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CENTRAL PINE BARRENS
JOINT PLANNING and POLICY COMMISSION

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In the Matter of the
Public Hearing on the
APPLICATIONS FOR CORE PRESERVATION
AREA HARSHIP PERMITS AND
COMPATIBLE GROWTH AREA APPLICATIONS

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Riverhead Town Hall
Riverhead, New York

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November 2, 1994
7:00 P.M.

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PUBLIC HEARING

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ORIGINAL

2 MR. COWEN: The third applicant is Joseph
3 Gazza. This is a proposed construction of a
4 45,959 square foot multi-unit industrial
5 building site with 110 parking spaces on
6 Westhampton-Riverhead Road in Westhampton.

7 MR. GAZZA: Good evening, Mr. Chairman,
8 board members. Joseph Frederick Gazza, 5 Ogden
9 Lane, Quogue, New York. I'm the owner of a
10 parcel of property in the Hamlet of Westhampton,
11 Town of Southampton. It's accurately shown on
12 Suffolk County Tax Map as 0-900-286-2-38.1. The
13 property is a total of 8.14 acres. It's
14 situated on the west side of the
15 Westhampton-Riverhead Road, the airport road,
16 directly across from the Suffolk County Airport.

17 The subject parcel is split by a zoning
18 line and the southerly minority of the property
19 is zoned LI-40 or light industrial. The
20 northerly majority is zoned CR-200 residential.
21 This property has been under review for
22 approximately four years by Southampton Town in
23 connection with my applications to utilize my
24 property. The property has been acquired by
25 myself in three separate transactions dating

2 back to 1981, 1984, and 1988. My combined cost
3 basis in the acquisitions total \$116,414, which
4 does not include approximately \$19,000 in real
5 estate taxes that I have paid on this property
6 since my ownership and does not include the
7 approximate \$9,000, now it's up over \$11,000, in
8 application review fees and site plan
9 development fees in connection with the proposed
10 use of my property.

11 My applications started with the Planning
12 Board of Southampton Town, were then referred to
13 the Town Board of Southampton Town, and are now
14 before your commission. In addition, this
15 property has been before the Suffolk County
16 Department of Health, before the Suffolk County
17 Department of Health Board of Review, before the
18 Suffolk County Department of Ecology, before the
19 Suffolk County Department of Planning
20 Commission, and numerous hearings have been held
21 in connection with this property and certain
22 approvals have been granted in connection with
23 this property.

24 The major stumbling block in the
25 development of this property up until the Pine

2 Barrens Laws were enacted were from the Suffolk
3 County Health Department, which was concerned
4 about groundwater protection, the aquifers, and
5 surrounding areas. The Health Department
6 studied this property over about a two-year
7 period, and it was determined that the property
8 being serviced by public water, by underground
9 three-phase electric service from Lilco,
10 telephone company underground service, and being
11 surrounded by industrial buildings which have
12 been in existence to the south, there are
13 buildings to the north, and, of course, the
14 airport with maybe 100 buildings.

15 MS. FILMANSKI: Could you explain what
16 buildings are near you?

17 MR. GAZZA: Maybe if I bring this map
18 closer the Board may see. The Suffolk County
19 Airport entrance, which is this road here, this
20 is the Stewart Avenue which goes across the
21 street to the base housing complex. My property
22 is shown in the dark shaded area, 8.14 acres.
23 Across the street is all airport existing
24 buildings, plumbing supply; this is a car
25 cleaning company; and this is a multi-unit

2 industrial building, Pine Barrens Printing, Acme
3 Bus Company, Hampton Engines, numerous
4 buildings. If we go to north of the entrance
5 there is a Volvo repair center. I have a list
6 of all uses within a thousand feet of this
7 property.

8 The important section of this 8 plus acre
9 parcel is the southerly parcel zoned light
10 industrial. It has been zoned light industrial
11 since prior to my application, and the Town has
12 never seen fit to re-zone it to anything else.
13 It has retained its industrial zoning
14 classification up to today. The plan which I
15 have submitted before the Town of Southampton,
16 which has been revised several times, and your
17 board has been provided with copies of the most
18 revised site plan which depicts the proposed
19 industrial buildings, the parking, and quite a
20 detail of gallonage, flows, design for parking,
21 surrounding areas, zoning lines, it's all
22 specified on the plan itself. This plan is a
23 product of a lot of input of a lot of
24 departments over a long period of time. At this
25 point, I'm very close to bringing this project

2 to fruition, and I need the special hardship
3 permit from your board so I can proceed.

4 The buildings I'm proposing, I had planned
5 on starting this fall. I have tenants already
6 in place for some of these units, so to delay
7 this project, is causing me a financial
8 hardship. Every day that goes by that I can't
9 start, I can't rent my buildings. I'm obligated
10 to pay my real estate taxes, which are very high
11 on this property. The industrial taxes are
12 approximately \$900 per acre, per year. The
13 residential taxes are lower, but on the
14 industrial portion, the LI-40 which is a special
15 class of light industrial zoning in the Town of
16 Southampton that permits four different uses per
17 acre. I have a proposal that I'm ready to go
18 on, and timing is very important, that's why I'm
19 before you to get the exemption so I can
20 proceed.

21 I want to bring to the Board's attention
22 the incentives that I have offered in order to
23 get this project where it is today. The first,
24 incentive was with the Suffolk County Department
25 of Health Board of Review. The project is

2 proposed to be developed on the south end of the
3 project. The entire north end of this project
4 is to remain undisturbed and that is the part
5 that projects into the more pristine area of the
6 Pine Barrens.

7 MS. FILMANSKI: The size of that northerly
8 section is what?

9 MR. GAZZA: About two and a half to three
10 acres, five acres to the north, three acres to
11 the south. The northerly five acres which will
12 be undisturbed and projects into the true core
13 area of undisturbed Pine Barrens land, will be
14 protected from development. In addition to that
15 northerly five acre portion, I have sterilized
16 two and a half acres further to the north for
17 the Suffolk County Health Department approval.
18 I submit this map, Mr. Chairman, but just for
19 reference. The eight and a half acres parcel is
20 shown in red and green, the industrial portion
21 is the red, and this two and a half acres to the
22 north in green, that has been sterilized and its
23 development rights transferred over to the red
24 portion. That's been accomplished with the
25 Health Department and with the Town of

2 Southampton Planning Department.

3 MS. FILMANSKI: So the yield we are seeing
4 on that portion of the site plan is based on the
5 entire parcel as well as a remote parcel?

6 MR. GAZZA: Better than that. The yield on
7 this 8.14 acre parcel could be accomplished by
8 just the industrial portion and the two and a
9 half acres that was preserved to the north as
10 far as the Health Department is concerned. The
11 Health Department looked at this application
12 somewhat differently than the Town of
13 Southampton Planning Department. The Health
14 Department looked at the property being split by
15 the zoning line, they looked at just the
16 industrial portion. They asked if I was
17 proposing to build a house and industrial
18 building. I said no, my proposal is for
19 industrial building. They said let's focus on
20 the industrial portion of the property. It was
21 based on the three and a half acres of the
22 industrial that the Health Department needed
23 that extra carrot, that two and a half acres to
24 the north, to be preserved forever to allow the
25 three and a half acre to be developed as

2 proposed. The five acres to the north was never
3 presented to the Health Department. That was
4 presented to the Town of Southampton, in
5 addition to indicating that the two and a half
6 acres was also preserved. So this project is
7 preserving five acres of the subject site, two
8 and a half acres to the north, which the Health
9 Department selected out of a large array of
10 properties that I presented to them in order to
11 mitigate any impacts that might take place with
12 this project. It was unknown to me some two
13 years ago why the Health Department selected
14 that particular parcel as shown on the map to
15 the north, but I found out only about a year ago
16 that it happens to be across the street from the
17 Suffolk County Water Authority's Westhampton
18 Branch and also across the street from where the
19 new deep well is that has just been installed
20 over the last ten months or so. The Health
21 Department was looking in the future. They
22 selected parcels that would be preserved that
23 would benefit the aquifer, protect Pine Barrens,
24 and recognize that the proposal that I was
25 presenting, which fronts on a county road, all

2 infrastructures in place, surrounded by existing
3 uses, the parcel is partially cleared already.

4 It was cleared before there were Pine Barrens
5 regulations, before there were prohibitions
6 against clearing property for certain uses, and
7 they felt it was a reasonable proposal, and
8 that's why the application was approved by the
9 Suffolk County Health Department Board of
10 Review. This is made part of the record. I
11 have attachments, which were forwarded to your
12 commission earlier.

13 MR. PRIOIS: Why did it go to the Board of
14 Review?

15 MR. GAZZA: Remember I stated that the
16 department looks only at the industrial portion,
17 not the five acres zoned residential. The Town
18 of the Southampton looked at the entire parcel.
19 I don't know if you have my application packet.
20 I can refer to it.

21 MS. FILMANSKI: What groundwater management
22 zone are you in?

23 MR. GAZZA: Groundwater Management Zone 3.

24 MS. RILEY: It was my understanding what
25 you said before the Town Board hearings that it

2 didn't meet the requirements for industrial
3 development, Suffolk County Water Authority
4 Department of Health, it didn't meet their
5 requirements and that's why you had to preserve
6 land elsewhere.

7 MS. SWICK: The preservation of the two and
8 a half acres is to increase the gallons per day.

9 MR. GAZZA: That's correct, but only if the
10 building was to be constructed on a three and a
11 half acre parcel, when, in fact, the parcel is
12 8.14 acres, but it just happens that five acres
13 of that parcel is residential, so the Health
14 Department looked at it differently.

15 MS. RILEY: At any rate the development
16 rights are not landed here.

17 MR. GAZZA: They are stored there.

18 MS. RILEY: They are temporarily parked.

19 MR. GAZZA: That's a debatable issue. The
20 Town may have temporarily parked them there, but
21 the Health Department sterilized them and made
22 me take the title for that two and a half acres
23 and turn it over to the Nature Conservancy after
24 appropriate declarations were recorded landing
25 them on this site.

2 MS. RILEY: My point is that this parcel
3 that is sterilized is not related to this
4 parcel. It's sterilized in another location and
5 it was sterilized in order to obtain Board of
6 Health approval to do this project. That has
7 nothing to do with this.

8 MS. SWICK: The area to the south of your
9 area that you wish to build, is that developed?

10 Mr. GAZZA: That's the Westhampton Beach
11 former dump.

12 MS. SWICK: This up here is north pine
13 barrens, this is the dump, and this is
14 development. This is not developed. Some of
15 these things, the white was developed but that's
16 not consistent with the development pattern.

17 MR. PRIOIS: I think the key issue is
18 what's going in that building. The size is not
19 as crucial, but the fact that it is zoned light
20 industrial may indicate you will have tenants
21 that may be utilizing hazard materials, which
22 have been problematic in that location. How we
23 can avoid having any tenants that have used
24 hazardous materials. Unfortunately, seeing the
25 same type of activities occurring across the

2 street or outside of the airport property, which
3 we have previously identified as a sensitive
4 groundwater recharge area. I know you are
5 trying to show your facility, in a sense, is
6 similar to other industries in that area, but I
7 think if we had done this planning 20 years ago,
8 they would not be there today.

9 MR. GAZZA: There is a notation on my site
10 plan map which specifies the proposed uses that
11 would be permitted under the Town's zoning code
12 for occupants within this industrial building.
13 Now, the Health Department monitors all
14 industrial buildings in the area, Zone 3
15 Management Area in particular, and other
16 buildings which I have along this road are
17 inspected by the Health Department, I would say,
18 once every two months the Health Department
19 checks the catch basins, they have checked my
20 septic tanks, they are checking for any
21 discharge of any pollution of any nature. The
22 Health Department, as well as the Town of
23 Southampton, before a unit can be occupied, will
24 review the tenant. The tenants will come before
25 the Planning Board, the tenants will fill out

2 lengthy forms, and will specify the nature of
3 the operation. He will be grilled by Planning
4 Board members and the Town's Natural Resource
5 Department to determine the tenant's use and the
6 products that he stores are compatible with the
7 environment.

8 The building, I know you don't have the
9 plans before you, the building is masonry
10 construction. It is built like a vault or like
11 a coffin. It's concrete walls, no floor drains
12 in the building. There is no way that anything
13 that would be placed inside that building could
14 escape from that building, unless it leached out
15 and went into the catch basin or it was flushed
16 out and went into the septic system. In both
17 instances, the Health Department monitors.
18 There is a very close watch on industrial
19 buildings and in particular industrial buildings
20 in Zone 3 in an area that is closely watched
21 because of groundwater and the Suffolk Count
22 Water Authority and the deep well which lies to
23 the north. It's an important point, and it's
24 being addressed by the Town, the Health
25 Department, and by me.

2 MR. PRIOIS: Did the Health Department
3 place any restrictive covenants on the type of
4 activities or what could be stored?

5 MR. GAZZA: The Health Department has
6 provided me with a list of covenants. They have
7 not been placed on the property yet, as I do not
8 wish to encumber the title until I have permits
9 in place to know I can do this project. Prior
10 to the actual approval to construct, those
11 covenants will be recorded.

12 MR. COWEN: Are those covenants part of
13 your application to this commission?

14 MR. GAZZA: They were part of my
15 application to the Health Department. I don't
16 know if this commission is going to jump over
17 Health Department's jurisdiction.

18 MR. COWEN: It would be helpful to see what
19 the Health Department has agreed to.

20 MR. GAZZA: Within my package that was
21 submitted with my application, there is
22 correspond from the Health Department that
23 refers to their standard covenants, they have a
24 standard form that they use, you may be familiar
25 with those Article 3 Covenants.

2 MR. COWEN: So no special covenants were
3 attached, just the standard.

4 MR. GAZZA: Well, they are quite exclusive,
5 if I may say so. In an effort to get the Town
6 Board, Town of Southampton, upon which
7 Mrs. Riley sits every other Tuesday as counsel,
8 for the Town Board to approve that project for
9 exemption, much as I'm before your board asking
10 for exemption, I have to apply to the
11 Southampton Town Board for an exemption, much
12 the same as you have the Pine Barrens Act behind
13 you, the Town of Southampton has their Western
14 Environmental Generic Impact Study, which takes
15 in basically the same area that the Pine Barrens
16 takes in. The Town's act has been in place for
17 almost five years, so I'm appearing before the
18 Town Board similarly as I'm appearing before
19 your board with a similar request. The Town of
20 Southampton being a very difficult town to
21 develop property in, after hearing my
22 presentation suggested that maybe the two and a
23 half acres that was donated to the Nature
24 Conservancy to allow this project was to satisfy
25 Health Department concerns only and that maybe

2 something additional should be presented to
3 mitigate the impact of this project. For the
4 Town's purposes toward achieving its goal of
5 mitigating that, I submitted to the Town Board a
6 list of three parcels of property which I own
7 which were centrally located in the core of the
8 Pine Barrens. You can flip this map over. I
9 presented to the Town Board, three parcels that
10 I thought would be carrots, so to speak.

11 Let's start with the one adjacent to the
12 Old Country Road. I have a very long narrow
13 strip of property. It's 9.27 acres, and I
14 offered that parcel in mitigation for being
15 allowed to utilize my road front parcel. I also
16 offered a parcel of 17.032 acres, which is this
17 parcel up here. Now, this parcel, the 17.032
18 acre parcel appeared to be most interesting to
19 the Town Ecology Department, Martin Shea. He
20 said the County has been doing a lot of
21 acquisition in this area. This is the area the
22 Teamster's Union property was acquired and
23 Nature Conservancy has many parcels in this
24 area, and it's the most pristine undisturbed
25 block of Pine Barrens. He said this parcel, to

2 him, was very important, even more so than the
3 35.933 acre parcel, which is one which I offered
4 as one of the selected parcels for mitigation.

5 So I presented to the Town three pieces, take
6 your pick. I'll give it up no strings. I would
7 deed it to the Town to be preserved forever,
8 they are all within the core area, to allow me
9 to utilize the lower three and a half acres of
10 my 8.14 acres, which is zoned industrial,
11 permitted industrial development, with a plan
12 that complies with the Health Department, with a
13 plan that will comply with Town planning.

14 What I'm asking to do, my site plan, this
15 site plan complies with town zoning and
16 planning, the parking, the setbacks, the square
17 footage, the clearing, it complies. It took a
18 couple of revisions to get it to that state, but
19 it's in a position now where it complies. I'm
20 willing to give up a choice of three carrot
21 parcels to get this project going. That's how
22 important it is to me and how financially
23 involved I am in this property. To move ahead,
24 I'm willing to give up up to 36 acres of land
25 just to be granted permission to use my

2 property. I know that many applicants don't
3 have that ability to offer a 36 acres tract just
4 to be able to build. I'm offering it because
5 it's important that I get this going.

6 MR. COWEN: Has the Town taken you up on
7 one of those parcels?

8 MR. GAZZA: They are considering which of
9 the three. That I don't know. Ms. Riley, could
10 you shed some light on that?

11 MS. RILEY: It's under consideration. This
12 is a relatively recent offer.

13 Who are the tenants you have now?

14 MR. GAZZA: I have a health food processor
15 that wants to package health foods. I have a
16 welder who is interested in occupying a unit. I
17 had some other interest, some other tenants. I
18 think one was a machine shop of some kind. The
19 health food guy is ready. He is ready for about
20 a six or seven thousand square foot unit. If I
21 can get my approvals, I can keep him. He
22 doesn't need it until the spring. I don't want
23 to lose tenants. In this economy it's pretty
24 tough to make it work financially.

25 MS. RILEY: So those are the only two you

2 have now, the welder and food processor?

3 MR. GAZZA: I have had interest. This is my
4 business and I'm willing to go on the hook to do
5 it. This is my business.

6 Mr. Chairman, I had just a couple of
7 questions for you. I thought I might reverse
8 the table, if I might. Your relationship with
9 the Suffolk County Water Authority, are you a
10 member of Water Authority; what's your position?

11 MR. COWEN: No. I'm not on the Water
12 Authority. You may be confusing me with Ray
13 Corwin.

14 MR. GAZZA: Do you know if the Water
15 Authority is one of the prime movers behind the
16 Pine Barrens Act and the management that has
17 been going on, from your experience?

18 MR. COWEN: Well, the Water Authority is
19 directly related, has been relate, to the
20 efforts, certainly.

21 MR. GAZZA: Do they not share part of their
22 office and part of their office staff with the
23 Commission?

24 MR. COWEN: Well, the Commission employs a
25 former employee of the Water Authority as its

2 director.

3 MR. COWEN: And that's Mr. Corwin.

4 Are you familiar with the location of the
5 Water Authority complex at Westhampton?

6 MR. COWEN: No, I'm not.

7 MR. GAZZA: Are there any panel members
8 that are familiar? On the map which I
9 submitted, could you indicate where that
10 location is on the copy of local zoning map?
11 That's the Suffolk County Water Authority's
12 eastend headquarters. Is that the area where
13 the Suffolk County Water Authority has installed
14 that deep well?

15 MR. PRIOIS: I wasn't aware they put in a
16 deep well. I know they have some standby carbon
17 filters on trucks for emergencies. I wasn't
18 aware of a deep well because I wasn't aware
19 there was any population nearby to service.
20 Generally, they put the well near the population
21 so they can avoid piping long distances.

22 MR. GAZZA: You are unaware they recently
23 installed a 12-inch main up along the entire
24 Riverhead Road frontage to their deep well and
25 to their headquarters. Their facility is here.

2 They have a large deep water well and they are
3 providing water to everything south.

4 I think it's common knowledge that the
5 involvement of the Water Authority with the Pine
6 Barrens has been one of almost a partnership,
7 and I wanted to present to the Board a letter
8 that was sent to the Building Department, Town
9 of Southampton by the Water Authority. The
10 water authority facility is located in the
11 Coca-Cola building, used to be the Coca-Cola
12 bottling. It's a parcel of land approximately
13 four and a half acres, and they have a building
14 of approximately 60,000 square feet the Water
15 Authority took over from Coca-Cola. As a
16 promoter of the Pine Barrens Protection Plan and
17 interest in the groundwater and everything, I
18 felt it was important to review how my neighbors
19 across the street, the Water Authority, they are
20 right across the street on Westhampton-Riverhead
21 Road, were able to expand their building only
22 within the last year, expand the parking area,
23 install four 4,000 gallon fuel tanks below grade
24 for fuel oil. I wanted to know how my neighbor
25 the Water Authority, the backer of the Pine

2 Barrens Plan, could conduct these operations
3 across the street from me without going through
4 the four years of processing that I have been
5 involved with.

6 I couldn't understand this. I found
7 through my research that apparently there is an
8 opinion, Number 68-749 of the New York State
9 Comptroller, that the Suffolk County Water
10 Authority, while performing acts of governmental
11 function is not subject to town building codes
12 and is not required to obtain building permits
13 for public utility buildings. It helped to give
14 me an understanding of how my neighbor could do
15 things that I can't get to first base on. I
16 wanted this commission to be made aware that
17 there are 16,000 gallons of fuel being stored
18 across the street from my property by the Water
19 Authority below ground. I found that to be very
20 unusual.

21 MR. PRIOIS: They aren't exempt from this
22 law, believe it or not, as we as a government
23 are not. Our County College is caught within
24 the core area, so it must come before this
25 commission if it wanted to expand.

2 MR. GAZZA: The Water Authority is not.

3 MR. PRIOIS: The Water Authority is
4 subject, but if it was tanks, and they were
5 replacing tanks, that would come under the
6 Health Department's purview. They would still
7 have to submit for an Article 12 permit, and
8 they would have to put double-walled or
9 fiberglass tanks. If not, there is no way they
10 are exempt from the sanitary code provision.

11 MR. GAZZA: I meant from coming before your
12 committee.

13 MR. COWEN: I don't believe that is
14 relevant at this point.

15 MR. GAZZA: Just to show the character of
16 the area, and what's been going on in very
17 recent time. The tanks were installed last
18 year. There must be some process for getting
19 around the requirements for authorities, such as
20 the Water Authority, that private applicants are
21 not held to.

22 MR. COWEN: Just on the surface of it, this
23 appears to have preceded the date effective for
24 that statute, but, again, we are off the
25 subject.

2 Do you have anything further?

3 MR. GAZZA: Not Unless the Board has some
4 questions of me.

5 MS. FILMANSKI: Furtherance of character of
6 area issue, could you describe, since no
7 topography or other existing condition is on
8 that site plan, could you describe the character
9 of the site, as well as that of the village
10 parcels to the south?

11 MR. COWEN: While you're at it, could you
12 indicate who the owner of the property is to the
13 west and what's the character of the property.

14 MR. GAZZA: I have a recent photo, which
15 might be helpful. The red lines are the
16 boundary lines of the subject property before
17 you this evening.

18 MS. FILMANSKI: So a portion of this parcel
19 has been cleared?

20 MR. GAZZA: It was cleared in 1989. It
21 indicates on the site plan that the existing
22 cleared area is 24,564 square feet.

23 MS. FILMANSKI: For what purposes?

24 MR. GAZZA: I had a nursery that was
25 interested in possibly buying or leasing the

2 property for growing nursery stock. First, I
3 was trying to sell him the land. I said I'll
4 clear it for you. I cleared the front portion
5 and the deal fell apart. That was back in '89.

6 MS. FILMANSKI: What percentage of clearing
7 are you proposing on the industrial portion of
8 this property?

9 MR. GAZZA: Well, we studied the detail of
10 this plan. We have a table and it indicates
11 that the building coverage is to be 13.04
12 percent.

13 MS. SWICK: It looks like a little over two
14 acres would be cleared?

15 MR. GAZZA: That's correct.

16 This area has not been used for maybe
17 twenty years. I spoke to Steven Frano of
18 Southampton Town Ordinance Department. He
19 remembers using this as a dump when he was
20 younger and Steve is my age, 44.

21 MS. RILEY: It's re-vegetated now?

22 MR. GAZZA: Yes.

23 MR. COWEN: Is the vegetation in that
24 photograph where some of the buildings are to be
25 going in the south, is that native vegetation

2 that's in a "virgin state," for lack of better
3 description?

4 MR. GAZZA: Yes. You can see in those
5 photos, it's interesting, that most of pine
6 barrens, actual pines, are off of my property,
7 and the predominant species on my property
8 proposed for development, is scrub oak. There
9 are very few pines. The pines lie to the west.

10 MR. COWEN: Who is the owner of the parcel
11 to the west?

12 MR. GAZZA: It's a file subdivision map to
13 the west with many owners. It's an old filed
14 map. Marks Real Estate Corporation from
15 Manhattan is a big owner on that particular map.
16 I remember contacting Mr. Marks to purchase lots
17 from him and he was holding them for investment.

18 MR. COWEN: Is it fair to say there is a
19 checker board pattern of ownership in that area?

20 MR. GAZZA: Absolutely. Mainly off the
21 road. The road front parcels seem to remain
22 private ownership. People are less likely to
23 walk away from road front property, as opposed
24 to interior properties that people let go for
25 real estate taxes or the inability to develop.

2 Those parcels become acquired by the Town or
3 Suffolk County through tax default, then they
4 turn them over to the Nature Conservancy or Pine
5 Barrens.

6 MR. COWEN: Any other questions from the
7 Board?

8 MR. RIGANO: Will that be part of the
9 record?

10 MR. COWEN: Will you enter that in
11 evidence?

12 MR. GAZZA: Yes.

13 MR. RIGANO: Can you tell us when that was
14 taken?

15 MR. GAZZA: It was taken at the time I made
16 the donation to the Nature Conservancy of the
17 two and a half acres, which was approximately
18 two years ago. The Nature Conservancy required
19 me to charter a plane and fly over the land that
20 was being donated to them. They wanted to
21 determine from the air if any pollution of any
22 kind might impact the area donated. They are
23 very particular about land donated. I had taken
24 photos of many properties when I had the plane
25 under my expense.

2 MR. COWEN: Do you know when?

3 MR. GAZZA: Two years ago.

4 MR. RIGANO: Do you remember what month?

5 MR. GAZZA: Probably in December because
6 the donation was made at the end of the year.

7 MR. COWEN: So December of 1992.

8 MR. GAZZA: Either 1992 or 1993.

9 MR. RIGANO: Either way would be fine. We
10 should establish the approximate time. Who took
11 the picture?

12 MR. GAZZA: I did.

13 MR. RIGANO: Has your application, your
14 proposal, has not gone through a SEQRA review
15 resulting in a positive declaration?

16 MR. GAZZA: Not yet. It's only been under
17 review for four years.

18 MS. FILMANSKI: So your application to the
19 Town was for what application?

20 MR. GAZZA: I started with the Town with a
21 site plan application before there was Pine
22 Barrens. It was bounced back and forth because
23 the Town's Western Environmental Generic Impact
24 Statement before they could proceed I would
25 first have to obtain an exemption from the Town

2 Board. I have been before the Town Board at
3 three public hearings. So far a decision has
4 not been made yet. Maybe the Town Board is
5 looking to this board for a lead.

6 MS. RILEY: We don't generally issue SEQRA
7 determinations in connection with exemptions.
8 Whatever application the applicant is
9 processing, the SEQRA review would be done in
10 connection with.

11 MS. FILMANSKI: When they approve a site
12 plan is when they would do the SEQRA
13 determination.

14 MS. RILEY: It's all part of the same
15 resolution, typically.

25 MR. PRIOIS: We would be prevented from

2 making a decision until SEQRA was complied with.
3 Legally, the way the statute reads, you begin
4 that process first so that the people making the
5 decision will have as much information as
6 possible to make the decision.

7 MR. GAZZA: I thought, at my Board of
8 Health review, which was a coordinated review
9 with the County Planning Commission, County
10 Department of Ecology, and Southampton Town.
11 Health Department put everyone on notice. This
12 was two years ago. Board of Review was a
13 difficult board to appear before. They have
14 attorneys there. It was not a casual procedure.
15 Yet, they were able to make a determination, not
16 a final, but a determination that they would go
17 with the project. I agree with you SEQRA will
18 be addressed, but I can't get to the Planning
19 Board site plan level until I overcome the Town
20 exemption and, most likely, an exemption from
21 your regulations.

22 MR. RIGANO: I believe Commission staff has
23 commenced coordinated review under SEQRA and the
24 Commission will be the lead agency.

25 MR. PRIOIS: As far as you know, the Health

2 Department never issued a SEQRA finding? Never
3 gave a final decision, just a preliminary?

4 MR. GAZZA: The Board of Review gave a
5 final decision. That's matter of record, part
6 of the application. They have their findings
7 and vote and they approved it and full regard to
8 the groundwater, the environment of every
9 degree.

10 MR. PRIOIS: I find that a little unusual
11 since Zone 3, most of that area is a critical
12 environmental area under SEQRA, which would make
13 this a type one action.

14 MR. COWEN: Any further questions from the
15 Board? Any questions from the floor? Counsel,
16 we have this indicated for decision date
17 November 20th; is that correct? Which would
18 indicate we have to make a decision at the next
19 Commission meeting, which is next week. Are we
20 in a position to do that?

21 MR. RIGANO: Not if SEQRA remains
22 unaddressed.

23 MR. COWEN: Are we in a position to have
24 that question resolved as to lead agency?

25 MR. RIGANO: It's possible. We have done

2 it in other matters, but not likely.

3 MR. COWEN: Would it be appropriate to seek
4 an extension from the Board?

5 MR. GAZZA: I feel I have been unduly
6 delayed for years in connection with this
7 project, and every day is money out of my
8 pocket, and my real estate taxes go on and on
9 and on. I have appeared before the Town Board
10 on three occasions requesting relief from the
11 exorbitant real estate taxes that I'm forced to
12 pay to maintain ownership of the property. The
13 Town Board has directed me to the Board of
14 Assessment Review. I have filed my certiorari
15 proceedings, tax grievance, I have appeared
16 before the Board of Review, full board, Town
17 Attorney, Deputy Town Attorney, Assessor, all
18 present. I was granted no relief on my real
19 estate taxes. I was informed that my property
20 was not impacted. I want to proceed. I can't
21 wait longer. If someone is willing to pay or
22 contribute toward payment of my real estate
23 taxes, contribute toward interest lost on my
24 investment, I would be glad to hold it in
25 abeyance. Why should I be forced to spend more

2 money every day and not get anywhere with this
3 application. It's a hardship to me.

4 MS. RILEY: Legally, your application may
5 not be complete until SEQRA process has been
6 complied with. You realize that under the law
7 we have to follow the SEQRA statutes and those
8 mandates, and we must coordinate and we must
9 allow thirty days for that coordination.

10 MR. GAZZA: Who is going to start the
11 SEQRA?

12 MS. RILEY: The Commission did. It's been
13 started.

14 MR. GAZZA: If I saw a memo on the SEQRA
15 time schedule and who would be the lead agency,
16 I might consent to a minimal adjournment. Is it
17 possible I would be provided with a memo so I
18 could see who has authority under SEQRA and what
19 the time frames are so I would know where I
20 stand with the SEQRA process, then I would
21 consider a adjournment.

22 MR. RIGANO: The Commission is not in the
23 habit of providing memos on such topics. Now
24 that we have a complete EAF, we can proceed. In
25 other similar cases, we could promptly go ahead

2 with the coordinated review in a matter of about
3 two weeks. This case may or may not result in a
4 negative declaration. The applicant has two
5 choice. Either an adjournment could be granted
6 until the December meeting of the Commission or
7 by the decision date assuming SEQRA has not been
8 finalized, which is likely, then the Commission
9 would have to deny the application as a matter
10 of law. You could reapply, if that happened,
11 but a denial as a matter of law would be
12 required to deny the application by your
13 decision date, in all likelihood.

14 MR. GAZZA: For the record, this is my
15 third EAF that I completed. I completed one for
16 the Health Department, I completed one for the
17 Town Planning Department, now, I have completed
18 one for your department. Fortunately, I kept a
19 copy and I'm able to take information and keep
20 it going.

21 MS. FILMANSKI: Are you saying you have not
22 provided the same EAF to each agency?

23 MR. GAZZA: I have, but two and a half
24 years ago there were certain features that were
25 different about the plan. There has been

2 modification to this plan. The original EAF was
3 on a three and a half acre parcel for the Health
4 Department, now, we are dealing with an 8.14
5 acre parcel. It has changed, but I have done
6 the process three times. That's why clearing
7 the issue of who will be the lead agency, who
8 will initiate the SEQRA process, if I had some
9 direction on that, I would go along, but just to
10 leave it in Never Never Land is inappropriate.

11 MR. COWEN: I don't believe we are in Never
12 Never Land. I think counsel has indicated that
13 the Commission intends to commence, if we have
14 not already, a coordination of SEQRA, and we are
15 likely to have a final decision on that by the
16 December meeting. So if we had an adjournment
17 until December 14th, it would avoid the
18 Commission the position of having to deny your
19 application on November 9th?

20 MR. GAZZA: That's a nice way of putting
21 it, Mr. Chairman. Apparently, I would have to
22 concede and go along with the adjournment. I
23 don't want to be denied.

24 MR. COWEN: Okay. So you are willing to
25 adjourn until December 14th?

2 MR. GAZZA: For the purposes of a SEQRA
3 determination. Is this going to be a
4 declaration, a positive or negative, or just a
5 determination of who is going to be the lead
6 agency?

11 MR. GAZZA: Is December 14th a date I could
12 be able to mark as a date for determination as
13 to who will be lead agency under SEORA?

14 MR. RIGANO: No.

15 MR. COWEN: The process is what it is.
16 It's in statute. It will be followed to the
17 best of our ability. We can't guarantee you
18 that some other involved agency will not want to
19 be lead agency. We have no control over it.

20 We will hold this hearing record open, if
21 there is no objection, for the same period of
22 time as the first applicant's, which would be to
23 hold the hearing open until the 14th of
24 December, close of business, on that date.

25 MR. GAZZA: Will there be another meeting

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2 on that date?

3 MR. COWEN: There will be a regular meeting
4 of the Commission on December 14th. We will go
5 with Riverhead Town Hall, if it's something
6 different, we will notify you.

7 MR. GAZZA: Thank you for your time this
8 evening.

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10 (Continued on Page 76.)

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