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THE STATE OF NEW YORK

COUNTY OF SUFFOLK

-----X

The Central Pine Barrens Joint

Planning and Policy Commission

on the matter of an assertion of review

jurisdiction in the compatible growth area.

-----X

3525 Sunrise Highway

Great River, New York

May 8, 2002

3:00 P.M.

B E F O R E: George Proios,

Chairman

Taken by: Donna L. Spratt

Court Reporter

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

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4 JOSEPH MCCLELLAN

5 JEAN COMPITELLO

6 JIM RIGANO

7 RAY COWEN

8 BILL SPITZ

9 BRENDA PRUSINOWSKI

10 JEFF MURPHREE

11 RAY CORWIN

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3 MR. PROIOS: I'm calling this
4 public hearing to order. For the
5 record, I'll read the public notice
6 pertaining to our hearing.
7 Pursuant to Environmental Conservation
8 Law Article 57-0121(2), notice is
9 hereby given that a public hearing
10 will be held by the Central Pine
11 Barrens Joint Planning and Policy
12 Commission on May 8, 2002 on the
13 matter of an assertion of review
14 jurisdiction in the compatible growth
15 area. The subject of the hearing is:
16 Applicant is Spring Meadow at Wading
17 River, also called Spring Meadow
18 Enterprises LLC c/o Edward Carrera,
19 Little Harbor Road, Mount Sinai, New
20 York.
21 Located on the south side of New York
22 State Route 25A, 600 feet west of
23 Amber Lane, Wading River, in the Town
24 of Brookhaven.
25 The Commission asserted jurisdiction

1
2 over a proposal to subdivide 189.05
3 acres, zoned A-1 Residence. 59.36
4 acres of this property would be
5 subdivided into 75 single family
6 residential lots and would include the
7 construction of new streets and
8 recharge basin. The remaining 130
9 plus acres have been acquired by the
10 County.

11 The property is located on Suffolk
12 County tax map 200-200-128-1-15,
13 200-128-1-16, 200-150-1-1, and
14 200-151-3-40.

15 The hearing will be held at 3:00 p.m.
16 at the Commission Office, 3525 Sunrise
17 Highway, Great River. The project is
18 available for examination during
19 regular business hours between 8:30
20 a.m. and 5:00 p.m. at the Commission's
21 office at: 3525 Sunrise Highway, 2nd
22 Floor, Great River, New York.

23 Is the applicant here or the
24 applicant's representative? I guess
25 not.

1
2 MS. CARTER: Shall I read the
3 exhibits into the record or is the
4 exhibit cover sheet adequate?

5 MR. RIGANO: That should be
6 adequate.

7 MS. CARTER: Exhibit one is the
8 cover sheet that lists all of the
9 exhibits. I should go down the list.
10 Some of them are included in your
11 packet.

12 Exhibit 2 would be the staff report I
13 prepared on May 8, 2002. You also
14 have Exhibit 3. It is a copy of a
15 page from the Suffolk County tax map
16 book, the 2001 tax map book, showing
17 the subject parcel highlighted in
18 pink, and the map indicates this
19 parcel is 59.36 acres.

20 This is a parcel that's the subject of
21 a pending application before the Town
22 of Brookhaven for a subdivision into
23 75 single family residential building
24 lots.

25 You'll notice in your packet also is

1
2 an aerial photo, Exhibit 4, a 2001
3 aerial photograph showing an area
4 outlined in red of approximately 189
5 acres containing the parcel that
6 George just read into the record. The
7 parcel lines shown in yellow show
8 configuration of lot number 16 prior
9 to being re-mapped. If you look back
10 at your tax map page, the parcel
11 number 16 had been re-mapped to 16.1
12 and 16.2.

13 Exhibit 5 is a copy of a real estate
14 acquisition report prepared by Chris
15 Wrede, entitled 2001 Real Property
16 Acquisitions. The report shows the
17 acquisition by Suffolk County of 130
18 acres of this 189 acres that was
19 purchased on February, 13, 2001 for
20 \$4,500,000 from Wading Brook Land
21 Developers Incorporated under the
22 drinking water protection program.

23 MR. PROIOS: Which parcels were
24 those again?

25 MS. CARTER: Everything but the

1
2 parcel that's highlighted in pink on
3 the tax map page.

4 MR. PROIOS: 59 acres.

5 MS. CARTER: Everything but the
6 59 acres were purchased by the
7 County. Roughly 130 acres was
8 purchased by the County.
9 Exhibit 6 is a copy of a memorandum
10 dated April 30, 2001 from the Suffolk
11 County Department of Planning, Real
12 Estate Division to the Suffolk County
13 Parks Department indicating a transfer
14 of jurisdiction of those 130 acres
15 that were described.

16 Exhibit 7 is a copy of a letter from
17 John Girandola, Commissioner of Town
18 of Brookhaven to Thomas Isles
19 summarizing the history of the Spring
20 Meadow subdivision application. This
21 was originally brought to the
22 Commission on March 20, 2002. The
23 Commission asserted jurisdiction over
24 the project and set the public hearing
25 date for today. The Commission's

1
2 decision deadline on this application
3 is July 18, 2002.

4 Just summarizing the history of the
5 parcel spread out, the map that was
6 part of the impact statement, both
7 maps -- we only have one copy of each
8 of these. Sorry. The 189 acres was
9 the subject of a preliminary
10 subdivision application before the
11 Town in 1992. It was granted
12 preliminary approval for a different
13 layout than you see before you here.
14 That approval expired six months
15 later. The applicant requested an
16 extension of the preliminary approval
17 in 1997. That was denied by the
18 Town.

19 In March of 1998 a new and different
20 application for preliminary map
21 approval was submitted to the Town,
22 and the Town required a draft
23 supplemental eventual impact
24 statement. An impact statement has
25 been done before. There was a

1
2 different project. They wanted a
3 supplemental, and in 1998 -- the draft
4 is this map over here, so the
5 Commission received this with a SEQRA
6 coordination from the town along with
7 a DSEIS in July of 2000. It contained
8 sections 1,2 and 3 on the 189 acres
9 plus an area to be dedicated to the
10 Town of Brookhaven. After this DSEIS,
11 Suffolk County purchased just shy 130
12 acres of this subdivision map.

13 MR. PROIOS: What is the date of
14 that?

15 MS. CARTER: February 13, 2001
16 when they purchased all but this area
17 here shown within Section 177. All
18 this has been purchased (indicating).

19 MS. CARTER: Everything but this
20 section here, right. On February 13,
21 2002 we received notice from the Town
22 that they had accepted the final
23 supplemental environmental impact
24 statement and they sent us a copy of
25 that, and this map here was included

1
2 with that showing 75 proposed lots on
3 59.3 acres. Staff responded to the
4 Town with comments that it didn't look
5 like this complied with Commission
6 standards, in the CGA.

7 That was brought to the
8 commission's attention on the 20th of
9 March. That's when the Commission
10 asserted jurisdiction, and they also
11 asserted that the project was subject
12 to all of standards and guidelines in
13 the CGA. I did notify the applicant
14 on March 25th that the Commission had
15 just asserted jurisdiction by
16 certified letter. We didn't get the
17 return receipt back so I did a little
18 research, and I found two other
19 addresses, one of them being right on
20 the map here. I sent one to that
21 address and the other address. I
22 called the tax receiver and I sent two
23 more certified letters and both of
24 them were returned to the Commission
25 as being refused. My letter that I

1
2 sent in the certified letter asked
3 them to submit an application to the
4 Commission, so we don't really have an
5 application before us at this time.
6 I pointed out the site issues at the
7 end of the staff report. One is a
8 minor issue, I guess. There is a
9 \$156.80 legal notice that was
10 published in Newsday that the
11 applicant normally pays for. I'm not
12 sure who pays for that now.

13 MS. PRUSINOWSKI: You don't have
14 an applicant.

15 MS. CARTER: We haven't received
16 an application yet. The other issue
17 that I wanted to point out is that the
18 sheets or maps submitted with that
19 showed the pipeline running right
20 through this area, through here a 150
21 foot wide area to be cleared through
22 here. I just didn't know -- it was a
23 question if the applicant had entered
24 into any negotiations with the
25 pipeline company for that easement and

1
2 they're right through the middle of
3 the development and through the Town
4 nature preserve just east of that.
5 Are there any questions? When this
6 was received, this map that came with
7 the final supplementary EIS from the
8 Town shows the odd shaped open space
9 area to the south of the now proposed
10 development. It says land acquired or
11 to be by Suffolk County. I don't know
12 as of the date that was produced
13 whether the land had, in fact, been
14 acquired by Suffolk County at that
15 time. The revision date on the map IS
16 October 11, 2001.

17 MS. PRUSINOWSKI: IT would have
18 know based on this.

19 MR. CORWIN: This appears to
20 have been in the County's hands by
21 that time.

22 MR. PROIOS: What are our legal
23 options with the applicant if they're
24 to submit an application?

25 MR. RIGANO: I believe the

1
2 Commission could still proceed whether
3 the applicant provided the information
4 or not, as long as the Commission has
5 adequate information to make a
6 determination which I think it does
7 based on the fact that we have an EIS
8 and a lot of information from the Town
9 application process.

10 MR. PROIOS: The clock starts
11 ticking though. Do we have to be
12 deemed complete, can we do that
13 without the applicant's information?

14 MR. RIGANO: Yes. I think if
15 you have enough information, you
16 could.

17 MR. PROIOS: Is there any
18 additional information that you need
19 that you're waiting for?

20 MS. CARTER: We don't have
21 detailed information maps showing the
22 clearing other than these, the
23 calculations, but there is some
24 language that the requirement is 53
25 percent maximum clearing and 15

1
2 fertilizer dependent vegetation. We
3 don't have those calculations but
4 there is language.

5 MR. PROIOS: Is it clear to you
6 with all the dates who actually is the
7 owner of the land throughout this
8 whole process?

9 MS. CARTER: The phone call that
10 I made to the tax receiver indicates
11 the owner was Edward Carrera.

12 MR. PROIOS: Throughout the
13 entire process up until the time that
14 the County purchased it?

15 MS. CARTER: No. That is not
16 clear to me, because there is
17 conflicting information in that I
18 believe it's the Suffolk County
19 acquisition list from Chris Wrede
20 listing Wading Liver Land Development
21 Incorporated as the owner and I'm
22 thinking I heard the name Spring
23 Meadow Enterprises came up as one of
24 the ones I sent the certified letter
25 to.

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2 MS. CORWIN: You don't know the
3 principals of those?

4 MS. CARTER: No. On the map it
5 is Edward Carrera. If you look in the
6 impact statement I believe it is the
7 same. The impact statement says Ed
8 Carrera applicant. It doesn't say who
9 the owner is.

10 MR. PROIOS: Is there a
11 requirement that the Town has that
12 that information has to be somewhere
13 if the application comes in, if the
14 person is not the owner that the
15 applicant needs to state who the owner
16 is? He can get approval for land he
17 doesn't own?

18 MS. PRUSINOWSKI: It is nothing
19 unusual.

20 MR. PROIOS: You still need that
21 additional information so we have an
22 incomplete application at this point.

23 MS. PRUSINOWSKI: I think
24 technically we don't have an
25 application per se. I think it is a

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mistake to call that.

MR. CORWIN: They may or may not be willing to come forward and make an application, but you'd think he has a project to assert the jurisdiction over.

MR. MCCLELLAN: Have we had a project in the past where someone refused --

MR. CORWIN: Both times applications were forth coming. The other one we don't have an application.

MR. RIGANO: Whether the calculation works or not, there is plenty of information here. Look at this thing we got although there is no application submitted by the applicant, there is plenty of information to make a decision on, and if you take the view you have to wait for an application, if the Commission did not --

MR. MCCLELLAN: This is a

1
2 screwed up project.

3 MS. CARTER: They're using land
4 it is clearly stated they sold to the
5 County as credit for the open space to
6 meet the standard so that's an issue.

7 MR. RIGANO: I had two
8 questions. The approval that they
9 received originally that was expired
10 was a preliminary?

11 MS. PRUSINOWSKI: That expired.
12 However, there was also a cluster
13 approval, which this map does not
14 point out. In 1991, that did not
15 expire.

16 MR. RIGANO: Is that the
17 equivalent of a subdivision approval?

18 MS. PRUSINOWSKI: It is an
19 approval. It could be taken to mean
20 that, yes.

21 MR. PROIOS: When approvals are
22 granted, do they run with the land or
23 with the applicant?

24 MS. PRUSINOWSKI: Runs with the
25 land.

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MR. PROIOS: Even if the
applicant did not own the land.

MS. PRUSINOWSKI: An applicant
could be a contractor vendee.

MR. PROIOS: You would have to
have a record that he was back then.

MR. MURPHREE: Perhaps he was.
I don't know, George. Why is that an
issue?

MR. PROIOS: Is the cluster
approval still in existence? Does it
go with the land?

MS. PRUSINOWSKI: It goes with
the land.

MR. RIGANO: I don't think we've
seen the approval, the one that
expired or the cluster as yet. We
don't have them in hand, do we?

MS. CARTER: Unless they're in
that document somewhere.

MR. RIGANO: So the applicant
has informed me in a very undocumented
fashion that -- to their discredit I
should add -- one is that they had a

1
2 preliminary land division approval
3 that would make this non-development
4 and I don't have any documentation on
5 that but that's what they have
6 asserted but have provided no
7 documentation.

8 MR. CORWIN: Did they reference
9 a cluster approval?

10 MS. PRUSINOWSKI: Yes.

11 MR. RIGANO: They referenced a
12 cluster approval but didn't provide
13 one and I haven't seen one, so I don't
14 know if that's true or not. That's
15 one point it would be good to have the
16 answer to that because if it is true
17 and meets the other requirements of
18 non-development which go along the
19 lines of meeting current zoning, I
20 don't know if this meets current
21 zoning or not.

22 I was hoping the applicant would be
23 here today to clarify their position
24 on this. Then perhaps it is
25 non-development, but at the moment, I

1
2 don't know and they haven't provided
3 sufficient information to make that
4 determination. That is one major
5 question.

6 Then the second major question is as I
7 understand it, the reason this got --
8 so much attention was drawn to this
9 was there is an issue as to whether
10 they meet the clearing standard, and
11 if you factor in all the land that's
12 being preserved that we understand was
13 purchased by the County, then they do
14 meet the clearing standard, but if you
15 don't factor that in -- and I think
16 there as strong belief it shouldn't
17 because it was purchased -- then they
18 would not meet the clearing standard.
19 The applicant's attorney told me in a
20 very brief an up doubt had fashion
21 that part of the land that's being
22 preserved was acquired but a
23 significant part of the land was not
24 acquired but was rather dedicated or
25 contributed at not cost to the County.

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2 MR. COWAN: Did he quantify
3 that?

4 MR. RIGANO: Maybe over the
5 telephone but I didn't receive
6 anything. It was fairly limited
7 information and he told me when you
8 factor in the land that was dedicated
9 and not purchased and is now in
10 County's hands, that they do meet the
11 clearing limits. I said that's
12 interesting. We'll see you on the 8th
13 and look into that. They had the
14 opportunity to show up.

15 MR. PROIOS: We have no
16 documentation that support that.

17 MR. RIGANO: I have no
18 documentation and nothing useful on
19 either issue. We have the letter
20 dated March 5, 2000 which seems to go
21 to that issue. He talks about, in not
22 very definitive terms, the County
23 acquiring 90 units in the acquisition
24 and attributed it there to all of the
25 original 165 and valued this element

1
2 of its acquisition accordingly. He
3 infers in here that the developer
4 donated 63 acres.

5 MR. CORWIN: We know what the
6 land associated there is so --

7 MR. COWEN: My question is did
8 the staff undertake any investigation
9 that the acquisition was based on that
10 sort of premise? Certainly the
11 information you've given us is not
12 broken down that way but that's an
13 issue that we need to delve into with
14 the County; exactly what were the
15 terms of this acquisition, how was it
16 structured. It is critical to know
17 that.

18 MR. CORWIN: Find out.

19 MS. PRUSINOWSKI: Do you still
20 need that information if it was a
21 cluster approval? That is an approval
22 prior to June of 1993.

23 MR. RIGANO: Perhaps not. If it
24 meets all the conditions but there is
25 a bunch of conditions.

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MR. COWEN: It doesn't conform
to current zoning.

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MS. CARTER: Half acre lots,
roughly.

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MR. RIGANO: It has to conform
to current zoning subject to a three
year exception in 265A of the Town Law
or subject to an exception from
upzoning. My guess is -- I don't know
for sure -- it doesn't meet these
requirements.

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MR. CORWIN: On the cluster
zoning. If you have a cluster
approval, a certain percentage of the
land gets set aside, whatever the
regulations say and you get that
preliminary approval. Can I sell part
of that to another party based on that
or am I required to maintain that in
some kind of property owners
association?

23

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MS. PRUSINOWSKI: That would
depend on the approval, how it was
proposed and how it was approved.

1
2 MR. PROIOS: Are there any
3 issues we need to get on the record
4 especially in case of questions that
5 we want that need to be answered? If
6 there is additional information we
7 need, we need to make that clear.
8 We'll close the hearing and have other
9 discussions.

10 MR. CORWIN: What are the items
11 that we're following up on, specific
12 items we want to get clear? What
13 follow up pieces of information are we
14 looking for?

15 MR. COWEN: A critical piece
16 would be the exact terms of the
17 acquisition by the County, what
18 records exist that would support that,
19 but whatever they are, we need to get
20 a hold of those.

21 MR. PROIOS: With that is how
22 those records relate to either the
23 ownership of the land, who owned it or
24 any relationship with the contractor
25 vendee so it is clear who we were in

1
2 contract with or who we were making
3 special arrangements with. That is
4 also important.
5 I think the same thing needs to apply
6 for that whole time line that you
7 presented to us, who exactly was the
8 owner from the time this cluster
9 approval was given in 1991 through
10 April of 2002 even if there are
11 different corporations, to list them
12 at each point where they're making a
13 record of an issue.

14 MR. COWEN: One other thing, the
15 letter that you referenced earlier
16 makes reference in it to different
17 sections; section 1, section two. I
18 don't know that the maps that we have
19 in front of us have any relationship
20 to these sections that are outlined in
21 this letter.

22 MS. CARTER: The map we received
23 in DSEIS has the section, has the
24 sections.

25 MR. COWEN: Could we make a copy

1
2 of this map for Commission members,
3 please?

4 MS. CARTER: We could send it
5 out and have it back by the next
6 meeting. There aren't the acreages
7 there, but that I may be able to find
8 that in the FSCIS.

9 MR. PROIOS: Go around the table
10 and get everyone's request for
11 information. Did you have anything?

12 MR. RIGANO: The information on
13 whatever approvals were issued by the
14 Town of Brookhaven.

15 MS. PRUSINOWSKI: Cluster
16 approval, I would think.

17 MR. RIGANO: Yes.

18 MS. COMPITELLO: You mentioned
19 details of the sale by the County,
20 what they were purchasing.

21 MR. MCCLELLAN: No, nothing.

22 MR. PROIOS: I'll entertain
23 motions from the public.

24 MR. AMPER: Richard Amper,
25 Executive Director of the Long Island

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2 Pine Barrens Society. I have here a
3 map of section one, two, three, if the
4 Commission seems uncertain about what
5 we're referring to.

6 We met the Town Supervisor recently
7 and with members of the legal
8 department and planning department and
9 Town of Brookhaven. They acknowledged
10 that there was no dedication of land
11 to the Town because the County's
12 purchase preempted that dedication, so
13 there is no quid pro quo; that is, the
14 Town did not obtain anything from the
15 owner of this property whom we believe
16 to be Ed Carrera.

17 Further we were told at that meeting
18 that he was the contractor vendee on
19 the other two sections which were
20 acquired by the County, and looking at
21 the notice of a final supplemental
22 environmental impact statement which
23 you may or may not have, dated January
24 7th in which the description of the
25 action is described as a residential

1
2 cluster development of a 59.36 acre
3 parcel into 75 single family lots, if
4 they were seeking approval for a
5 residential cluster development, they
6 probably didn't already have one.
7 I have a memorandum to file from Allen
8 Greco (phonetic), Director of Real
9 Estate, dated October 25, 2000
10 regarding the acquisition and how the
11 price was calculated. I would like to
12 share it with the Commission.
13 It is the Pine Barrens Society's
14 position that that project was not
15 grandfatherd, that, in fact, it is a
16 new project and is being treated as
17 such by the Town of Brookhaven, that
18 no land has been dedicated that would
19 allow the increased density. It is
20 out of conformity with the existing
21 zoning. You can't build 75 houses on
22 59 acres in a one acre zone.
23 That the County entered into an
24 agreement at fair market value to
25 purchase the other two sections and

1
2 that inasmuch as the current owner of
3 the subject application has provided
4 nothing to the public, then the public
5 -- that is the Town of Brookhaven --
6 cannot provide him with any gift in
7 terms of increased density because he
8 didn't get anything for it, didn't
9 supply anything for it. We think it
10 does not comply with the standards and
11 guidelines and urge you to reject the
12 application.

13 MR. PROIOS: Does anyone else
14 wish to address the Commission on this
15 matter? We'll leave the comment
16 portion of the hearing open for
17 comments to some date in the future to
18 determine as we get the information in
19 where are we under any time line for
20 acting on this.

21 MS. CARTER: There is SEQRA
22 deadlines that, I guess, counsel will
23 have to advise on because the Town
24 accepted -- issued a notice of
25 compliance for the FSCIS. The

1
2 correspondence we received from them
3 said for section one only, and that
4 starts the clock ticking for the
5 decision for SEQRA, I believe.

6 MR. RIGANO: We're okay on
7 that. I took a look at that
8 recently. I think we're fine on the
9 timetable there.

10 MS. CARTER: That was in
11 January.

12 MR. RIGANO: It is okay. I've
13 looked at that in relationship to our
14 situation. It is fine.

15 MR. PROIOS: We'll adjourn the
16 hearing and wait for the additional
17 information.

18 (TIME NOTED: 3:55 P.M.)
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CERTIFICATION

I, DONNA L. SPRATT, a Notary
Public in and for the State of
New York, do hereby certify:

THAT the foregoing is a true
and accurate transcript of my
stenographic notes.

IN WITNESS WHEREOF, I have
hereunto set my hand this 22nd
day of May 2002



DONNA L. SPRATT