

CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

In the Matter of the Application of
BENEFICIAL DESIGN CORP.,
c/o HAWKINS, WEBB & JAEGER, ASSOC.

ORIGINAL

1 APPPEARANCES:

2
3 ROBERT J. GAFFNEY, Chairman
Suffolk County Executive
BY: GEORGE PROIOS, Acting Chairman
45 RAY E. COWEN, P.E., Member
DEC Regional Director
Representing GEORGE PATAKI
67 JOHN J. LA VALLE, Member
Supervisor, Town of Brookhaven
BY: BRENDA A. PRUSINOWSKI, AICP and
JEAN COMPITELLO
89 PATRICK HEANEY, Member
Supervisor, Town of Southampton
10 BY: JEFFERSON MURPHREE
1112 ROBERT KOZAKIEWICZ, Member
Supervisor, Town of Riverhead
BY: JOEY MAC LELLAN
1314 ANN CARTER, Staff to Commission
1516 MC MILLAN, RATHER, BENNETT & RIGANO, P.C.
Attorneys for Commission
17 BY: JAMES P. RIGANO, ESQ.
1819 HAWKINS, WEBB & JAEGER ASSOCIATES
Representing Applicant
200 East Broadway
20 Port Jefferson, New York 11777
21 BY: WILLIAM JAEGER
2223 000
24
25

1 [THE HEARING WAS CALLED TO ORDER BY THE
2 HEARING OFFICER, GEORGE PROIOS, AT 4:30
3 P.M.]

4

5 MR. PROIOS: The next Core Preservation Area
6 hearing is by Beneficial Design
7 Corporation, c/o Hawkins, Webb & Jaeger
8 Associates; 200 East Broadway, Port
9 Jefferson, New York, 11777.

10 The project is a "request for a
11 Core Preservation Area hardship permit to
12 construct a one thousand seven hundred
13 square foot retail commercial building with
14 sanitary system and parking lot on a .25
15 acre site, zoned J-2 Business," and is
16 located on the "east side of Raynor Road,
17 north side of the Long Island Rail Road
18 tracks in Manorville, Town of Brookhaven."

19 The County Tax Number is 200-410-
20 2-2.

21 I would start by introducing
22 myself, George Proios, Acting Chair of the
23 Commission, acting on behalf of Robert J.
24 Gaffney, Suffolk County Executive, and
25 Commission Chairman.

Starting to my right, I will let the other members of the Commission introduce themselves.

4 MR. COWEN: Ray Cowen, representing Governor
5 Pataki.

6 MR. MAC LELLAN: Joey MacLellan, representing
7 Supervisor Kozakiewicz from the town of
8 Riverhead.

9 MS. CARTER: Ann Carter, Environmental
10 Analyst, Pine Barrens Commission.

11 MS. PRUSINOWSKI: Brenda Prusinowski, designated
12 alternate of Supervisor John L. LaValle,
13 Town of Brookhaven.

14 MR. MURPHREE: Jeff Murphree, representing
15 Patrick Heaney, Supervisor, Town of
16 Southampton.

17 MS. COMPITELLO: Jean Compitello, representing
18 John J. LaValle, Town of Brookhaven

19 MR. RIGANO: James Rigano, counsel to the
20 Commission.

21 MS. CARTER: I would like to introduce some
22 exhibits. The first exhibit, Exhibit
23 Number 1, is a staff report prepared by
24 myself, dated September 4, 2002.

25 Exhibit 2 is a 2001 aerial

1 photograph showing the subject site
2 outlined in red.

3 Exhibit 3 is a tax map section of
4 the area with the subject parcel outlined
5 in red with, in green, is parkland and
6 other protected land, and yellow are
7 parcels containing historic sites. That
8 information was taken from the office of
9 Parks, Recreation & Historic Preservation.

10 Exhibit 4 is a packet of
11 photographs taken of the site by myself on
12 August 14, 2002. There are six
13 photographs.

14 This is a Core Preservation Area.
15 This application was received on June 28,
16 2002. The decision deadline is October
17 26th, 2002.

18 It is located on the east side of
19 Raynor Road in Manorville, on the north
20 side of the Long Island Rail Road tracks,
21 Manorville, and the applicant is requesting
22 a hardship permit to construct a seventeen
23 hundred square foot retail commercial
24 building.

25 On the site plan that was

1 received by the Commission on June 28,
2 2002, and it was prepared by Hawkins, Webb
3 & Jaeger, to construct the retail
4 commercial building with sanitary system,
5 parking lot, loading stall, dumpster,
6 landscaping, signs and artificial lighting
7 on a .25 acre parcel.

8 The proposal may also require the
9 removal of street trees within the right-
10 of-way of Raynor Road for the installation
11 of a side, and the installation of utility
12 poles and overhead wires through the
13 adjacent Suffolk County Pine Trail Nature
14 Preserve.

15 As per the May 22, 1995 Town
16 zoning map, the subject parcel was zoned J-
17 2 Business and was situated at the
18 northerly end of a small J-2 zoned Business
19 District. This small Business District is
20 surrounded by a large land area zoned A-5
21 Residence.

22 The subject parcel is vacant. To
23 the south are the Long Island Rail Road
24 tracks and a vacant parcel containing a
25 Pine Barrens Conservation Easement.

To the southwest is an historic structure known as The Maples. To the west is Raynor Road and a wooded parcel containing an historic dwelling.

The depth to groundwater at the site, according to the site plan, is 9.2 feet, according to a test boring taken on February 8, 2002, as shown on the site plan received on June 28, 2002.

The vegetation on the parcel consists of grassland interspersed with shrubs and trees, including butternuts, white oak, poplar, black oak and sassafras.

As required, we sent the proposal to the New York State Department of Parks, Recreation & Historic Preservation, Historic Preservation Field Services Bureau, for review on August 14, 2002. We haven't heard back from them yet.

The site is located in the
Manorville Historic District and contains
remnants of old structures. For now, we
are treating this as an unlisted action
pursuant to SEQRA, and doing an
uncoordinated review of it.

1 Depending on the response from
2 the Historic Preservation Office, it may be
3 a Type I Action.

4 It also requires a site plan
5 approval from the Town Planning Board and
6 building permit from the Town, Suffolk
7 County Health Department approval for the
8 sanitary sewage and DEC approval for the
9 Recreational River Corridor.

10 It is unclear the amount of
11 clearing that is proposed. However, if you
12 look on the site plan, there is a small
13 area on the north side that's proposed to
14 remain natural. However, there is two
15 parking stalls that are encroaching into
16 that area.

17 On Page 3 of the Staff Report
18 there are other considerations the
19 Commission would have to think about.

20 If you have any questions or
21 maybe you want to hear from the applicant.

22 MR. PROIOS: Any questions for Ann before the
23 applicant speaks?

24 Mr. Jaeger.

25 MR. JAEGER: For the record, my name is Bill

1 Jaeger. I am a member of the firm of
2 Hawkins, Webb & Jaeger Associates,
3 Engineers, Surveyors and Planners, located
4 in the Incorporated Village of Port
5 Jefferson.

6 I am here today speaking on
7 behalf of the applicant. I would like to
8 clarify a couple of things. The Beneficial
9 Design is a -- I believe it is a
10 partnership, although I am not certain,
11 between Arthur Miller and Roy Baiata.

12 As far as I know, the property is
13 still in Arthur Miller's name. It was
14 obtained by Arthur Miller through his now
15 deceased wife, Sylvia Kaye. It was
16 purchased in April of 1987.

17 In actuality, it was purchased
18 the prior year, 1986. The deed wasn't
19 recorded until 1987. The deed transaction
20 took place on I believe the 22nd of
21 October, 1986. Here's a copy of the deed
22 for the record.

23 The property is currently zoned
24 J-2 Business. As to whether or not there
25 would be a requirement for the installation

1 of sidewalks and/or removal of street trees
2 would be a matter to be determined by the
3 Town of Brookhaven, specifically the
4 Superintendent of Highways.

5 The Town, in many cases,
6 particularly in areas such as this, would
7 accept a payment in lieu of the
8 construction of sidewalks for development
9 of the site.

10 This particular project was
11 previously developed with a residence -- I
12 shouldn't say residence -- with a building,
13 and that is verified by the taking map
14 surveyed when what we call Port
15 Jefferson/Westhampton Road now, which is
16 known as County Road 111, based upon data
17 that existed at that time.

18 Based upon that data, it was
19 represented to my client that the subject
20 property could be developed for residential
21 purposes. That's a letter from Donna
22 Plunkett of this agency representing such.

23 So, based on our belief that this
24 particular property can be developed for
25 residential purposes, and based on the fact

1 that this property has been zoned J-2
2 Business for many, many years, this goes
3 back to the point in time where the
4 Manorville -- it was to be the downtown
5 area of Manorville.

6 I would submit to you that we are
7 not asking for something that's
8 inconsistent with traditional zoning;
9 further, that historic structure across the
10 street is a bar and restaurant. We are not
11 looking at an historic home. When I was
12 out there, I would not say it was a
13 structure that was well maintained. It is
14 a hangout, something you might see in a
15 typical small Town.

16 So, our request of the Board is
17 to provide simply a 7-11 on a piece of
18 property that happens to be zoned for such
19 use, and I am going to back away from
20 saying 7-11. We are talking about a
21 convenience store, the nature of which
22 could be structured in different ways, and
23 we would certainly be open to any covenants
24 and restrictions or limitations that this
25 Board might place on the nature of the use

1 for that particular structure.

2 We believe, and my client asked
3 me to come here representing him I believe,
4 that this may very well be something that
5 would support the activities, the passive
6 activities that are going on within this
7 particular area, and I heard Mr. Amper very
8 clearly speaking to the nature of certain
9 activities before, and in those comments he
10 was talking about whether development was
11 to allow recreation or whether it was in
12 support of recreation.

13 One of the things that struck me
14 with his presentation was that it seemed
15 that we really do not want to promote any
16 recreation. We do want to promote use of
17 this land by the public. I think that came
18 up in the Town of Southampton application.

19 If that is the basic conception
20 of this Board, then perhaps this
21 application is not appropriate, but if we
22 are to utilize this land that is under
23 County control for the purposes that many
24 of us out there believe it was intended
25 for, and that is the passive use of the

residents of this County, then perhaps it is necessary to have some sort of facility to support that use, a place that might serve you coffee, a place where one can buy a bottle of water, a place where a woman might purchase a trail bar, or something of that nature, and it is in that light that we are bringing this application.

If that is not what this Board deems to be appropriate, then so be it and we accept your determination.

I would like to point out that there are a number of impacts that one normally looks at when developing a piece of property. The property is served by public water, and we would be putting in a sanitary system that is based on a flow capacity of some two hundred fifty-five gallons per day.

Now, a normal residence such as which is permitted on this property, would have a flow of some three hundred gallons a day.

So, from a sanitary perspective, we are providing a lesser impact than would

1 be provided by the construction of a
2 residence.

3 We will be containing our
4 stormwater system which would be allowed on
5 this particular site. The storage is for
6 two inches of rainfall on this site. We
7 are proposing an asphalt pavement. If that
8 is deemed undesirable, we will go with a
9 pervious type of surface. We are not
10 seeing a real impact relative to that.

11 We are retaining a certain area
12 in its natural state. Ms. Carter made
13 reference to the fact that there are two
14 parking stalls shown in a form which is
15 generally referred to in the Town of
16 Brookhaven and other areas as land banking.
17 Those stalls are shown as land bank stalls.

18 In walking the site I found it to
19 be very lightly vegetated with grass that
20 grew in certain areas. There were areas
21 that were not vegetated, which were areas
22 that were previously used for parking and
23 other things, and whatever more vegetation
24 there was was on the northerly portion of
25 the property, and that is the area that is

1 being retained in its natural state.

2 Going beyond that, the areas

3 where we would be landscaping, we would

4 landscape with vegetation that was

5 indigenous or local to that area, or that

6 would be deemed satisfactory by this

7 particular agency.

8 One would question the level of

9 intensity of use. Yes, this intensity of

10 use is more significant than a main

11 residence. Then we come into a beneficial

12 analysis as to whether or not this would

13 serve both those who are utilizing the Pine

14 Barrens for passive recreation, as well as

15 the residents in that area who do not have

16 a convenience store in the immediate area.

17 I think I have deviated from my

18 testimony. I would note, also, this site

19 is not one that is conducive to a

20 residence. We have a site that is located

21 on the Riverhead-Greenport main line of the

22 railroad. The residence would be very

23 close to that railroad, which I think is a

24 site that would lend itself more to a

25 convenience store operation than it would

1 to the desirability of a residence.

2 As far as some of the questions
3 that were left open, architecturally, the
4 owner would be willing to meet whatever
5 architectural criteria this Board would
6 deem appropriate. We do not need to do a
7 plasticized building. We would do
8 something, perhaps, that was in conformity
9 with the historic and well-used structure
10 that is across the way.

11 The type of signage. We could go
12 with, again, whatever type of signage this
13 Board might deem appropriate, perhaps, some
14 of the hard wood type of signage that is
15 utilized at County Parks.

16 How many stories? The structure
17 is proposed as a one-story structure, and
18 that would be the nature of the
19 construction.

20 I have not totally reviewed this
21 plan, but I will say this. I did note when
22 I looked at the plan earlier that my
23 designer had put a grease trap on it. We
24 are not proposing a wet store in which we
25 would be doing the preparation of food, and

1 a grease trap would not be something that
2 we would install incidental to the
3 development of this particular site.
4 Envision it as a strictly convenience,
5 noncooking type of store. There may be
6 food and sandwiches and the like, but they
7 would not be prepared on-site. They might
8 be the type of thing that one would find in
9 a park vending operation or some sort of
10 thing of that nature.

11 I think this would be something
12 that would support the community, as well
13 as those that might utilize the surrounding
14 areas.

15 At this point, I could close my
16 presentation unless there are questions.

17 MR. PROIOS: When was it actually zoned?

18 MR. JAEGER: I guess it as zoned at the time
19 of zoning in 1937, whenever that was.

20 MR. PROIOS: When did Mr. Baiata purchase the
21 property?

22 MR. JAEGER: He did not purchase it.

23 Mr. Baiata is a partner with Mr. Miller in
24 certain construction properties.

25 Mr. Miller inherited the property from his

4 MR. PROIOS: Have you, by any chance, reviewed
5 the requirements for hardship in the Core
6 Area?

7 MR. JAEGER: I have not. I reviewed certain
8 aspects of it, and basically --

9 MR. PROIOS: [INTERPOSING] There is some very
10 specific language there which deals with
11 requirements for a hardship exemption.

12 MR. JAEGER: I am aware of that. I find
13 myself at a disadvantage. I am wondering
14 if you would grant me the privilege of
15 responding to that in writing.

16 MR. PROIOS: I will leave the comment period
17 open.

18 MR. COWEN: I would like the opportunity to
19 interact, though, George. It is a kind of
20 an inconvenience for us.

21 MR. PROIOS: You can ask the questions

22 MR. COWEN: I don't want to go through that,
23 quite honestly.

24 MR. PROIOS: A house looks like it was on that
25 property.

1 MR. JAEGER: Yes.

2 MR. PROIOS: Are these the remains of it?

3 MR. JAEGER: I would say it was nothing

4 substantial.

5 MR. MAC LELLAN: Is it 1.25 or .25?

6 MR. JAEGER: .25. One-quarter acre.

7 MR. PROIOS: Have you attempted to have any

8 other uses for the property, as far as

9 constructing a residential home or anything

10 else?

11 MR. JAEGER: No, he has not. In the report,

12 it is represented that an application was

13 made for a farm stand. I do not see

14 evidence -- I did not see evidence of a

15 farm stand on the site when I was there.

16 Based on the letter from

17 Ms. Plunkett, it did state that we would be

18 permitted to construct a residence on the

19 property.

20 MR. PROIOS: Where is the bar facility across

21 the street located?

22 MR. JAEGER: That is the bar. [INDICATING]

23 MR. COWEN: What sort of variances are

24 required in the Town as far as side yard,

25 rear yard, front yard, that sort of thing,

1 to build this size building, I guess is
2 what I am asking?

3 MR. JAEGER: There may be a front yard relief
4 required for parking in the front yard for
5 one parking stall, and depending upon how
6 the Town defines this former County Road
7 111, there may be another front yard
8 variance required there. I don't know how
9 the Town would treat the fact that this is
10 now a pine trail preserve. That would, I
11 believe, technically be a side yard and,
12 therefore, there is no minimum setback
13 required.

14 If that were treated as if it was
15 still a road, then it would be a fifteen
16 foot setback required.

17 I don't think there is anything
18 to stop the size of this particular
19 building. This was a starting place to
20 bringing an application, and then based on
21 what might be required by the Town and
22 granted by the Board of Appeals, then we
23 would have to modify the application.

24 MR. COWEN: Ann, is there anything growing on
25 this property that would be considered

1 native vegetation?

2 MS. CARTER: Yes, it is a mixture of native
3 and nonnative vegetation.

4 MR. COWEN: What about the old story of
5 trees, what are they considered?

6 MS. CARTER: They are mostly native, oak, and
7 I think it is butternut.

8 MS. PRUSINOWSKI: Could you just elaborate a little
9 more on having less impact than a
10 residence?

11 MR. JAEGER: I said that particular area may
12 very well be desirable for those who
13 utilize the area to have a convenience
14 store there. If someone comes off the
15 trail and they are hungry or thirsty, or
16 need a Band-Aid or something else, I think
17 it could be a benefit.

18 As I prefaced my remarks here, I
19 don't know how this Board would interpret
20 that, but I have done hiking and other
21 things, and it is nice to have a local
22 facility, be at the top of a mountain or a
23 flat area.

24 MS. COMPITELLO: Can I ask you about the photos
25 here? This shows the property in the

1 program. Is this the subject property as
2 well as what's back here, the trees? I see
3 there is some type of driveway. I don't
4 know what that is.

5 MS. CARTER: That driveway is this right here.
6 [INDICATING] That photo was taken standing
7 here at the railroad tracks.

8 MR. JAEGER: The development that is proposed
9 would come up to that drive, come up to it
10 and go a little across the driveway.

11 MS. COMPITELLO: The trees in the back would
12 remain?

13 MS. CARTER: The land bank parking which is
14 installed, then I would agree.

15 MR. RIGANO: With regard to this document, it
16 says that Laurie Baiata is the owner
17 effective, I see, some time in 2002, but
18 the deed suggests that Arthur Miller is the
19 owner.

20 MR. JAEGER: It is my understanding, based on
21 speaking with Mr. Miller, that he is
22 currently the owner. You know, counsel, I
23 need to clarify that. I am not certain.

24 MR. RIGANO: And then you have submitted what
25 looks like two deeds, and one looks like it

1 is dated from '87, and it looks like the
2 owner is Sylvia Kaye, and then there is a
3 subsequent deed from 2000 where the owner
4 is Arthur Miller, as the spouse and sole
5 heir, and Sylvia Kaye, also known as Sylvia
6 Miller.

7 MR. JAEGER: She used her maiden name for many
8 years. They were married for a long time.

9 MR. RIGANO: The *Sylvia* Kaye and the *Sylvia*
10 Miller is the same person?

11 | MR. JAEGER: Yes.

12 MR. RIGANO: Would you just confirm for us
13 that Mr. Miller is the owner and whether or
14 not Mr. Baiata is the owner?

15 | MR. JAEGER: Yes.

16 MR. PROIOS: Any other questions?

17 MR. COWEN: Let's just say the import of who
18 owns the property is extremely important
19 because if it has been sold, then you are
20 dead in the water.

21 MR. JAEGER: I am aware of that.

22 MR. COWEN: The best we can do is have you
23 submit in writing your analysis of the
24 hardship requirements, and that's what we
25 will do, but I have to tell you that it is

1 going to seriously protract any answer you
2 might be getting out of this Commission
3 because we are going to have to correspond
4 back and forth in writing on questions and
5 that sort of thing.

6 MS. COMPITELLO: Why not just keep the hearing
7 open?

8 MR. COWEN: We can do that, but we are still
9 going to have to correspond back and forth.

10 MS. COMPITELLO: I am saying we can schedule a
11 continuation of the hearing so we can ask
12 the questions.

13 MR. COWEN: That's a little bit of an
14 inconvenience for us to have to do that

15 MS. COMPITELLO: Maybe the corresponding back and
16 forth would be worse.

17 MR. COWEN: Either way I am a little
18 frustrated that the applicant wasn't
19 prepared today, frankly.

20 MR. MURPHREE: I agree. We should keep it open.
21 That way the public can review the
22 documents and have the opportunity to
23 comment on it.

24 MR. COWEN: It is bad enough to have to go
25 through these things once, let alone

1 sitting down and going through these things
2 again.

3 MR. PROIOS: I would keep the record open, and
4 we won't have to have a stenographic
5 record, and we can still discuss what he
6 submits.

7 MR. COWEN: However you want to do it.

8 MS. COMPITELLO: Maybe it should be the
9 applicant's choice, if they want to rely on
10 written submission or whether he wants to
11 appear again so he can respond in person.

12 MR. PROIOS: Off the record.

13 [DISCUSSION OFF THE RECORD]

14 MR. PROIOS: I suggest we go back on the
15 record to hear from the public.

16 Is there anything else you want
17 to include in the record before we hear
18 from the public?

19 MR. JAEGER: I am just wondering if there was
20 any citing of what the requirements were
21 that were supposed to be presented to this
22 Board. You are listing certain criteria,
23 and whether that is covered within the
24 cover letter which outlines what needs to
25 be presented at the hearing.

1 That's just an observation.

2 MR. COWEN: I might try looking at Article 57
3 of the Environmental Conservation Law. It
4 was passed in 1993.

5 MR. JAEGER: Okay.

6 MR. PROIOS: Any members of the public wishing
7 to address the Commission?

8 MR. AMPER: My name is Richard Amper,
9 Executive Director of the Long Island Pine
10 Barrens Society; 547 East Main Street in
11 Riverhead

19 You may be interested in
20 determining ownership to find out whether
21 there is a self-created hardship. I
22 remember as clear as though it were
23 yesterday when an applicant representing
24 ownership of this property came before this
25 Commission, Donna Plunkett responded, as

the correspondence presented by the applicants suggest, that a residential reuse on the existing foundation of this building might be appropriate. That would certainly constitute minimum relief.

Back again, whether it is the same applicant -- I wouldn't want to argue it. If it is a new owner, they have created their own hardship. If it is the old owner, they were granted minimum relief. They were told they could do a residence there.

You may recall that Ms. Plunkett pointed out to this Board at that time that because of the existing zoning we were likely to have to address the concerns about this development in that area again, and that we might want to take a look at it.

I share Commissioner Cowen's frustration today. We come to meeting after meeting, and you people, under the law, respond to requests for development. I am trying to figure out how the Pine Barrens Society can come and make an

1 application for preservation so we can talk
2 about these things, about what does or
3 doesn't constitute public need; how many of
4 these senior living centers, etcetera, we
5 are going to have to deal with.

6 Somehow or other, because they
7 don't take the form of development
8 applications, we never, as a Commission,
9 seem to get to the preservation portion of
10 it. But this one is a no-brainer. If it
11 is the original owner and there was a
12 request from this Commission -- before this
13 Commission for minimum relief, and you
14 would say go ahead and build a residence,
15 then you have no responsibility to give
16 them additional relief.

17 If it has been brought since
18 then, then they have created their own
19 hardship, and you have no responsibility to
20 give them a hardship exemption.

21 It is very difficult for us in
22 the not-for-profit world to keep up with
23 the applications, especially when they come
24 in on the last day, and you review them.

25 We haven't seen them. It happened with the

shooting range and the application of the
Eastport Senior Living quarters today.

We support the record being kept open, and the applicant coming forward and giving you everything that you need to make a decision.

Do we get a chance to review these? On what basis is the applicant asserting that he is entitled to a hardship application under the law?

This is no information. This is not something he has to research and discover. He needs to make a presentation on behalf of his client today.

If he doesn't do that, then presumably he is going to form an opinion to supply additional information. Will we have time to review it and have our responses as to whether that constitutes a hardship?

When you are making a decision on how you are going to handle this today, it is not just an application process. There are people in the community that want to see this law properly applied. His client

1 is entitled to it. He was told that if
2 they say you can't do this, they will be
3 doing something else, that's fine; but
4 everybody is entitled to be heard and have
5 an informed decision made, and this process
6 doesn't always allow for that.

7 That's all.

8 MR. PROIOS: Anyone else wish to address the
9 Commission?

10 If not, I will close the public
11 hearing.

12 [WHEREUPON THIS HEARING WAS CLOSED AT 5:15
13 P.M.]

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CERTIFICATION

I, SHEILA PARISER, R.P.R., a Notary Public in

and for the State of New York, do hereby certify:

THAT this is a true and accurate record of

the Hearing held before the Central Pine Barrens

Joint Planning and Policy Commission, in the matter

of BENEFICIAL DESIGN CORP. held on September 4, 2002,

as reported by me and transcribed under my direction.

IN WITNESS WHEREOF, I have hereunto set my

hand this 28th day of September, 2002.

Silvia Gracca

SHEILA PARISER, R.P.R.