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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  
JOHN and RUDOLPH MIGLIORE

Quogue Wildlife Refuge  
Old County Road  
Quogue, New York

May 19, 1999  
4:00 p.m.

PUBLIC HEARING

1     A P P E A R A N C E S :

2             ROY S. DRAGOTTA  
3                     Acting Chairman  
4                     County of Suffolk

5             RAY COWEN  
6                     State of New York  
7                     Representing the Governor's Office

8             BARBARA WIPLUSH  
9                     Representing Felix J. Grucci

10            VINCENT VILLELLA,  
11                     Riverhead Supervisor

12            DORIS ROTH, ESQ.  
13                     General Counsel for the Commission

14

15

16     A L S O     P R E S E N T :

17

18             WILLIAM SPITZ,  
19                     State of New York

20             JOHN MILAZZO, ESQ.

21             JUDY JAKOBSEN,  
22                     Staff to Commission

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24             LORRAINE TREZZA

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MR. DRAGOTTA: I would like to call the hearing to order.

The third hearing, the applicants are John and Rudolph Migliore.

First I would like to introduce myself, I'm Roy Dragotta, I'm acting chairman on behalf of County Executive Robert Gaffney.

I will ask the panel to introduce themselves.

MR. VILLELLA: I'm Vinnie Villella, Supervisor of the Town of Riverhead.

MS. WIPLUSH: Barbara Wiplush, representing Supervisor Felix Grucci, Town of Brookhaven.

MR. COWAN: I'm Ray Cowen representing Governor Pataki.

MR. DRAGOTTA: I'll read the notice of public hearing.

Pursuant to the Environmental Conservation Law Article 57-0121(10), notice is hereby given that three public hearings will be held by the Central Pine Barrens Joint Planning and Policy commission on Mary 19, 1999, on the matter of the following applications for a core

1 preservation area hardship exemption. The subjects  
2 of the hearing are:

3 Applicant Number III - John and Rudolph  
4 Migliore.

5 Project Description: Construction of a  
6 single family home, detached two car garage and  
7 detached horse barn on the combined parcels  
8 totaling 15 acres (each tax map parcel is five  
9 acres in size) in an A1 zoning district.

10 Project Location: South of Route 25,  
11 on the east side of East Bartlett Road, Middle  
12 Island, Town of Brookhaven.

13 Suffolk County Tax Map Numbers:  
14 200-454-1-8; 200-480-3-1; 200-480-3-2.

15 We can commence the hearing.

16 We have, for the record,  
17 staff 1 and 2.

18 Staff 1 is an aerial photograph  
19 depicting the subject parcel.

20 Staff Number 2, is the staff report.

21 (WHEREUPON, the above-referred to  
22 document, map showing topography, was marked  
23 as Staff Exhibit 1, as of this date.)

24 (WHEREUPON, the above-referred to  
25 document, staff report, was marked as Staff

1 Exhibit 2, as of this date.)  
2 (WHEREUPON, the above-referred to  
3 document, map showing vegetation, was marked  
4 as Staff Exhibit 3, for identification, as of  
5 this date.)  
6 MR. DRAGOTTA: your name, sir?  
7 MR. NICOLAZZI: My name is Dominic J.  
8 Nicolazzi, representing the owners, John and  
9 Rudolph Migliore.  
10 I have a couple of exhibits; three  
11 letters of interpretation for the three lots, each  
12 allocating four credits per lot and also my  
13 hardship application.  
14 MS. ROTH: Did you want to submit that  
15 for the record?  
16 MR. NICOLAZZI: Yes, please.  
17 MS. ROTH: Please mark these.  
18 (WHEREUPON, the above-referred to  
19 document, Pine Barren Credit Clearinghouse  
20 letter of interpretation, tax map  
21 200-454-1-8, dated 12/10/98, was marked as  
22 Applicant's Exhibit A-1, as of this date.)  
23 (WHEREUPON, the above-referred to  
24 document, Pine Barren Credit Clearinghouse  
25 letter of interpretation, tax map

1                   200-480-3-2, dated 12/10/98, was marked as  
2                   Applicant's Exhibit A-2, as of this date.)

3                   (WHEREUPON, the above-referred to  
4                   document, Pine Barren Credit Clearinghouse  
5                   letter of interpretation, tax map

6                   200-480-3-1, dated 12/10/98, was marked as  
7                   Applicant's Exhibit A-3, as of this date.)

8                   (WHEREUPON, the above-referred to  
9                   document, hardship letter dated 3/25/99, was  
10                  marked as Applicant's Exhibit B, as of this  
11                  date.)

12                 MR. NICOLAZZI: And also a survey  
13                 showing the three lots.

14                 (WHEREUPON, the above-referred to  
15                 document, survey, was marked as Applicant's  
16                 Exhibit C, as of this date.)

17                 MR. NICOLAZZI: The overall project of  
18                 three five acre lots, 109 by 2,000, in A-1 zoning,  
19                 on East Bartlett Road -- but the hardship  
20                 application is really just on one lot, the center  
21                 lot, where the development will take place, and  
22                 conservation easements will be placed on the two  
23                 lots flanking the center lot and the conservation  
24                 easement will also be placed on the balance of that  
25                 five acres. So where that center lot was allocated

1 four credits, you subtract one for the single  
2 family homes and would then receive three credits  
3 for the balance of the five acres. But for the  
4 purpose of the development, the owner is combining  
5 the three lots to make one parcel 327 by 2,000 and  
6 15 acres to build one home. He's doing that for  
7 one reason; in A1 zoning you need 175 foot front.  
8 We will have at least that by combining the three  
9 lots; he'll have 327. He will exceed all the  
10 zoning. He would not have to go to ZBA.

11 There is development to the north,  
12 south, and west, and there is a park for the  
13 development to the south and then after that  
14 development is also a park further -- to the east  
15 -- and then there's a development further east --  
16 park rather east.

17 The owner seeks a footprint of 3,000  
18 square feet for development and a detached two-car  
19 garage and horse barn.

20 This property, although it is not on  
21 the road front exemption list, through  
22 conversations with staff, I understand it's  
23 consistent with -- and in actual discussion that  
24 the commission had with the staff that this  
25 question was raised, and the answer was that it is

1 consistent with lots on that list.

2 That is basically the application.

3 MR. COWEN: Has the conservation  
4 easement been recorded for these properties?

5 MR. NICOLAZZI: No, the application has  
6 been made. They have not been recorded yet. We  
7 felt -- I think staff felt that we would do it all  
8 in one shot after the hardship application.

9 MR. COWEN: What is contemplated -- I  
10 should ask John --

11 MR. MILAZZO: Sure.

12 MR. COWEN: What's contemplated for a  
13 residual use type language that will allow the type  
14 of development that Mr. Nicolazzi is describing  
15 here?

16 MR. MILAZZO: That's why we didn't do  
17 it yet.

18 MR. DRAGOTTA: You wanted to comment.  
19 Why don't you comment now.

20 MR. MILAZZO: What Dominic is  
21 talking about is the applicants have three parcels.  
22 They made a letter of interpretation for all three.  
23 Each one was allocated four credits and he is now  
24 coming in for a hardship under the policy --  
25 Commission's policy. We have title records in our



1 office and title is actually clean, and the  
2 recommendation -- and we have had discussions about  
3 this -- we didn't proceed any further until this  
4 was resolved, and the commission would review and  
5 make whatever determination you will make and then  
6 we could go forward with the letter of  
7 interpretation to certificate these. The reason we  
8 did that is that this would probably have to go  
9 back -- probably be remanded to the Clearinghouse  
10 to review what the allocation should be on either  
11 A) what I'm hearing today is that these parcels are  
12 now being combined or B) where the allocation  
13 should be adjusted for the middle parcel if they  
14 are not legally combined, assuming the application  
15 is approved.

16 If it's denied, the application would  
17 get -- each parcel would get four credits and we  
18 could quickly move to giving him a pre-approved  
19 conservation easement, and if the terms were  
20 acceptable to the Migliores, they could execute  
21 that and return it to us.

22 We have done the majority of the work  
23 on the application. We have cleaned the title.  
24 It's just a matter of sending out the easement and  
25 making sure they are comfortable with the terms.

1           It won't be a problem. It's just a matter of, we  
2           didn't want to put the conservation easement on  
3           because we didn't know what the Commission was  
4           going to do or the applicant. It just locked them  
5           into something. It was a decision of Dominic. We  
6           talked about it and he said that's fine. That's  
7           the way to do it. We don't tell them what to do,  
8           we discuss it with them.

9                       MR. NICOLAZZI: In essence, the  
10          hardship is only the center lot and these two lots  
11          are irrelevant. So what the applicant is seeking  
12          is instead of four credits on the center lot, three  
13          credits and a single family home, and in the past  
14          the reduction would be one credit for a single  
15          family home, but I think it's important to know  
16          that we are combining it just for the purpose of  
17          meeting the local town zoning.

18                     MS. ROTH: Did you question about the  
19          residual uses?

20                     MR. COWEN: No, but I understand why it  
21          can't be a hundred percent answered but I want to  
22          explore that a little bit further because what I'm  
23          trying to get at here is you have stated that your  
24          application, hardship application is for the center  
25          lot. Am I to understand then that a hundred

1 percent of the development that's being proposed  
2 is on that center lot?

3 MR. NICOLAZZI: Correct.

4 MR. COWEN: There's zero development  
5 activity on the two side lots.

6 MR. NICOLAZZI: Correct. Because it's  
7 a 109 feet, he would want to put it on the center  
8 of the property. He would want to have his  
9 development on the center of the property because  
10 there is a home right here (indicating), and  
11 there's a proposed application for a home on this  
12 side also. He would want that buffer.

13 MR. COWEN: So clearing for the home  
14 itself, clearing for the barn, the corrals,  
15 everything is on that center lot?

16 MR. NICOLAZZI: Correct.

17 MR. COWEN: You have indicated that the  
18 actual area of clearing is going to be some  
19 distance in. Can you give us an estimate of how  
20 far off the road you are going to be?

21 MR. DRAGOTTA: If you know.

22 MR. NICOLAZZI: I can only say to the  
23 north, is quite set in. It's probably set in  
24 about 150 feet at least.

25 MS. ROTH: Do you know what the set back

1 requirement is in that building; is it A-5?

2 MR. NICOLAZZI: A-1.

3 MS. ROTH: Do you know what the front  
4 yard set back is in A-1?

5 MR. KASNER:: No.

6 MR. COWEN: Can I ask you, what's the  
7 slope of the front of that property; do you know?

8 MR. NICOLAZZI: I would say it varies.  
9 It's kind of -- it's a little higher to the north,  
10 comes down to the south. I would say at the  
11 highest point there's about a six foot differential  
12 to the road.

13 Does the topo have numbers on it?

14 MR. MILAZZO: Off the record

15 (Discussion held off the record.)

16 MR. COWEN: There's a ten foot contour  
17 shown on Staff 1?

18 You think it's ten feet?

19 MS. WIPLUSH: Yes.

20 MR. NICOLAZZI: Ten foot from the  
21 highest to the lowest? That sounds about right. I  
22 thought it was six feet from the highest to the  
23 road.

24 MS. JAKOBSEN: Each line.

25 MR. COWEN: This would indicate that at

1 the very front of the property there's a 30 foot  
2 elevation difference between the road --

3 MS. WIPLUSH: There's a lot of  
4 environmental considerations in the area. There's  
5 a lot of drainage problems there. We have had  
6 numerous resident complaints.

7 MR. DRAGOTTA: Why don't we get all the  
8 evidence on the record and then we could ask  
9 questions?

10 MS. WIPLUSH: Okay.

11 MR. DRAGOTTA: We are doing it a little  
12 backwards here.

13 Mr. Nicolazzi, do you have anything you  
14 want to offer?

15 Stay where you are.

16 Mr. Kasner, I understand that you would  
17 like to comment?

18 MR. KASNER: Yes.

19 We have reviewed this parcel and we  
20 believe that each one individually and cumulatively  
21 represents some very significant environmentally  
22 sensitive land in this particular community. We  
23 note that this property is located within the  
24 general vicinity of fresh water wetlands,  
25 identified B-3, that the property is deeply sloped

1 and it drains down to the west. There is as a  
2 swill between the road and a few feet inland that  
3 accumulates water and that is what is feeding those  
4 particular wetlands and supporting those wetlands.

5 The property is dominated by natural  
6 oak vegetation. It's a significantly sized parcel  
7 and is adjacent to the undeveloped property owned  
8 by the Suffolk County Water Authority. We note  
9 that the development is proposed for the middle of  
10 the three lots and that type of development will  
11 cause fragmentation of this particular parcel  
12 rather than treating it as a single unit.

13 Because of the steeply sloped nature of  
14 this property runoff from the road driveway that  
15 will have to be constructed to provide access to  
16 the house from the road, will pose a problem in  
17 that area runoff is a major community of  
18 environmental concern which would be exacerbated by  
19 another cut through a steeply sloped area.

20 It is our opinion that preservation of  
21 this parcel is warranted and it is for  
22 environmental reasons that the Town opposes any  
23 development on either of those three lots.

24 MR. DRAGOTTA: Thank you.

25 Does anyone else have any comments they

1 wish to make?

2 (WHEREUPON, there was no response.)

3 MR. DRAGOTTA: Does the panel have any  
4 questions?

5 MS. WIPLUSH: We've had some -- well,  
6 as far as -- I will justify what Jeff has said. We  
7 had a lot of complaints at the Town about the  
8 drainage problems on East Bartlett Road. The major  
9 problem, as far as drainage, the runoff -- we were  
10 constantly getting complaints from the neighbors  
11 about that. This would only add to that.

12 MS. ROTH: I would just point out that  
13 the criteria for deciding this is listed in the  
14 statute and some of these points that are raised  
15 are really irrelevant to those criteria.

16 MS. WIPLUSH: For environmental impact?

17 MS. ROTH: Yes.

18 MR. DRAGOTTA: That's a Town issue.

19 MS. ROTH: That's an issue for the Town  
20 to address on a Town level.

21 MS. WIPLUSH: It says does not apply or  
22 affect the property in the immediate vicinity.

23 Here you have a property that's  
24 environmentally sensitive, that's going to create a  
25 problem in the area, and you're saying that's not

1           germane to the discussion of whether someone should  
2           be granted an application to build in the Core? He  
3           can get Pine Barren credits.

4                       MR. DRAGOTTA: We really should just  
5           listen to evidence right now; okay? During  
6           deliberations we'll discuss it.

7                       MR. NICOLAZZI: Wouldn't some of those  
8           issues be addressed at the Town level, such as  
9           drainage and steepness of driveways and things like  
10          that?

11                      I would also like to point out, to the  
12          south, a three lot subdivision was recently  
13          approved including a flag lot and wells were  
14          drilled and these three lots are being marketed  
15          right now with all approvals, including the Board  
16          of Health approvals. They are owned by a Kurt  
17          Gibbons. He has two six acre parcels and one,  
18          one point two five acre parcel. He is in A-5  
19          zoning and it's at the border and it becomes A-5  
20          here and we are at A1 zoning and that would be  
21          Section 481, blocks 1, lot 4.1, 481, block 1, lot  
22          4.2, 481 block 1, lot 18. Lot 18 has been sold  
23          and permits have been secured and construction is  
24          to begin.

25                      Lot 4.2 is a flag lot and 4.1 has road



1 frontage.

2 MR. COWEN: Are they in the Core?

3 MR. NICOLAZZI: They are in the Core  
4 too -- excuse me, I don't know if they are in the  
5 Core actually. I just know they are directly south  
6 of this property

7 MR. COWEN: Do you know, John?

8 MR. MILAZZO: To the best of my  
9 recollection, they are in the Core, in A-1 zone.  
10 They were just recently issued letters of  
11 interpretation; A-1 zoning.

12 MR. COWEN: Are they on the road front  
13 list?

14 MR. MILAZZO: No.

15 MR. COWEN: Were they in front of this  
16 commission for some action?

17 MR. MILAZZO: The answer is they were  
18 not before the commission for a hardship approval.  
19 There was a letter dated some time in 1995, '96 to  
20 Phil Sanderman from Donna Plunkett, indicating  
21 that they were non-development because they were  
22 lots that were approved and met current zoning area  
23 requirements. I could provide the actual date of  
24 that. That's an estimate on 1995-96. We just  
25 recently letters or interpretation.

1                   MR. NICOLAZZI: I would just like the  
2 record to reflect that maybe those lots that I just  
3 referred to are now A-1 but they were upzoned to  
4 A-5 and maybe they were grandfathered in as A-1.

5                   MS. WIPLUSH: When did the applicant  
6 purchase the property?

7                   MR. NICOLAZZI: In 1983.

8                   MS. WIPLUSH: Has he been issued any  
9 credits?

10                  MR. NICOLAZZI: He's been allocated 12  
11 credits.

12                  He's happy to put a conservation  
13 easement on the balance of the property and seek  
14 eleven credits.       He felt it was a minimum use  
15 for a 15 acre parcel, one single family home as the  
16 barn and the garage are now considered -- I guess  
17 considered development, but not -- do not require a  
18 reduction in credit.

19                  MR. MILAZZO: If I could add one other  
20 thing on that 481. I think the non-development  
21 letters refer to two of the parcels. I think the  
22 tax map numbers are 4.1, 481, 4.1, 481, 4.2. I can  
23 see the letters but I can't remember the exact  
24 ones. I think it was two of the three lots were  
25 non-development. I would have to check to refresh

1 my recollection.

2 MR. COWEN: Let's produce that. I would  
3 like to see that in the record here.

4 When did your client acquire these  
5 properties?

6 MR. NICOLAZZI: 1983.

7 MR. COWEN: And they were acquired as  
8 single lots or subdivision?

9 MR. NICOLAZZI: Well, he took them  
10 in -- one in John Migliore, one in Rudolph Migliore  
11 and one in his mom's name. She passed away and so  
12 now two of them, and one in one of the brother's  
13 name, and the other --

14 MS. ROTH: Are they on a filed  
15 subdivision map, these lots, or just described  
16 land; do you know?

17 MR. MILAZZO: It's my recollection  
18 that they are described property, but again we have  
19 the title search, we can verify that.

20 MR. NICOLAZZI: The tax map shows them  
21 this way.

22 MS. ROTH: Better yet if the adjoining  
23 lots are non-development, because if they were part  
24 of a previously approved subdivision --

25 MR. MILAZZO: This wasn't the same

1 owners. This was a separate piece.

2 MS. ROTH: Not a lot on either side?

3 MR. MILAZZO: No.

4 The parcel -- it's kind of hard to see.

5 And again, this is what my  
6 understanding of the numbers are. These are the  
7 three parcels, one, two and three, and then the  
8 Gibbons piece is one and two here, and this is a  
9 third subdivision.

10 MS. ROTH: And these were found to be  
11 part of the subdivision with previous approval.

12 MR. MILAZZO: Yes.

13 MS. ROTH: But it didn't extend all the  
14 way here?

15 MR. MILAZZO: No, this was probably one  
16 -- I'm not sure -- this is the application -- the  
17 letter was for these two parcels, and I'm not quite  
18 sure if this one was part of that letter to Phil  
19 Sanderman from Donna.

20 MS. ROTH: But is it possible that these  
21 lots are part of the same filed subdivision map?  
22 Is that possible or not?

23 MR. MILAZZO: I don't know.

24 This was a separate subdivision here.  
25 That was only these parcels. This was a separate

1 map.

2 MS. ROTH: Okay. And that is what is  
3 described in the record as the property now owned  
4 by the Suffolk County Water Authority. So I'm not  
5 sure if there was -- if the applicant ran a title  
6 completely back, would he find common ownership at  
7 one time? I don't know.

8 Could you search for a filed  
9 subdivision map that these three lots might be part  
10 of or not?

11 MR. MILAZZO: I'm sure we can call the  
12 Town and ask --

13 MR. NICOLAZZI: You want to know if  
14 they are on an old filed map?

15 MS. ROTH: Yes.

16 MR. NICOLAZZI: I went to --

17 MR. MILAZZO: The deed indicates  
18 described property is my recollection. I think  
19 it's -- do you have a copy of the deed with you?

20 MR. NICOLAZZI: I do not, but I went  
21 to planning and they told me that these are not  
22 part of the subdivision.

23 Can I also point out on the record that  
24 this parcel is being marketed for 120,000. This is  
25 130,000, this is \$65,000, and that these homes are

1 substantial homes in this subdivision.

2 MR. MILAZZO: This is owned by the  
3 Suffolk County Water Authority.

4 MR. NICOLAZZI: The DaRosa, Gibbons  
5 lots are 120, 130 and \$65,000 respectively. And I  
6 understand that they are in contract and one has  
7 closed.

8 MR. COWEN: So, Dominic, have you looked  
9 into the non-development provision of 57?

10 MR. NICOLAZZI: Yes, I have.

11 MR. COWEN: Or 107.13 (ix)?

12 MR. NICOLAZZI: I have and this project  
13 satisfies the requirements of the Pine Barren  
14 Statute 57-0121(10) of the Conservation Law;  
15 Extraordinary Hardship. If the provisions of the  
16 act are literally enforced the applicant/specific  
17 property involved would result in an extraordinary  
18 hardship, as distinguished from a mere  
19 inconvenience. The subject property does not have  
20 any beneficial use if used for its present use or  
21 developed as authorized by the provisions of the  
22 article. The project is consistent with and would  
23 not adversely affect the neighbors, neighboring  
24 properties and contiguous properties. This is not  
25 an application created by the specific situation of

1 the applicant but rather the characteristics of the  
2 subject property. Furthermore, this application  
3 does not stem from action or inaction of the  
4 applicant or owner of title or transfer of same on  
5 or before (sic) June 1, (sic) as the property was  
6 obtained in the early '80s.

7 The granting of this hardship and  
8 ultimate permit will not be materially detrimental  
9 or injurious to other property or improvements in  
10 the area, or to contiguous property owners (sic).  
11 This property will not increase the danger of fire;  
12 it will actually decrease it as there will be a  
13 homeowner on the property (sic). Because in its  
14 non-usage, there is the existence of children  
15 camping and creating bonfires in the rear of the  
16 property and riding motorcycles on the property.

17 This request is the minimal possible  
18 relief the applicant would request. This is a  
19 fifteen acre parcel zoned A-1. A yield map under  
20 A-1 zoning would show twelve lots conservatively.  
21 We are not requesting twelve lots, not eleven, or  
22 ten; we are requesting one building lot, one  
23 single family home. And items 3,4, and 5, per  
24 Donna Plunkett of the hardship application, are  
25 non-applicable.

1 MR. COWEN: My question though had to  
2 do with the statute. I'm glad you did that because  
3 that is very relevant, but the section I was  
4 wanting to know if you looked at was 57-0107.13  
5 (ix), which has to do with the same citation that  
6 Mr. Malazzo just indicated to us -- he referenced  
7 Gibbons and the other parcel were exempted.

8 I just wondered if you reviewed that on  
9 behalf of your client.

10 Let's go off the record for one second.

11 (Discussion held off the record.)

12 MR. NICOLAZZI: I do not believe subset  
13 nine would benefit my client in that I don't think  
14 it's part of a subdivision. I think it's described  
15 land as per Town of Brookhaven Planning Department.

16 MR. COWEN: So you have researched  
17 that?

18 MR. NICOLAZZI: I have, yes. That  
19 jogged my memory and I did meet with them and we  
20 looked it up and there were no records of  
21 subdivision.

22 MR. COWEN: Have there been any  
23 discussions with engineers regarding your site  
24 development plans and specifically how you would  
25 gain access to this property which would be off, I



1           presume, this road --

2                       MR. NICOLAZZI: Yes, East Bartlett, and  
3 I'm sure includes some type of F drive because of  
4 the difference in elevation up to the residence.

5                       But I would also like to say that we  
6 would, of course, cooperate with the Town of  
7 Brookhaven on drainage, on driveways, wetlands and  
8 whatever other requirements, DEC, environmental  
9 concerns that could possibly be located in my path,  
10 but we only ask at this time we be permitted to  
11 have the approval of the commission.

12                      MR. COWEN: Now I need to ask another  
13 question that relates back to my first question  
14 which has to do with the residual uses that if this  
15 were approved, that would be negotiated for this  
16 particular site, because it's now obvious that it  
17 will at least be a long driveway on the front part  
18 of the center parcel back to the residence area.  
19 And the negotiations for residual use would have to  
20 include the ability to cross that part of the  
21 parcel and to obviously clear trees for a paved  
22 driveway or some sort of driveway. But absent that  
23 particular part of the use, is it -- I assume you  
24 have done this before where we have granted credits  
25 -- no we have not granted credits --

1 MR. DRAGOTTA: I'm sorry, ask your  
2 question.

3 MS. WIPLUSH: We have granted credits  
4 to a large acreage and while the owner retains the  
5 ability to retain the one unit, on that acreage,  
6 have we done that before?

7 MR. DRAGOTTA: No.

8 MR. COWEN: So would you anticipate  
9 that if we do this, this time, that the one credit  
10 that the owner is holding back for the one  
11 development opportunity, would encompass the acres?

12 MR. MILAZZO: This is actually  
13 something you have wrestled with in the past. The  
14 decision -- if I could analogize to you the  
15 improved parcels have been -- you put the easement  
16 on the entire parcel and then the easement is  
17 tailored to our continued use of an existing  
18 structure. So what would happen here is, if the  
19 plan allows you to reduce the allocation, or the  
20 plan requires that the allocation is reduced by one  
21 credit for every 15 structures, and proportional  
22 decrease in an allocation is that based on the  
23 first rate approval that is granted to the parcel.

24 Don't quote me, but that's the  
25 effective language of the plan.

1                   So you could either A) say the  
2                   allocation has been reduced by one, B) send it back  
3                   to the Clearinghouse for directions to reduce the  
4                   allocation by whatever number you get is  
5                   appropriate and then C) you could say the  
6                   Conservation Easement will offer the entire parcel.  
7                   He'll have to have some sort of survey. He'll have  
8                   to have some sort of review, through the Town. So  
9                   we could either incorporate whatever the Town  
10                  requirements are, additional c and r's are more  
11                  effective then, in addition to the commission  
12                  easement, or we could just put their standard on it  
13                  as you leave the house and you can't -- the  
14                  easement -- we would probably do three easements  
15                  because it's one here and one here and one here.  
16                  It's actually with three different owners and this  
17                  middle easement would be the one we used for  
18                  pre-approved houses. If that's not enough, I could  
19                  get you a copy of that and we can do what we did  
20                  with Warner; you can do this, this and this, but  
21                  you can't duck farm or you can't do something else.

22                   MR. DRAGOTTA: Okay.

23                   MR. MILAZZO: I'm not sure -- I don't  
24                   know if that answers your question but we have an  
25                   easement that we use for improved property and this

1 would be improved property and the clearing, how  
2 much is to be developed is really for the  
3 commission to determine and then you would come  
4 back to us and we would say "Okay, now it's  
5 approved. Here you go."

6 MS. WIPLUSH: It's a question relating  
7 to a reduction and not getting credit -- getting  
8 less credit than the subject parcel with the house  
9 being built? Is that what your representing?

10 MR. MILAZZO: No, I'm not representing  
11 anything. I'm reading what the plan tells us. On  
12 the front it tells us on page 88, six sections  
13 6.3.3.4 "Partially improved parcels shall receive a  
14 decreased allocation based upon the extent of  
15 improvement." This is not that.

16 "Furthermore, there shall be a  
17 proportional decrease in allocation based upon the  
18 receipt of all discretionary permits for  
19 improvement of a parcel." I would suggest that  
20 this would fall into that.

21 I will repeat it.

22 "Furthermore, there shall be a  
23 proportional decrease in allocation based upon the  
24 receipt of all discretionary permits for  
25 improvement of a parcel."

1                   And the next sentence can give the  
2                   Clearinghouse and the Commission some guidelines:  
3                   "The Pine Barrens Credit allocation for a parcel of  
4                   land shall be reduced by one Pine Barrens Credit  
5                   for each existing single family unit on the parcel  
6                   or equivalent as such equivalent is described in  
7                   the document entitled Standards for Approval of  
8                   Plan and Construction for Sewage Disposal Systems  
9                   for other than Single Family residences, approved  
10                  by the Suffolk County Department of Health  
11                  Services, Division of Environmental Quality, on  
12                  June 15, 1982, revised March 5, 1984..."   blah,  
13                  blah, blah.

14                         What that -- Oh, I'm sorry.

15                         MR. DRAGOTTA: I think we're going too  
16                         far. I think we're getting into debate and  
17                         deliberation. Let's stick to the application and  
18                         once we finish, any questions that we may have  
19                         regarding the application itself, then we can make  
20                         our next determination; okay?

21                         MR. SPITZ: I would like to ask a  
22                         question that might simplify things. We keep  
23                         talking about credits and I believe that's  
24                         confusing. However, there is representations in  
25                         your official application that you mailed to us

1           regarding credits and so we have to talk about them  
2           unless, of course, you were to modify or change in  
3           some way the application you brought before us,  
4           hardship.

5                       My thinking is that what you are really  
6           seeking is a hardship exemption to construct a  
7           single family residence on what will be a merged  
8           lot, a lot comprised of three lots. I think that  
9           in one sentence or two, depending on how it came  
10          out, is what you're here for today. All of the  
11          other issues, including your representation in  
12          your application as to what you're planning to do  
13          by way of applying for credits, are moot in the  
14          absence of first perfecting if, in fact, that can  
15          be done, your application for this single family  
16          residence on what will be one lot then of the  
17          merger of three, and I would suggest that perhaps  
18          you consider simplifying or modifying or explaining  
19          the application in simple terms and that might very  
20          well help this commission in its deliberations on  
21          the strict question of a hardship exemption for a  
22          single family residence.

23                      MR. NICOLAZZI: The applicant is  
24          seeking a hardship exemption on lot 200-480, block  
25          3, lot one for the purpose of building one single

1 family home, a detached garage and horse barn.

2 MS. ROTH: So are you amending your  
3 application to withdraw the reference to the other  
4 two lots?

5 MR. NICOLAZZI: Yes, I am.

6 MS. ROTH: And you are now making an  
7 application for one lot?

8 MR. NICOLAZZI: That's correct.

9 That was only included for reference  
10 purposes so that the Commission would have a feel  
11 for the overall project.

12 MR. SPITZ: I will ask you again: Your  
13 application now is just for the center lot or is it  
14 for a single family residence on what would be one  
15 lot comprised of the three?

16 MR. NICOLAZZI: Can we go off the  
17 record.

18 (Discussion held off the record.)

19 MR. COWEN: We just had an off the  
20 record discussion concerning the issue of road  
21 frontage and the applicant has indicated that he is  
22 going to remain with his amended application and  
23 the application that is before us is, in fact, for  
24 the center lot only. It does not include any  
25 reference to the two lots on either side of the

1 center lot.

2 MS. ROTH: That's lot 1, tax lot 1.

3 MR. COWEN: Tax lot 1 is the center  
4 lot.

5 MR. NICOLAZZI: Yes, tax lot 1.

6 MR. COWEN: So we are striking any  
7 reference to credit allocations that are contained  
8 in the written application, any reference to the  
9 other lots that are contained in the written  
10 application.

11 MR. DRAGOTTA: Counsel, do you have  
12 anything else to offer?

13 MR. NICOLAZZI: That's it, thank you  
14 very much.

15 MR. DRAGOTTA: Anyone else have any  
16 comments they wish to make?

17 MR. KASNER: I would like to make two  
18 comments; the first is that the construction of the  
19 driveway to access the residence, will have an  
20 adverse impact on the community with respect to  
21 drainage given the fact that the slope on this  
22 property is very steep, runoff containment is  
23 likely to be a problem, and so there will be, we  
24 believe, some adverse impact at least with respect  
25 to -- the second issue is with respect to having



1 development on the building of the three lots.  
2 That will create some degree of habitat  
3 fragmentation since these lots are represented as  
4 being under single ownership. If you were to  
5 reduce the level of impact, of the development, the  
6 development should be shifted to the north so that  
7 it is adjacent to the existing residential  
8 development and not in the middle, and therefore,  
9 those two additional lots will create additional  
10 open space that when added to the Suffolk County  
11 Water Authority will create a much larger  
12 undisturbed and unbroken habitat with minimal  
13 patchiness and effect.

14 MR. DRAGOTTA: Thank you.

15 MR. NICOLAZZI: May I respond?

16 As with all lot drainage -- there are  
17 drainage requirements and with flat lots its easier  
18 and steep lots it's more difficult, but drainage  
19 plans would be drawn and engineered to contain the  
20 water on that lot.

21 MR. DRAGOTTA: Does anyone have any  
22 further comments?

23 MR. COWEN: One question.

24 I think this is probably in the record  
25 somewhere, but could you tell me once more who

1 owned the big lot that's adjacent to the south  
2 boundary of -- two properties or three properties  
3 we are talking about?

4 This one here (indicating.)

5 Is that Water Authority?

6 MS. JAKOBSEN: Suffolk County Water  
7 Authority.

8 MR. COWEN: So it goes all the way up  
9 here (indicating)?

10 MS. JAKOBSEN: The whole area here.

11 MR. MILAZZO: The Water Authority owns  
12 this parcel, this road and all of these parcels,  
13 with the exception of this parcel right here  
14 (indicating).

15 MR. COWEN: So the entire southern  
16 boundary of the southern most three lots that were  
17 subject to his application is all owned by the  
18 Suffolk County Water Authority?

19 MS. JAKOBSEN: Yes.

20 MR. COWEN: And to the north is private  
21 residences on the single lot.

22 MR. NICOLAZZI: That's correct.

23 If I may add something.

24 Although it would be more desirable to  
25 the applicant to have the development in the middle

1 of the lots, but we would consider the development  
2 to the north and favor the north side so that there  
3 would be more open space contiguous to the Suffolk  
4 County Water Authority.

5 MS. ROTH: That lot is not before us  
6 now.

7 MR. NICOLAZZI: It's not but...

8 MR. KASNER: I should point out that if  
9 pressure is being given for that lot that's going  
10 to be squeezed between the existing residences and  
11 the proposed residence, the real value of  
12 environmental, speaking of that lot, is greatly  
13 diminished because it's going to be developed  
14 between two developed parcels. So one has to  
15 really revisit that particularly looking at parcels  
16 under current ownership.

17 MR. NICOLAZZI: We're talking about  
18 development here. Aren't we talking about this  
19 being the fragmentation and the other 1500 feet  
20 going back being left intact, 1500 by 327, and this  
21 would be considered the area of development which  
22 we are sacrificing one valuable Pine Barrens  
23 credit on and I think it's --

24 MR. DRAGOTTA: I'm going to keep this  
25 hearing open until June 9th.

1 MS. ROTH: So you are going to continue  
2 the hearing on the 9th, June 9th?

3 MR. DRAGOTTA: Continuing the hearing  
4 on June 9th.

5 MR. ROTH: Three o'clock, whatever it  
6 is?

7 MR. DRAGOTTA: 3 o'clock.

8 Counsel, just in case you change your  
9 mind, we are continuing this hearing until  
10 June 9th.

11 MR. NICOLAZZI: Okay.

12 MS. ROTH: At 3 o'clock.

13 MR. DRAGOTTA: at 3 o'clock.

14 MR. MILAZZO: I will provide the  
15 letter from staff on --

16 MR. COWEN: Just one more suggestion on  
17 the record.

18 We have gone back and forth, Mr.  
19 Nicolazzi, on the description of what is in front  
20 of the commission and I guess I would urge you in  
21 the intervening three weeks to be very sure, at the  
22 next meeting, when this hearing is reconvened, that  
23 you have a definitive statement as to what is  
24 before this Commission with your application.

25 Consider everything that was said

1           today.

2                           MR. NICOLAZZI: Right, right.

3                           (WHEREUPON, this hearing was  
4           concluded.)

5                           \*           \*           \*

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C E R T I F I C A T E

I, LORRAINE D. BERARDI, Court Reporter,  
certify that the foregoing transcript of  
proceedings of the Public Hearing of the Central  
Pine Barrens Joint Planning and Policy Commission,  
was prepared by me and is a true and accurate  
record of the proceedings, to the best of my  
ability.



LORRAINE D. BERARDI

Dated: June 7, 1999