall be designed and constructed in such a manner that any future expansion need of the sponsors may be accommodated by vertical expansion above the new addition.

The proposed project seeks an additional expansion in conformance with the conditions set forth in the December 12, 1994 Resolution. As the APS' current 145± employees have outgrown their building, despite the one-third who regularly telecommute, APS is seeking a second-story expansion totaling 16,274 square feet (including 1,285 square feet of interior open court area, for a net of 14,989 square feet) plus an interior first floor renovation that decreases the size of the open court area by 958 square feet and adds a mezzanine of 720 square feet to accommodate between 40 and 50 new employees by 2020. The second story addition would be built over the 1997 expansion area that was specifically designed to allow additional vertical construction, per the prior approval of the Pine Barrens Commission as well as over the 1985 expansion area. As noted on the plans, there will be interior renovations on the existing first floor, but the overall footprint would not increase (with the exception of nine new "outrigger" columns that support the second floor on the western, eastern and northern sides of the building). As illustrated on the site plan, APS is not proposing to build out the northeast quadrant of the second floor. This area is proposed to be used as an outdoor terrace. However, in the event that APS needs to further expand its facilities in the future, it would like to reserve the right to permanently enclose the terrace area and integrate it with the remainder of the second floor.

In addition, at the time of the 1994 approval, approximately 37 landbanked parking spaces (situated along the western boundary of the site) were included and evaluated as part of the previous application. The site currently contains 133 active parking spaces. The Town of Brookhaven will require the activation of the previously-approved landbanked parking spaces to accommodate the additional employees. No new or additional spaces are being requested, as part of the proposed action. A total of 160 spaces are being proposed. The previously-approved, formerly-landbanked parking spaces and others added at the western edge of the previously disturbed site, would be developed with grass-crete pavers in order to minimize the amount of new impervious area on the site. Although the overall impervious area of the site would increase with the activation of the landbanked parking spaces and the creation of new parking spaces, other portions of the existing impervious parking area (i.e., the existing semi-circular entry drive area in the southeastern portion of the site) would be eliminated and replaced with native vegetation. The new vegetation to be introduced onto the site are Central Pine Barrens-recommended or non-fertilizer-dependent, native species, to be approved by the Pine Barrens Commission. Pervious sidewalk pavers are proposed between the building and parking areas and mulch pathways are proposed around the building connecting the existing and new landscaped areas.

The overall site coverages are as follows:

Table 1 – Overall Site Coverage

	Presently	After Completion
Buildings, roads, and other paved surfaces	2.13 acres	2.37 acres*
Vegetation (including natural areas and landscaping)	2.87 acres	2.63 acres
Natural Area (to Remain)	1.50 acres	1.50 acres
Area to Revegetate Back to Natural	0.00 acres	0.33 acre
Other Non-Fertilizer-Dependent Vegetation/ Landscaping/Pervious Pavement	0.00 acres	0.54 acre
Seed/Lawn Area/Sod	1.37 acres	0.26 acre

*Includes porous pavers and 25% of grass-crete areas comprising 0.14± acre.

In addition, the current septic system, which is located within the existing paved parking and circulation area, will require expansion for the proposed addition. The potential maximum flow permitted on the site through the use of septic systems is 1,500 gallons per day ("gpd"), based on the size of the site (5.0 acres) and its location within Hydrogeologic Zone III, which permits up to 300 gpd per acre. However, based upon a variance granted by the Suffolk County Department of Health Services in 1997 (see Attachment B), the site is permitted a flow of 1,762 gpd. According to the *Sanitary Plan* prepared Sidney B. Bowne & Son, LLP, the project engineer, the net new area of the building would generate an additional 986.5 gpd of sewage effluent. Therefore, based upon this analysis, in order address the additional projected flow, the applicant would be required to purchase 3.29 credits, as each credit is worth 300 gpd.

The expansion and improvements are proposed to be sustainably designed and built. The proposed site plan includes the introduction of rain gardens, trees and drought-resistant vegetation within the parking areas. In addition, a new vegetated "green wall" will screen parts of the two-story eastern and western facades.

As in 1994, when the prior approval was granted by the Pine Barrens Commission, the APS wishes to remain in its present location, adjacent to BNL, in order to continue interacting therewith and maintain its high level of excellence in the publication of cutting edge scientific journals. However, with its increasing workload and the need to accommodate additional technical employees, the APS Editorial Office Building requires the proposed building expansion and associated site alterations. As previously indicated, such expansion was contemplated as part of the prior hardship exemption granted by the Pine Barrens Commission, which states,

in pertinent part, "the building addition shall be designed and constructed in such a manner that any future expansion need of the sponsors may be accommodated by vertical expansion above the new addition." The proposed APS expansion meets this previously-imposed criterion.

1.3 PINE BARRENS REQUIREMENTS (ECL Article 57 Section 57-0121(10))

The Long Island Pine Barrens Protection Act and the *Central Pine Barrens Comprehensive Land Use Plan* require the prohibition or redirection of development in the Core Preservation Area, but allows for the processing of hardship exemptions. According to Section 4.5.1 of the *Central Pine Barrens Comprehensive Land Use Plan*, the Pine Barrens Commission "authorizes the Commission, by majority vote, to waive strict compliance with this Plan upon finding that such waiver is necessary to alleviate hardship according to the conditions and findings of extraordinary hardship or compelling public need pursuant to subdivision 10 of Section 57-0121 of the Act." Section 57-0121(10) of the Environmental Conservation Law, lists specific criteria that proposals must meet in order to be granted relief from the core area development restrictions, as follows.

"(a) The particular physical surroundings, shape or topographical conditions of the specific property involved would result in an extraordinary hardship, as distinguished from a mere inconvenience, if the provisions of this act are literally enforced. A person shall be deemed to have established the existence of extraordinary hardship only if he or she demonstrates, based on specific facts, that the subject property does not have any beneficial use if used for its present use or developed as authorized by the provisions of this article, and that this inability to have a beneficial use results from unique circumstances peculiar to the subject property which:

- (i) Do not apply to or affect other property in the immediate vicinity;*
- (ii) Relate to or arise out of the characteristics of the subject property rather than the personal situation of the applicant; or*
- (iii) Are not the result of any action or inaction by the applicant or the owner or his or her predecessors in title including any transfer of contiguous lands which were in common ownership on or after June 1, 1993.*

(b) A person, the state or a public corporation shall be deemed to have established compelling public need if the applicant demonstrates, based on specific facts, one of the following:

- (i) *The proposed development will serve an essential health or safety need of the municipalities in the Central Pine Barrens such that the public health and safety require the requested waiver, that the public benefits from the proposed use are of a character that overrides the importance of the protection of the core preservation area as established in this article, that the proposed use is required to serve existing needs of the residents, and that no feasible alternatives exist outside the core preservation area to meet the established public need and that no better alternatives exist within the county; or*
- (ii) *The proposed development constitutes an adaptive reuse of an historic resource designated by the commission and said reuse is the minimum relief necessary to ensure the integrity and continued protection of the designated historic resource and further that the designated historic resource's integrity and continued protection cannot be maintained without the granting of a permit.*

(c) *An application for a permit in the core preservation area shall be approved only if it is determined that the following additional standards also are met:*

- (i) *The granting of the permit will not be materially detrimental or injurious to other property or improvements in the area in which the subject property is located, increase the danger of fire, endanger public safety or result in substantial impairment of the resources of the core preservation area;*
- (ii) *The waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of this article; or*
- (iii) *The waiver is the minimum relief necessary to relieve the extraordinary hardship, which may include the granting of a residential development right to other lands in the compatible growth area that may be transferred or clustered to those lands to satisfy the compelling public need."*

As in 1994, the applicant is applying to the Pine Barrens Commission for a hardship exemption for development in the Core Preservation Area under the category of extraordinary hardship. The following analysis demonstrates compliance with the applicable standards for demonstrating hardship, which are outlined above.

Section 57-0121(10)(a)

The previous application in 1994 demonstrated that the subject property would not have any beneficial use without expansion to meet the specific needs of the APS. Specific arguments in the 1994 case (which received the hardship exemption) were (1) the property was previously disturbed when the applicant originally purchased it, (2) the parcel has since been substantially disturbed as a result of the initial construction of the APS Editorial Office Building in 1979 and associated improvements in 1985, and (3) the subject parcel is the only developed parcel within

an approximate $\frac{1}{4}$ -mile radius of the perimeter of the property. There are no roads, buildings, parking facilities or other infrastructure within this area (with the exception of William Floyd Parkway and undeveloped portions of BNL). These arguments remain valid. This is an extraordinary hardship as opposed to a mere inconvenience because, as explained earlier, APS invested its funds to purchase, build, furnish, equip and maintain the Editorial Office Building, intending it to be its permanent location based upon its proximity to BNL, with which the APS has a significant relationship.

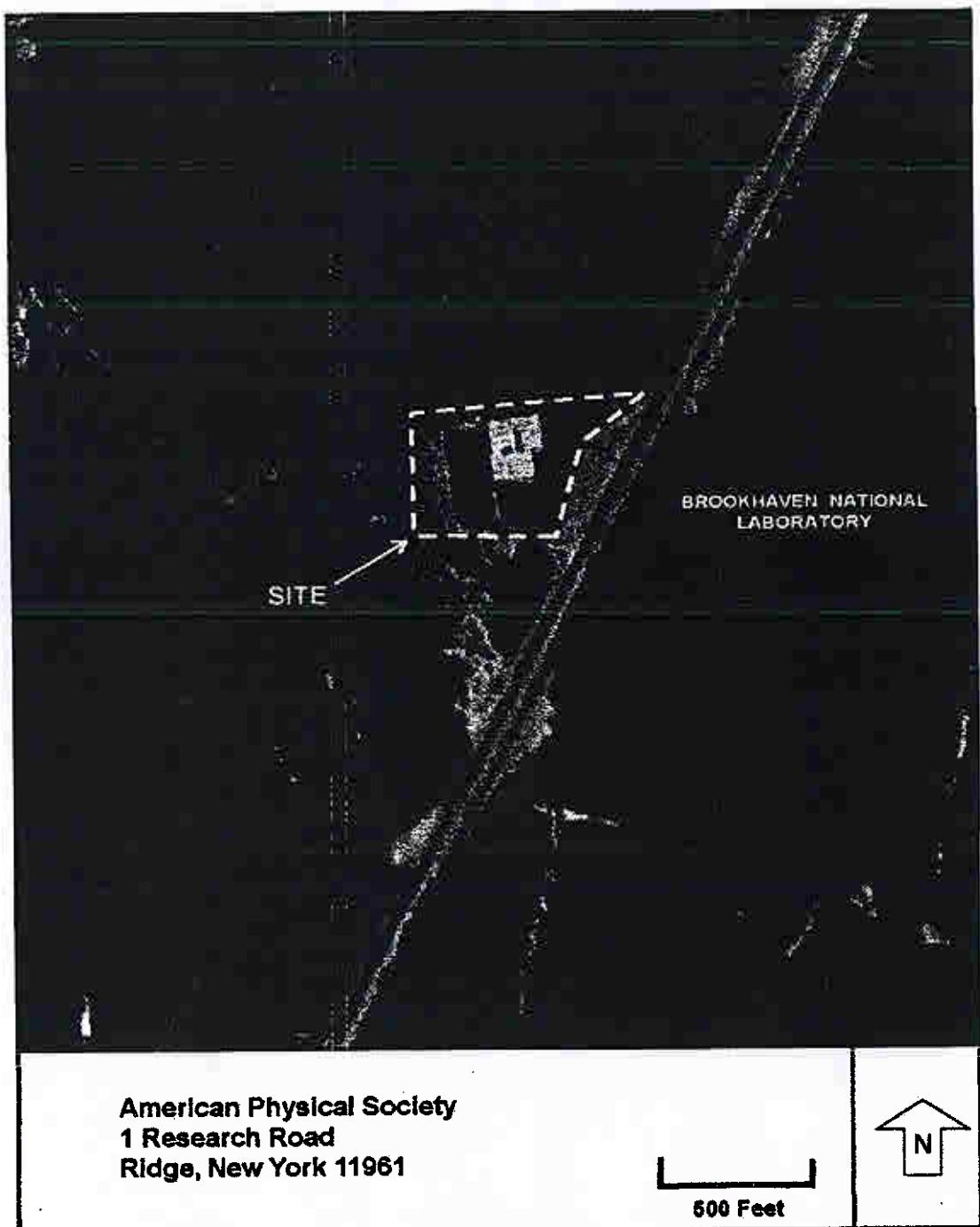
With the exception of the expansion that occurred on the APS property as a result of the granting of the hardship exemption in 1994, no other development has occurred within the immediate vicinity of the site. Since no other properties in the immediate area are developed (as noted above and demonstrated in Figure 1), the granting of such hardship exemption to this property, which (a) was previously disturbed when the applicant originally purchased it, (b) has since been substantially disturbed as a result of the initial construction of the APS Editorial Office Building in 1979 and additional improvements in 1985, (c) was further improved as a result of the prior hardship exemption granted in 1994, (d) remains the only developed parcel within an approximate one-quarter-mile radius, and (e) will comply with the conditions of future expansion set forth in the prior hardship exemption, does not apply to or affect other properties in the immediate vicinity, does not relate to or arise out of the characteristics of the subject property, rather than the personal situation of the application and is not the result of any action or inaction by the applicant or the owner or his or her predecessors in title including any transfer of contiguous lands which were in common ownership on or after June 1993.

Also, the Pine Barrens Commission's previous decision in granting the hardship exemption anticipated the potential need for expansion in the future. As discussed above, in its second condition of approval, the Pine Barrens Commission indicated that the 1994 building addition should be designed and constructed to permit any future expansion need of the sponsors to be accommodated by vertical expansion above the new addition. Therefore, the Pine Barrens Commission acknowledged the hardship experienced by the APS. Moreover, the Pine Barrens Commission recognized that the APS's location within the Core Preservation Area would restrict growth of the organization, and without specific allowance for future expansion, its ability to maintain its relationship with and proximity to BNL would be compromised.

WIB

Engineering, Surveying and Landscape Architecture, P.C.

Figure 1 - Aerial Photograph of Site and Surrounding Area



Section 57-0121(10)(b)

The forethought shown by the Pine Barrens Commission in its 1994 decision was prescient as the workload of the APS is still growing. In order to remain adjacent to BNL and to accommodate increasing staff needs, the APS requires expansion of its facilities. The projected building expansion and improvements cover the anticipated need to the year 2020. Should the APS not be able to expand in place, it will no longer serve a beneficial use to the APS, and as such, would force a move off Long Island, thus eliminating numerous specialized, highly-paid employees and staff with strong connections to the local community.

This section is not applicable to the extant proposal as it entails establishing a compelling need for the project. The proposed application falls under the category for extraordinary hardship, as explained above.

Section 57-0121(10)(c)

The granting of the requested hardship exemption would not be materially detrimental or injurious to other properties or improvements in the area in which the subject property is located. The proposed expansion would be vertical (in accordance with the conditions set forth in the prior hardship exemption approval), the proposed activation of landbanked parking spaces would be done within an already disturbed area that is currently planted with turf grass, and only a small area of previously-disturbed scrubby vegetation at the northwest corner of the parking area would be removed. Additional provisions for stormwater runoff capture have been provided on the site plan. These include rain gardens, which are proposed within the parking areas. These "gardens" function to directly absorb rainwater runoff from the parking lot. There will be curb cuts and/or flush curbs along their perimeters to allow surface water to drain into the garden island. Similar to a drywell, they filter the runoff before the water is fully absorbed back into the ground. Rain gardens act as small bioretention cells in which stormwater is cleaned and reduced in volume once it enters the rain garden. Nitrogen and phosphorus levels and overall sediment loads in the stormwater are reduced by the action of the plants and growing media on the water. Multiple rain gardens over an area will have a positive cumulative effect on both the volume and quality of stormwater runoff. Use of such rain gardens are part of the overall strategy to increase recharge while minimizing the number of new drywells needed on-site. Additional vegetation would also be planted within and surrounding the parking areas. Although impervious surface would be added with the activation of the landbanked spaces, other existing impervious surface (in the entry driveway) would be removed and replaced with native vegetation. All proposed new landscaping on the site would contain either Central Pine Barren-recommended or non-fertilizer-dependent, native

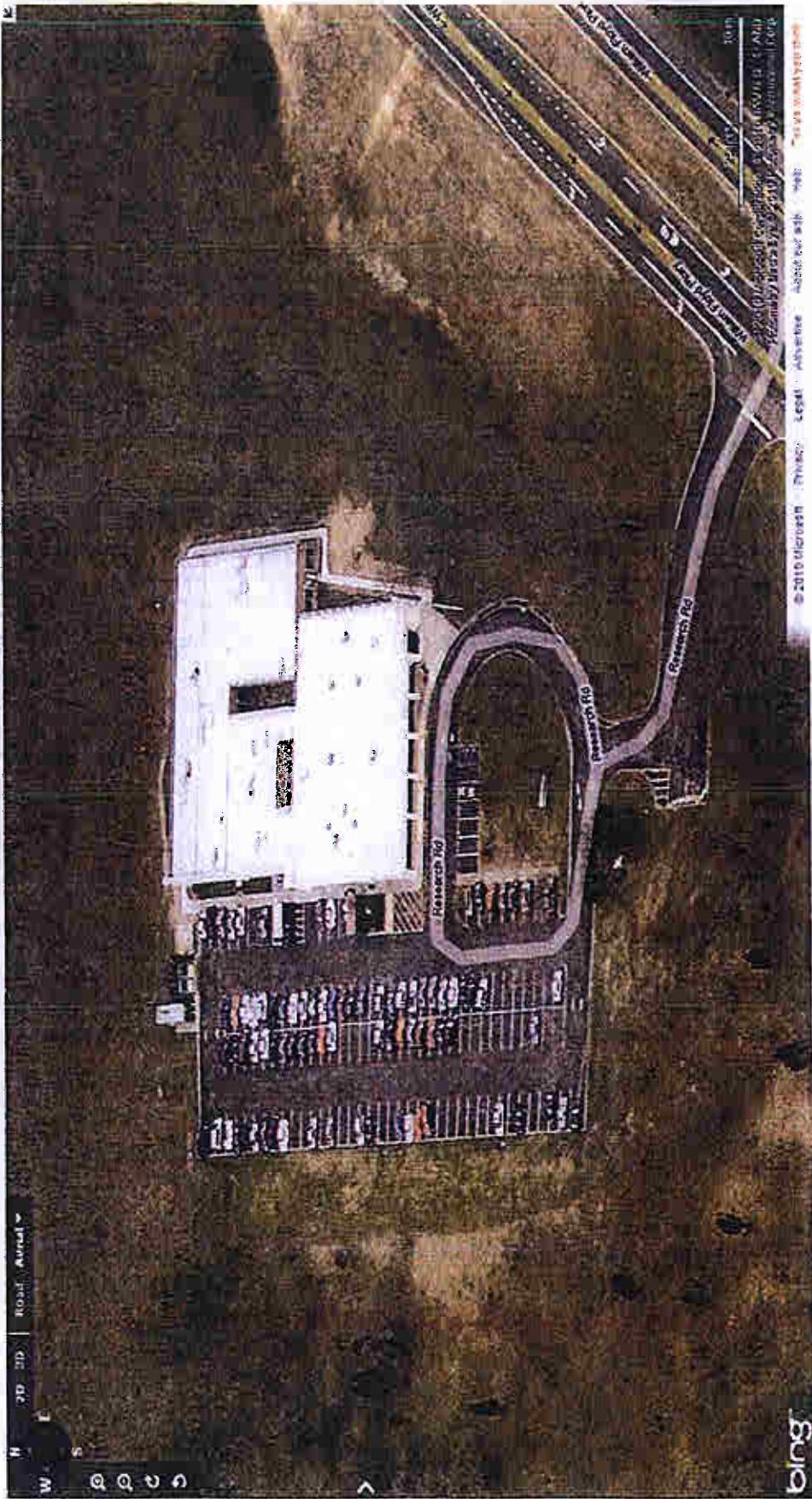
vegetation. The proposed expanded septic system would occur within the existing parking area and lawn area. Therefore, no new area would be disturbed.

Should the requested hardship exemption be granted, the proposed expansion and associated improvements would not increase the danger of fire or endanger public safety. The proposed building expansion would conform to the prevailing New York State Uniform Fire and Building Code. The additional parking spaces would permit a better parking and circulation configuration, while removal of the circular drive for new vegetation would surround the building with vegetation on three sides and better re-integrate it into its natural surroundings. The use of sustainable principles used in the proposed expansion and improvements would protect environmental resources and maintain the environmental quality of the site well into the future.

Furthermore, the proposed project would not result in the substantial impairment of the resources of the core preservation area. The proposed expansion and improvements would occur within the existing development footprint (including the activation of the landbanked spaces that have been previously landscaped). The proposal does not include the disturbance of any land that has not been previously disturbed. In fact, the proposal involves the establishment of supplemental vegetation within and around the parking areas and replacement of the existing driveway with additional vegetation.

The requested hardship exemption is consistent with the purposes, objectives and general spirit of the article, which is, in pertinent part, "to allow the state and local governments to protect, preserve and properly manage the unique natural resources of the Pine Barrens-Peconic Bay system" (§57-0105 of the ECL). In addition, the proposal is consistent with the specific condition (condition #2) in the prior approval that anticipated future expansion on this particular site even though it is located in the Core Preservation Area.

Finally, the applicant respectfully submits that the proposed project is the minimum relief necessary to alleviate the extraordinary hardship. As noted several times, the need for future expansion was acknowledged in the prior hardship exemption approval.



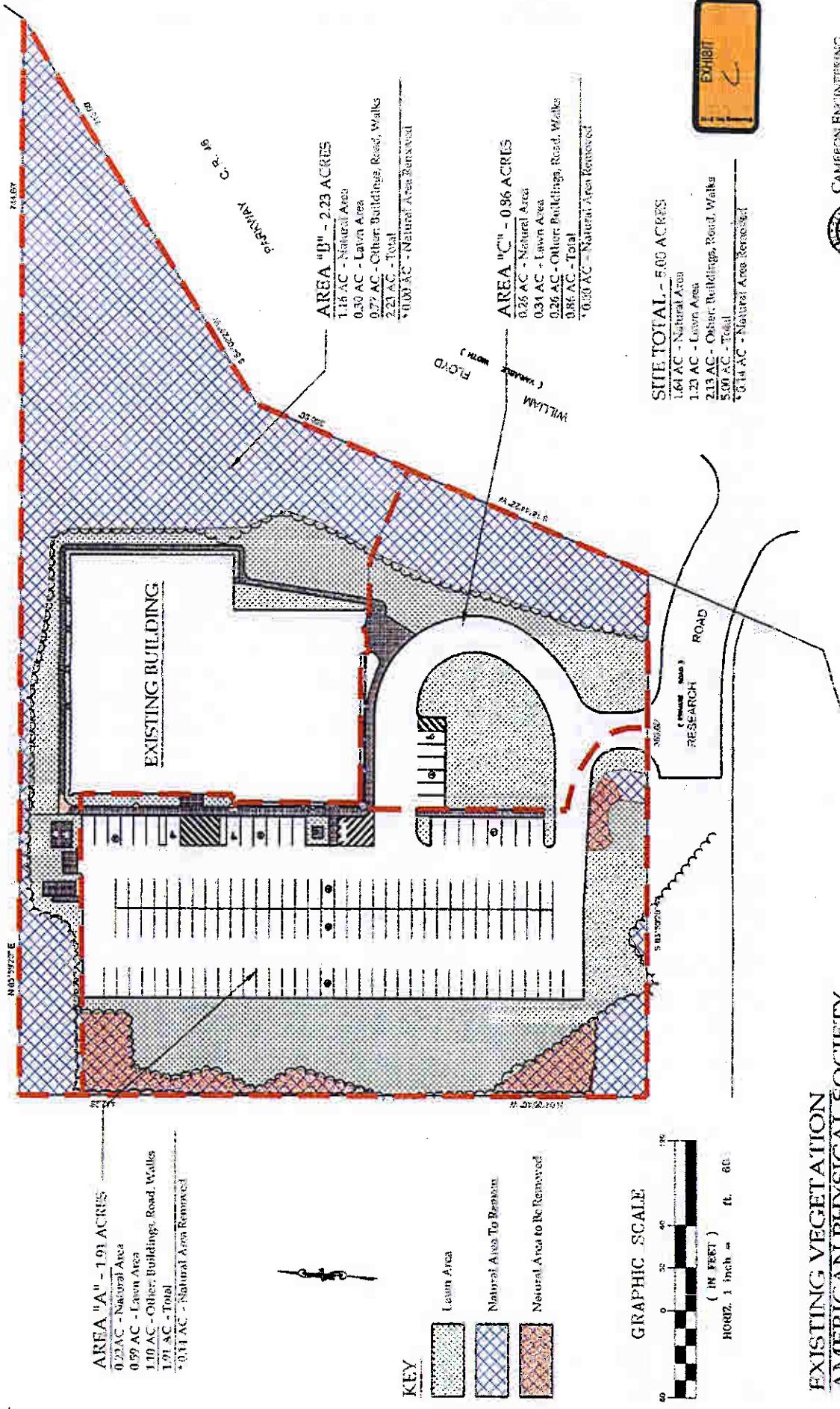
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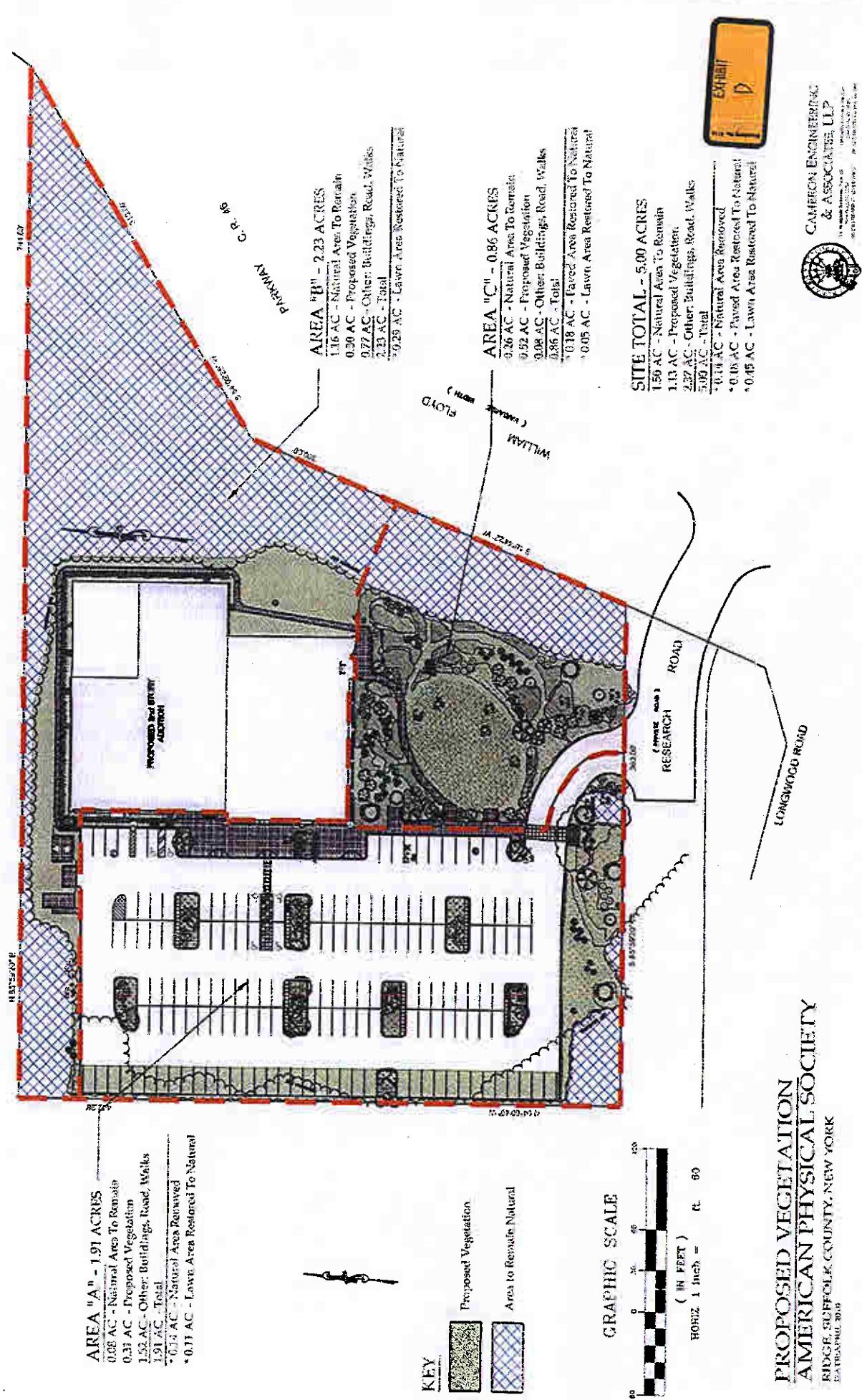
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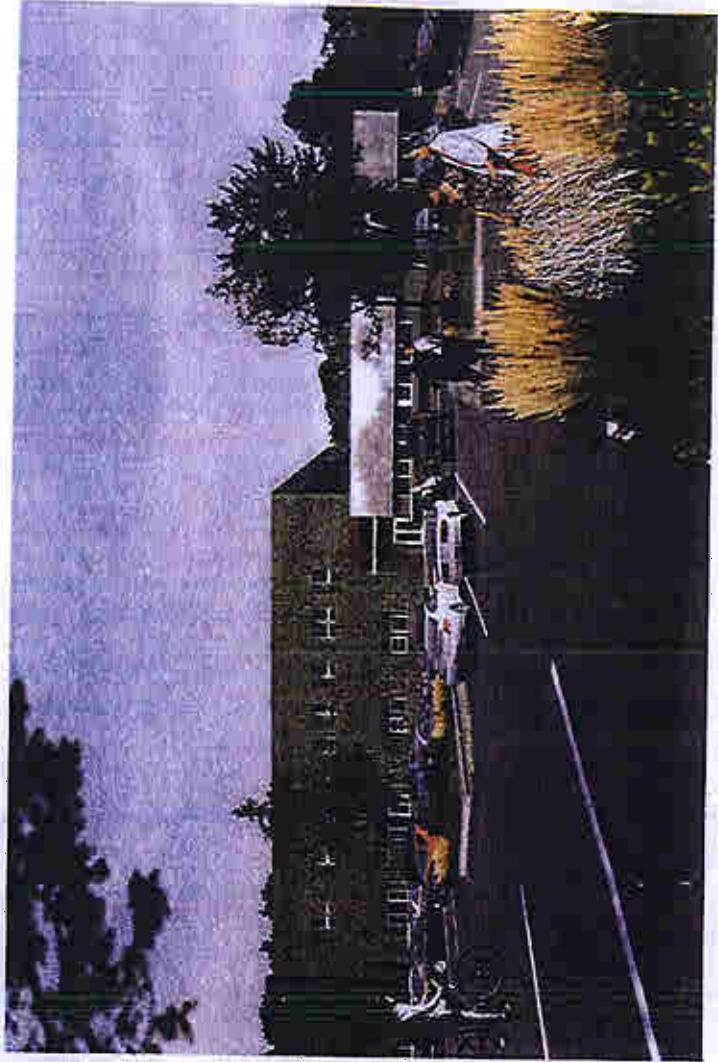


**EXISTING VEGETATION
AMERICAN PHYSICAL SOCIETY**
EDGE, SUFFOLK COUNTY, NEW YORK
DRAWING NO. 00000000



PROPOSED VEGETATION
AMERICAN PHYSICAL SOCIETY
RIDGE, SUFFOLK COUNTY, NEW YORK
EARLY APRIL, 2010

PROPOSED



VIEW FROM WEST



EXISTING

PROPOSED



04.20.2010

EXHIBIT
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EXISTING

APS physics VIEW FROM SOUTH