

CENTRAL PINE BARRENS
JOINT PLANNING AND POLICY COMMISSION

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In the Matter of the Application of

Russell E. Furia,

Re: "Whisper Hill" at Manorville

For: Exemption Permit pursuant to Subsection 10
of Section 57-0121 of the Environmental
Conservation Law.

-----X

February 17, 1994
7:45 p.m.

Riverhead Town Hall
Howell Avenue
Riverhead, New York

P U B L I C H E A R I N G

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ORIGINAL

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

CENTRAL PINE BARRENS JOINT PLANNING AND POLICY COMMISSION

FRED THIELE, Chairman

GEORGE PROIOS, Member

BRENDA FILMANSKI, Member

CAROLE SWICK, Member

RAYMOND COWEN, Member

MC MILLAN, RATHER, BENNETT & RIGANO, P.C.

Counsel to the Commission

395 North Service Road
Melville, New York 11747

BY: DORIS E. ROTH, ESQ.

TIM HOPKINS, Suffolk County Water Authority

RUSSELL E. FURIA, Applicant

DR. RICHARD JACKSON, Environmental Consultant

* * * *

1
2 MR. THIELE: I'd like to call this Public
3 Hearing of the Central Pine Barrens Joint
4 Planning and Policy Commission to order for the
5 evening. The application that will be before us
6 tonight is the Whisper Hill Residential
7 subdivision in Brookhaven.

8 This Public Hearing was scheduled by the
9 Commission at its February 7th, 1994 meeting.
10 And legal notice for this Hearing tonight was
11 published in Newsday on February 9 of 1994.
12 Before we open it to the public, I would just
13 ask staff to just give the Commission a brief
14 overview of the application that's before us.

15 MR. HOPKINS: All right. The name of the
16 project is called Whisper Hill. And this is an
17 application for an exemption or rather a
18 Hardship within the Core Preservation as defined
19 in Section 10 -- Subdivision 10 of Section
20 57-0121 of the Environmental Conservation Law.
21 The project involves the subdivision of
22 approximately 68 acres or 69 acres. The parcel
23 of property, Suffolk Tax Map Number
24 200-463-1-12.3 is located at Hot Water Street in
25 Manorville. The applicant will probably give a

1
2 more detailed description of exactly how many
3 residential units are going to be proposed. I
4 believe the Town of Brookhaven has recently
5 issued findings with respect to the application
6 of the proposed project. I don't know.

7 MR. THIELE: Okay. Thank you.

8 Is the applicant here?

9 MR. FURIA: That's me.

10 MR. THIELE: Would you like to be heard?

11 MR. FURIA: Sure.

12 MR. THIELE: Okay. You have the floor.

13 MR. FURIA: I come here today to ask this
14 Commission --

15 MR. THIELE: If you'd just state your name
16 for the record, please.

17 MR. FURIA: My name is Russell E. Furia.
18 I am the owner of a 68.825 sylvan acre parcel of
19 land located in Hot Water Street, Manorville,
20 New York. And I come here today to ask the
21 Commission for a Hardship Permit to build 12
22 houses on the subject property in a grid,
23 five-acre grid. It should be noted that the
24 Town of Brookhaven two days ago issued findings
25 under the SEQRA Process. And that the Town

1
2 chose one of the alternative layouts that I had
3 submitted with the Draft Environmental Impact
4 Statement. And that alternative was a two-acre
5 cluster. And I don't think it's a traditional
6 cluster. Because as most of you know in this
7 room, the property originally started out as a
8 two-acre zone and was then up zoned to five
9 acres. So under the traditional cluster, I
10 would have been entitled to a yield of 30 houses
11 in a cluster pattern. And subsequently, since
12 the Town chose to use the five-acre yield, I now
13 have a cluster of 12 houses on two acres each.
14 All right. There would be a 39-acre piece of
15 property towards the rear of the property, the
16 portion of that property would have two perched
17 kettle holes or perched ponds as people know
18 them, as you know is a stagnant water body. One
19 of the perched ponds is in very decent shape.
20 And the other one has been severely damaged and
21 eroded through the years. But regardless, the
22 39-acres would be saved the community north of
23 the proposed cluster. And I guess we haven't
24 worked details on it. There might be a
25 Homeowner's Association or it might be deeded to

1
2 the Conservancy. And basically I'd be building
3 on approximately 24 acres and change.

4 One has to remember that I've owned this
5 property for nine years. During that period of
6 time I've paid my taxes, I've picked up the
7 trash, okay, from people that have taken every
8 opportunity they could to, so to speak, dump on
9 me. I watched people, okay, you know, enjoy my
10 property. All right. And I am trying to enjoy
11 it by yielding for myself a home for myself on
12 this property, and at the same time building a
13 handful of houses for other people. Initially
14 we started out we were going to do two, two acre
15 zoning and we were going to offer a luxury
16 house. Okay. That would probably have sold in
17 the neighborhood of 399,000 and up, for two
18 acres in Manorville with a 3,500 square foot
19 house. That wasn't an unrealistic amount of
20 money, not for a piece of property that was
21 scenic, was not the traditional scrub Pine
22 Barrens, had expensive hard wood on it, a pond
23 bordering the property in the front. Which I
24 might add, okay, to the best of my knowledge, is
25 a real pond. Okay. We believe it is. Where

1
2 the other two ponds that are on the property,
3 okay, are stagnant ponds, kettle holes. And it
4 was my intent when I bought this property to use
5 this property to build a home, okay, of my
6 design and my choice on a piece of property of
7 my choice for myself. Okay. I shopped for the
8 property. All right. And so to speak, fell in
9 love with the property. And subsequently I
10 bought the property. All right. For myself and
11 also to use portions of it to build and, you
12 know, create a profit, a hopeful profit. Which
13 the eastwood expansion of housing on Long
14 Island, manifest destiny, so to speak, you might
15 call it took place. And I bought just before
16 the market was heating up. All right. One of
17 the reasons why I chose to buy where I bought,
18 the market was just becoming hot in this area.

19 Now after nine years and over six years of
20 inactive application, a considerable amount of
21 money for Environmental Impact Statements, a
22 full one acre, excuse me, full 1-A and 1-B
23 Archeology was performed on the property. The
24 property was found to be non-sensitive. And God
25 knows how many different layouts and plans. I

1
2 could -- you know, the pile is unbelievable. My
3 surveyor, okay, loves me. All right. My
4 environmental man loves me. All right. And the
5 bottom line is the piece of property that I love
6 I can't use. But anyway, back to basics, okay,
7 nine years later, okay, I've tried to go through
8 this torturous process of seeing other builders
9 and developers, all right, people of substance,
10 okay, walk into the Town of Brookhaven, get
11 building permits and leave. Okay. Regardless
12 of who they are. Somebody's getting building
13 permits. I'm not. Okay. It's nine years since
14 I brought the original sketch plans into the
15 Town of Brookhaven and asked them, please look
16 at these before I expend serious money to do
17 survey work and tell me what it is that you
18 would like to see on this property and how,
19 okay, you would like it laid out. All right.
20 So here we sit today, nine years later, a Draft
21 Environmental Impact Statement, through the full
22 SEQRA Process, two and a half years to design a
23 road, Hot Water Street, and a considerable
24 amount of expense. Because the Town of
25 Brookhaven couldn't sit down and tell me really

1
2 what they wanted to see with this road. We
3 raised the profile, lowered the profile, moved
4 it north, moved it south. Gentleman, a bunch of
5 high school kids could have done that road in a
6 week. It doesn't take two and a half years to
7 do a road. But regardless, we pushed on and
8 finally, okay, we came to an agreement on the
9 road. All right. The road has a small kettle
10 hole next to it, it requires a Wetland's Permit
11 from the Town of Brookhaven. There's a kettle
12 hole, perched hole, water and runoff coming from
13 the hills and mountains around it going down
14 into this little perched hole, stagnant water.

15 Now, the Town says there are Tiger
16 Salamanders on my property. They're all over
17 Manorville. Although I have not been able to
18 find one. I even offered a reward to people who
19 find one on my property. But they are in
20 Manorville because I've seen them elsewhere in
21 Manorville. Okay. It's a Marbled Salamander.
22 It's a threatened species. It's not considered
23 endangered. But it's there. According to the
24 Town of Brookhaven. So it must be there.

25 If you look at all the birds on my

1
2 property, I must have a bird sanctuary. All
3 right. I keep looking for all these birds, I
4 can't find them. Okay.

5 I'll give you a chance, Rich.

6 The bottom line is, okay, that this
7 project which I have put so much time, so much
8 effort and so much money into, all right, from a
9 planning stage concept, should have taken no
10 more than one to two years to go through the
11 system. The intentional delays, and I will call
12 it intentional. And anybody that wants to
13 challenge me. Okay. I will tell you, show you
14 on what dates, how many times I called your
15 office that you refused to speak to me. All
16 right. And if you don't communicate with me, I
17 can't possibly do what it is that you want me to
18 do, so therefore, we never get anything
19 accomplished. And I still don't get my building
20 permit. But regardless, we pressed on.

21 We have gotten to a point now where to
22 continue further we are going to need the
23 permission of this Commission. It wasn't my
24 intention to tie up my money for this long a
25 period of time. All right. And when I first

1
2 bought this project, for those people that are
3 in the audience that think I was an
4 environmentalist -- I didn't buy the property
5 that was zoned two acres because I wanted a
6 development around me. I wanted an
7 environmental scenery around me, the nature,
8 okay, I wanted nature. All right. It wasn't my
9 intent to destroy the property. I wanted
10 nature. I assume then since this project was
11 zoned two acre zoning that there would be little
12 resistance within the Town, the Board of Health
13 and the County. How wrong I was.

14 We have been through the whole process.
15 And the Town has acted as its lead agency. The
16 County has held meetings with the Town on
17 numerous occasions to discuss my project. They
18 have also held meetings on numerous occasions to
19 talk about water, the ground water. They have
20 had Committees where various different Town and
21 County people have sat together and come to
22 decisions that we want to protect the ground
23 water. Very good.

24 Ground water needs to be protected. The
25 extent of the protection is what I question.

1
2 How radical do we have to be to protect the
3 ground water? The conclusion of the D.E.I.S in
4 my opinion is that this property is buildable.
5 The impact that I will have on the ground water
6 -- and Dr. Jackson, and I emphasize doctor,
7 okay, will talk about that in a minute. All
8 right. But the impact that we will have on the
9 ground water is insignificant. For those people
10 that want a pure ground water in the sense that
11 they want purity, like virgin white ground
12 water, if it can be described that way, there is
13 no way you can ever have purity. Okay. You
14 could get close to it by building with the
15 proper perspective and idea that you want to
16 save the drinking water. Right. But you you
17 can never get absolute purity. All right.
18 There is always nitrates going into the ground.
19 All right. And of course you may argue by not
20 allowing these 12 houses we will have a purer
21 drinking water. That argument is probably
22 valid. The question is by denying the 12 houses
23 have you -- how shall I put it -- have you
24 protected the drinking water that much? All
25 right. Twelve houses, five acre zoning per

1
2 house, what is the impact? All right. And Dr.
3 Jackson will go over that with you in a minute.

4 The property is a unique piece of
5 property. Everybody's using it but me. All
6 right. In the process of doing the archeology,
7 the archeologist almost got hit with a crossbow
8 arrow. I walk around the property, there's
9 people shooting guns. We are not talking one or
10 two shots. They are shooting guns everywhere's.
11 All right. You think I had a revolution going
12 out there some days. All right. Mainly on
13 Monday, Tuesday, Wednesday and Thursday we have
14 the gun problems. Okay. On Friday night and
15 Saturday night I run a motel for four-wheel
16 drive vehicles. All right. The midnight hours
17 bring the illegal dumping. All right. On
18 Friday afternoon, Saturday and Sunday we run
19 motocross. We, the Tiger Salamanders, okay, and
20 this piece of property. I have been witness to
21 this. When I am there, I am there. I am not
22 charging anybody. I am not making any money out
23 of it. Okay. I put up signs, I post the
24 property, I try to stop trespassing. All right.
25 Sometimes the people that are there almost get

1 violent. Okay. When you tell them that you own
2 this piece of property. They tell me the County
3 owns it. I take out my little tax map and I
4 tell them hey, this is me. I pay taxes. All
5 right. This is my property. Could you please
6 go down the road and dump on Suffolk County's
7 property. I send them down to the 500 acres
8 that you bought off Hector Cuales. At one point
9 I even made a little map. I said, please, go
10 here. The County will pick it up then. I don't
11 want to be a bad neighbor to my neighbor and
12 tell them pick up the garbage. Okay. Russ sent
13 me over here. Okay. I wonder, okay, after you
14 own all of this property, where is all the money
15 going to come from to maintain it and police it?
16 All right. I mean it's really out of hand.
17 There is a park there. Okay. That's an
18 unregistered park. I mean I go out, somebody's
19 cutting a tree down with a chain saw. All
20 right. There is all kinds of things happening
21 before my eyes. All right. And as hard as I
22 try to stop it, I can't. Okay. If you buy the
23 property from me, good luck. You're going to
24 need it. All right. You're going to
25

1
2 immediately need staff to protect yourself
3 legally from the onslaught of people on this
4 property.

5 As far as fire protection goes, fire
6 protection is a big issue. Okay. In your
7 requirements. Okay. The Suffolk County Water
8 Authority plans to put a water tower, three
9 million gallon water tower 1,200 feet south of
10 my property. They also plan to put a pumping
11 station 2,500 feet north of my property. There
12 is a 12 inch water main in the road across the
13 street from me since February of 1990. I guess
14 the Suffolk County Water Authority anticipates
15 Mr. Mancini needing drinking water for his 400
16 houses he is going to build right across the
17 street from me. That's right. You're going to
18 stand on my property, look across the street and
19 see 400 houses go up before your eyes. And you
20 might -- even though he is doing a kind of
21 cluster also, all right, and I might be wrong on
22 the numbers, I don't want to cause Mr. Mancini a
23 problem. I think he is doing 358 houses on 400
24 acres, one way or another, with his cluster.
25 Okay. The bottom line is, stand there, look

1 across the street and see him, okay, doing this
2 project, all right. And believe me, okay, all
3 right, we are in the same drinking water. Dr.
4 Jackson will tell you about that in a minute.
5 All right. The impact on the environment from
6 his project is far more significant than my
7 project. I will say one thing, Mr. Mancini's
8 project, okay, falls within the guidelines and
9 is established and he has a right to build it,
10 the way I see it. Somewhere's along the line,
11 okay, this drinking water, it's there. Matter
12 of fact, the pipe may run right through my
13 property. All right. So we'll have plenty of
14 water around for fire protection. Don't anybody
15 think there won't be any drinking water. Should
16 this Board deem it or any Board deem it, if you
17 should happen to let me build this property, I
18 am sure I could find the money to hook up to
19 drinking water and put in fire hydrants.
20

21 The project, okay, started out to be 12
22 houses there probably, 30 houses, they would
23 probably sell for 399,000 a piece. Today, okay,
24 with five-acre grids, all right, I was hoping to
25 sell them in the area of 500,000 each. With a

two-acre cluster we are probably back down to 399,000 number, maybe 500 though with options.

Where to do the people come from that can afford these houses? Well, they are around. I drive past Mercedes Benzes and Jaguars everyday. I am still driving a Ford pick up, okay, because I own a piece of property in Manorville. But regardless, okay, the people are out there, double incomes. All right. They might be working at Exit 57, might be working at Exit 49. It's a relatively easy commute. You got to remember you're coming from the east. You get in the car on the Long Island Expressway at Exit 70, drive for about 40 minutes, you're down into Route 110. I have easy access to the east, west, north or south. Get on Sagtikos, in five minutes, either direction, you open up the north shore and south shore. Route 112, go up and down Route 112, Port Jefferson, all the way to the other end, the south shore. Plenty of people that can afford the houses. Believe it or not there is a shortage for 400 to \$500,000 houses, okay, built with today's standard, built with today's fixtures and designs, built with

1 today's room sizes. There is a compelling need.
2 Carole Swick admitted it herself there is a need
3 for affluent housing. I hate to use the word
4 expensive. Because expensive to me seems like a
5 million dollar house. Okay. But there is a
6 need for this housing to attract people to this
7 community of a caliber that wants to put their
8 business on Long Island and come to Long Island
9 and find a shortage of houses in this price
10 category. For those of you say there is plenty
11 of houses around. There may be plenty of houses
12 around, but there are few houses around on two
13 acres or five acres, okay, in a community that
14 could lead itself to provide some of the
15 affluence of out east, without going to the
16 Hamptons, that the community such as Brookville
17 provide today in the Nassau County area and
18 Muttontown. So I think there is need. All
19 right. So much need, I forgot to tell you, I
20 could sell six of them tomorrow. Can't sell all
21 12. Might take me a few more weeks. But I
22 could sell six of them. Everybody would like to
23 live in a preserve.
24

25 For Newsday, wherever you are in the room,

1
2 okay, one of things you forgot to mention in
3 your article is that while the County has been
4 acquiring property around me, when I bought my
5 property, the County didn't own anything around
6 me. So they are boxing me in slowly but surely.

7 Everybody in this room's probably going to
8 say why don't you T. D. R.? All right. It's
9 simple. I can't get it to work. In fact I had
10 a meeting in April of 1991 with Henrietta
11 Acampora, couldn't get it to work. Why wouldn't
12 T. D. R. work for me? Well, I was two acre
13 zoned, I had 30 units of development. Why would
14 anybody buy from me my 30 units of development
15 when they could go down the block, locate
16 somebody that was one-acre zoned, somebody that
17 was landlocked and buy his 30 units of
18 development, his 30 units of development.
19 Automatically mine has to be twice the price,
20 because I was two-acre zoned, that his unit is.
21 So why would he buy my units of development when
22 he could buy somebody else's? Why would he buy
23 something that was close to the proximity of the
24 road and higher dollar valuation when he could
25 buy something that was landlocked? So I don't

1
2 have any customers.

3 Now you're going to say to me, why don't
4 you go over to the other side of the road and
5 buy another piece of property? To be quite
6 honest with you, I tried. But now you have to
7 get into bed with somebody else, okay, who you
8 don't know what his finances are. I don't know
9 about you, but I am a businessman. I've got
10 enough of my own problems besides worrying about
11 somebody else's finances, whether five years
12 from now after you make an agreement, the Town
13 has agreed it's going to honor your T.D.R. For
14 those of you that have short memories, remember
15 Hector Cuales? He made several proposals on
16 T. D. R.'s. He had 500 acres which the County
17 now owns, which I understand he lost a
18 substantial amount of money on at closing,
19 despite what people in this room think that he
20 made money. By the time you figure in all of
21 his carrying costs and everything else. Hector
22 told me he lost money. And I believe the man.
23 Hector also had another 100 acres left after he
24 sold the 500 acres. He tried to transfer the
25 development rights from that 100 acres across

1 the road to a 19-acre piece of property. The
2 Manorville Civic Association came out and almost
3 revolted against his application. After I sat
4 and watched that, I said that's it, no T. D. R.
5 for me. We tried one last time with Acampora
6 though in April of 1991. Though I think it was
7 another individual that owns a piece of property
8 down the block from me -- but I won't mention
9 his name because I didn't ask for his permission
10 before I came here -- I asked if I could
11 transfer it on his property. The Town was
12 supposed to get back to me, didn't get back to
13 me. And the outcome, I guess, is that when they
14 don't talk to you, it's not doable. So T. D. R.
15 totally died. All right. And I think if
16 somebody says to me tonight T. D. R., I will
17 have a heart attack right here. Okay. Because
18 I can't get it to work. Because I got to worry
19 about somebody else's finances maybe five years
20 from now to start. And when I did try to start
21 it, I couldn't get anybody from the Town to play
22 ball with me.

23
24 One last thing, okay, the inverse chilling
25 effect that you people -- and all of you have

1 then had two, two calendar votes, okay. I think
2 the first vote, okay, established the quarter
3 cent drinking bill, and then the second vote, I
4 think, allowed them to create bonding to protect
5 the drinking water. And they were very careful
6 to include the word open space. Okay. Once he
7 acknowledges his intent to acquire this
8 property, and they had delineated even in a
9 rough stage where this property was they wanted
10 to save 30,000 acres of Pine Barrens, he created
11 such an inverse chilling effect when coupled
12 with the efforts of Dick Amper, on this
13 property, that it so to speak became worthless
14 overnight. The weekly letters that I used to
15 receive from brokers looking to buy my property
16 disappeared. North of County Road 111 was the
17 forbidden zone. So, I live in the forbidden
18 zone. Actually I don't, I come to visit. But
19 there is four Tiger Salamanders on the property,
20 the Town of Brookhaven saw March 15th, 1989 that
21 I can't find. Okay. And a whole lot of
22 tourists that come and go and leave their trash.
23 So tonight we are here to talk. Okay. I hope
24 talk. Okay. Something between the two of us,
25

1
2 will come out of it.

3 For those of you that wonder if I
4 considered exchange with the County or the Town,
5 I did. April 21st, 1993, somehow or another
6 John Pavacic, employee of the Environmental
7 Department of the Town, and he reviewed my
8 D.E.I.S. Okay. He said, Russ, why don't you
9 exchange the property? Great idea, John, okay.
10 Tell me where is the property you want to give
11 me? All right. I'll go look at it and we'll do
12 it. Okay. Pavacic said please send a letter to
13 Carole Swick. I did. Carole Swick went around
14 and talked to people -- from what I understand,
15 at least she said so to me -- trying to get an
16 exchange. Pavacic says that was County
17 property's, okay, up in auction, in particular a
18 60 -- 65.3 acres, north side of Mooney Pond Road
19 between College Road and Highview Drive in
20 Selden. Great idea. Let's do it. He went and
21 looked at the property. I'm for it. Asking
22 price 1.1. million, put on the auction block,
23 taken off the auction block. Arthur Kunz, who
24 is not alive now, and I want to thank Arthur
25 Kunz even though he is dead, for the time he

1
2 spent with me. The man was a humble man. He
3 talked straight to me, didn't bull shit me.
4 Wasn't available to talk to me, call me back at
5 5:00 o'clock, Russ, okay. He says, Russ, I see
6 nothing wrong with this exchange. George Proios
7 at one point said I don't think I see anything
8 wrong with this exchange, it's possible. Lee
9 Koppelman said it might be possible. What
10 happened? I called everybody, anybody in this
11 room, okay, I got 1,000 hours worth of tape
12 recordings, I've got all of you, every word you
13 said. Okay. What happened? Nothing. Can't
14 get to the decision making. All right.

15 Just give me one moment to see if I've
16 forgotten anything.

17 MR. THIELE: I don't think so.

18 MR. FURIA: Oh, forgot something.

19 We did a cumulative impact statement on
20 6,038 acres, 6,038 acres we considered. Back to
21 the inverse chilling effect. The inverse
22 chilling effect that all of you people working
23 together have created and the Town of
24 Brookhaven's up zoning, selective up zoning. We
25 are not talking about up zoning everybody. We

1 are talking about selective up zoning.

2
3 Apparently the Town of Brookhaven thinks that
4 the north side of County Road 111 is different
5 from the south side of County Road 111. That's
6 my opinion anyway. All right. The people on
7 the north side of County Road 111 weren't
8 grandfathered. The people on the south side of
9 County Road 111 were grandfathered. All right.
10 Not only were they grandfathered, but when they
11 got their two-year period of extention, they
12 were given another two years. In other words,
13 we will give you all the time you need to get
14 your application through. Meanwhile, the north
15 side of County Road 111 was subject to what I
16 call insider trading. Where else can a body of
17 people decide they want to protect a piece of
18 land, yell in 1987 we want to save it, have two
19 public votes to save it under two acre zoning
20 and then come back, have a municipality that
21 they sat together on various Boards with say we
22 are going to up zone you to five acres. And
23 accomplish the up zoning to five acres. And
24 then come back and say to you, well, now we are
25 going to buy your property. And it did happen.

1 Joan Scherb came to me in 1991 and said Mr.
2 Furia, your property is worth \$688,825 because
3 you have 68.825 acres and we paid Mr. Hector
4 Cuales for 500 acres \$10,000 an acre. Of course
5 you all know if you take any M.E.I. Certified
6 Appraisal Cost, 500 acres is worth less money
7 per acre because of it's inherent size and
8 difficulty to handle a project that big then
9 68.825 acres. All right. But any way, here it
10 says, Joan Scherb, Mr. Furia, your property is
11 only worth 689,000. Well, it's only worth
12 688,000 because you up zoned from two acres to
13 five acres, last week it was worth 1,895,000.
14 Now this woman is sitting here telling me she
15 wants to buy my property. Why don't you up zone
16 it to 10 acres so you can buy it for 300,000?
17 Better yet, keep this up for another couple
18 years, I'll donate it to you. By then I will
19 have paid so much money in property taxes I mise
20 well have just given it away.

21 Is this America or is this Russia?

22 Anyway guys, I asked for this Hardship
23 Application at this time because I'm looking to
24 get rid of this burden. It's a burden. Believe
25

1 me, it's a burden. I should be suing you for
2 pain and suffering. There are other builders
3 out there that haven't been through a fraction
4 of what I've been through. And anybody that's
5 got the time that -- and I would say probably at
6 this point in time to read this mess -- and I
7 read every page of these reports. I spent a
8 fortune for them. So I read them and studied
9 them. I went over every map, every change,
10 every detail. We are talking about thousands
11 and thousands of hours, so that I could get a
12 home of my choice on a piece of property of my
13 choice, which everybody in the County of Suffolk
14 wants to save. You want to save it, take out
15 your checkbook. I've been telling you now for
16 six years, take out your checkbook, make a
17 reasonable offer, not a kiddie offer, a
18 reasonable offer. You're all telling me that
19 what I have you don't want to see built. You're
20 telling me that my property is beautiful.
21 You're telling me all the shit I know. That's
22 why I bought it. The only problem is in its
23 present state it's no longer as beautiful as
24 when I bought it. It's nine years later. And
25

1
2 the terrorists have been out there night and
3 day, you know, the motorcycles, they destroy the
4 place, they wear berms out here, they do this,
5 they do that. I mean it's incredible the things
6 that's happened out there. If you have some
7 time, go there on a nice day. There's a guy
8 that comes with a hot dog truck and sits out on
9 the front of my property and sells hot dogs.
10 All right. I've seen him a few times. He's not
11 there all the time. Nice warm day you might
12 catch him. Hot dogs weren't too bad, by the
13 way.

14 I think it's show time, Rich.

15 MR. THIELE: Let me just ask if the
16 members of the Commission have any questions for
17 you before --

18 MR. FURIA: Okay.

19 MR. THIELE: Are there any questions for
20 the speaker?

21 Okay. Go ahead.

22 Please state your name for the record.

23 DR. JACKSON: My name is Richard Jackson.
24 I am the Environmental Consultant on this job.

25 Little about my background. I have a

1
2 Master's in Ph.D. in Geology. I have been a
3 Geological Environmental Consultant for about 25
4 years. The last decade of which has been out
5 here on Long Island. I've studied geology and
6 its environmental conditions of a lot of places
7 in the world. As a matter of fact, I was
8 invited to and gave a lecture to the Ministries
9 of Petroleum on People's Republic of China in
10 Nanning to talk about some of the things that I
11 was studying and done research on.

12 Whisper Hill came into my attention a
13 number of years ago. A long time ago, when I
14 started to do some of the environmental work on
15 this project. And I can describe it also
16 similarly to Mr. Furia, 68.83 acres, upland,
17 forests, open field, fresh water wetlands,
18 kettle. It is a beautiful site. Except it has
19 been substantially altered by debris, dumping,
20 unauthorized off road activities, A.T.V.'s,
21 four-wheel drive vehicles, et cetera. It's a
22 shame. Because it is a beautiful site. It's
23 got a rolling topography. Absolutely beautiful
24 except for that.

25 I am also willing to say that that site is

1 buildable. And it is buildable either at your
2 five acre and it is buildable at two acres, with
3 minimal environmental impact. No question. And
4 I'm going to show tonight three things; number
5 one, that there are minimal environmental
6 impacts due to his proposed action, which was a
7 five-acre grid; there are minimal environmental
8 impacts due to the F.E.I.S. findings, that
9 two-acre cluster development scheme; and one
10 last thing, and that is that County Road 111
11 marks absolutely no environmental boundary at
12 all in this portion of the Town of Brookhaven.
13 Mr. Furia said that we have an environmental
14 study that included a cumulative analysis. As
15 we all know a number of years ago, it became in
16 fashion that every project, certainly one in a
17 sensitive area such as this, should undergo an
18 extensive cumulative analysis. This is a 68
19 acre site. And as Mr. Furia indicated, over
20 6,000 acres were studied. I would say that was
21 a pretty substantial cumulative effort.

22 What I want to talk about a little bit is
23 topography, biology and ground water. And it's
24 not going to be a long expose. If you want a
25

1
2 long expose, there is about 15 pounds of
3 literature over there that I was involved with
4 that is guaranteed to tell you about everything
5 you want to know about this site and then some.

6 The topography, the most concerned when
7 you look at a site for development. And again,
8 I stress this is a developable site. The
9 re-gradation; in other words, what are you going
10 to do to the existing topography? Recognizing
11 that this has some unique and beautiful
12 topographic features, it was certainly our
13 intention that in development we would utilize
14 those topographic features. So we would do a
15 minimal of cut and fill. The five-acre grid
16 would re-grade approximately 23 percent of that
17 site. The two-acre cluster consistent with the
18 F.E.I.S. findings, approximately 19 percent of
19 that site would be re-graded. Topography along
20 the north or the south of County Road 111
21 basically the same. County Road 111 transverses
22 the Ronkonkoma terminal terrain, the same
23 topographic features exist north of County Road
24 111 as well as south of that road. There are
25 rolling hills, there are kettles and ponds. I

1
2 know that. I've done environmental work on both
3 sides.

4 The biology, certainly another important
5 environmental concern. The main thing you
6 consider when you develop something like this as
7 Mr. Furia said, he didn't want to take a
8 bulldozer down there and destroy the vegetation.
9 That was the asset that made this and makes
10 today this site a beautiful site. So what he
11 would do is by conservative clearing along the
12 peripheral areas, if he did a five-acre grid
13 with conservative clearing, it would be a 67
14 percent preservation of that site. The two-
15 acre cluster consistent with the F.E.I.S.
16 findings, 69 percent would be preserved. The
17 wetlands, a substantial portion of the upland
18 forest and vegetative habitat would be
19 preserved. And these would provide suitable
20 habitat for any significant species on this
21 site, including the Tiger or Marbled Salamander.
22 The biology associated with Route 111, the same
23 basic biology exists north of 111 as south of
24 111, Pine Barrens, significant habitats and
25 wetlands. There are Salamander south of that

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river --

MR. FURIA: River? May as well be a river.

DR. JACKSON: Right.

(Continuing) Or north of that road, the same type of species exist. I can't tell the difference not by, not biologically.

The last thing I want to talk about is probably the major issue that all of you are here for, ground water. I put together a geohydrologic (sic) map which I think pretty much outlines the ground water configuration of this entire area. If I could have your help. I just want to put it up on the easel.

(Referring) Over the course of 10 years of studying environmental science out here in Long Island, I've done a lot of literature review. I have done some research of my own. And I have compiled a lot of information by the United States Geological Survey, the Health Department, the Water Authority. And that is kind of a summary of what I've come to realize about this area. The lines indicated on white here are the roadways, the Long Island Expressway to the

1 north, County Road 111 transversing through the
2 map, Hot Water Street. This is Chapman's
3 Boulevard. And there is Sunrise Highway,
4 S.R. 27 (indicating). One of the concerns has
5 always been out here, where is the ground water
6 divide? Looking at the most recent publication
7 of the Health Department, their ground water
8 contour map, that's the approximate location is
9 this very thick dash line, that is where the
10 ground water divide is as of that publication.
11 As you know the, depending on the amount of
12 rain, it changes a little bit here and there.
13 Dave Eckerd (phonetic), who worked with the
14 U. S. G. S., did a lot of work on the
15 Manorville, I think it was the Scavenger site.
16 And when involved with that, he did a very
17 detailed contour water table, contour map of
18 which I have taken information out of. 35, 30
19 and 25, that refers to the ground water level
20 above mean sea level. Also in that publication,
21 and I have enlarged upon that based upon my own
22 knowledge in area, the red arrows indicated the
23 ground water flow direction. Mr. Furia's site
24 is right here (indicating). Okay. It is just
25

1 north of County Road 111. In performing the
2 nitrogen loading calculations that we, that we
3 did on that site, we found out that his
4 five-acre grid -- he probably remembers this
5 even better than I do. He tells me the numbers
6 -- 2.7 milligrams per liter, the two-acre cluster
7 that the Town has just found in its F.E.I.S.
8 findings, 2.9 milligrams per liter. This is more
9 than consistent with every single study that has
10 ever been done in the Pine Barrens. Even
11 consistent with the very tough Pilot studies
12 that was done which actually made the commitment
13 of a four milligram per liter number. And I
14 will say --

15
16 MR. FURIA: Only the Pilot study.

17 DR. JACKSON: Only the Pilot study. The
18 Pine Barrens Review Commission, 6.0 milligram per
19 liter. Considering the World Health
20 Organization, considering New York State
21 standards and considering the Health Department
22 Standards of 10 milligrams per liter, you can't
23 tell me that this site is going to contaminate
24 the ground water. Impossible. And let's go one
25 step further. Thus County Road 111, this is the

1 30 foot or the 30 foot elevation contour of the
2 water table. As you will note it transverses
3 almost perpendicular to 111. I can't tell the
4 difference between the geohydrologic
5 configuration of this site, Mr. Furia's, and
6 anything to the south, immediately to the south
7 of County Road 111. I can't see the difference.
8 I don't understand the difference. I can't find
9 the difference in any scientific document I have
10 ever read. So what is this County Road 111?
11 Well, we know what it is. It's very simple.
12 This is the line that separates the Core
13 Preservation area from the compatible growth
14 area. I forgot. How come? I don't understand
15 it. This is not a ground water line. It's,
16 let's call it for what it really is, this is a
17 geographical political line. It's always been
18 that. Don't blame the lack of development of
19 this site on ground water. It cannot be that
20 way. This is a legitimate development program
21 that he has applied for. And the Town and their
22 findings have put a legitimate development
23 proposal together. It will not impact the
24 environment. And certainly don't blame the
25

1
2 ground water on all of this being preserved
3 because that's pure nonsense.

4 MR. FURIA: You're going to see 400 houses
5 right across the street.

6 DR. JACKSON: You know better than I do on
7 that.

8 I'd like to see the nitrogen loading on
9 that. Because if you're going to pollute the
10 ground water south of 111 with 400 plus houses,
11 come on, 12 houses, 2.7 milligrams per liter, I
12 don't understand it. But that's my
13 presentation.

14 Thank you very much.

15 MR. THIELE: Thank you.

16 Are there any questions for the speaker?

17 MR. PROIOS: Yes.

18 MR. THIELE: Do you have a question?

19 MR. PROIOS: Yes.

20 MR. THIELE: I have a question.

21 MR. PROIOS: I am sorry. Could you keep
22 that map up.

23 MR. FURIA: I am sorry.

24 MR. PROIOS: You said the Water Authority
25 was putting both a pumping station and tower --

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MR. FURIA: I said that. And it's correct. It's in the Draft Impact Statement.

MR. PROIOS: Could you show me where?

MR. FURIA: 1,200 feet south of the property. Here's the property (indicating). And 1,200 feet south I understand is going to be right here (indicating).

MR. PROIOS: That's at the well --

MR. FURIA: No. The three million gallon storage tank, pumping station is 25 feet north of the, 2,500 feet north of the property which puts it right about up in here (indicating).

MR. PROIOS: Do you know what the purpose of the pumping station is if there is nothing in there?

MR. FURIA: I guess they are going to take care of Mr. Mancini's 400 houses. They've got to pump water to them.

MS. SWICK: May I state something for the record. I am not disputing or anything like that. I just want to put something on the record. That this actually happened a long time before I came, there was a decision made on the Mancini property to save 100 acres to the north

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2 of 111 and transfer, I think it's transfer 100
3 acres were saved and transferred and clustered
4 to the south of 111 and I think the well sites
5 were, I think that was part of the agreement or
6 something that the wells would be placed on
7 Mancini's property because the Water Authority
8 identified it as a prime well site.

9 MR. FURIA: I don't know if you can see
10 this or not. This, the property number three,
11 three and three (indicating). Mancini would be
12 building right here. My property's right there.
13 And I believe that this quadrant three and this
14 piece of property also here, also number three,
15 is the property that Charlie donated to the Town
16 (indicating).

17 MS. SWICK: I am not sure if it's the Town
18 or County. It probably went to the Town and
19 then it eventually may go to the County,
20 depending upon ownership.

21 MR. PROIOS: Could you sort of split the
22 line up, what are going to be preserved and
23 where you're going to put the 12 homes.

24 DR. JACKSON: Why don't you get the
25 blowup?

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2 MR. FURIA: Yes. We have a blowup of the
3 site.

4 (Referring) This is a blowup area photo of
5 the site and a couple years dated. Okay. It's
6 been going on so long. It's probably about five
7 years old. Okay. My site basically runs, this
8 is Hot Water Street, the unpaved portion, up
9 this way over and around (indicating).

10 MR. THIELE: Mr. Furia, could you perhaps
11 stand to the other side because I don't think
12 some of the other members can see you.

13 MR. FURIA: Sure.

14 The site runs from approximately down
15 here, 752 feet east of County Road 111, right,
16 it extends for approximately 180 feet, okay,
17 further east than 752 for a total of about 1,952
18 feet off of County Road 111. And then it runs,
19 you know, north, north basically this is a rough
20 road outline, around the dirt trails back down,
21 and down (indicating). All right. The property
22 has a kettle hole here denoted by this darkness,
23 around, it's a, that was a very small one. I
24 think it's about a quarter of an acre. It holds
25 water. Okay. Most of the time it's in good

1 shape, nice kettle hole. I love it. Okay.
2 This one up here, okay, 1,000, it looks much
3 bigger, and makes up probably the other two
4 quarters of an acre (indicating). The water
5 comes and goes. And it's in pretty poor shape.
6 I wouldn't want it in my backyard. Down towards
7 the front here, right down here, this is the
8 pond down towards the front (indicating). That
9 supposedly is fresh water running into that pond
10 somehow. It's not stagnant. By the way, it
11 gets beautiful ducks every once in a while, some
12 duck comes flying in the air, you know, those
13 green headed things, gorgeous. I was going to
14 put my house right in front of it. I could wake
15 up, look at the ducks. I thought it was
16 America, a you dream dreams. You work hard.
17 And you get it. But I've learned you don't.
18 But of course, you know, thanks to people like
19 Mr. Amper, somebody will probably get to look at
20 it. Anyway -- getting back, we put in an
21 application to pave the road. This is a famous
22 road. Took two and a half years to design it.
23 In answer to your question, okay, I am trying to
24 look at the map, okay, the proposal that we
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1
2 have, okay, that the Town says is acceptable,
3 which I will probably never get to build, which
4 they say is acceptable, this hilly section
5 towards the front, okay, this area about seven
6 acres in here, that would be saved (indicating).
7 And then the roadway would come up and go across
8 like this and up into the center, this portion
9 of the property towards the rear, right about
10 there, would be saved, this area would be built
11 (indicating). That's it. I guess the rear
12 portion would become a Homeowner's Association
13 piece or Homeowner's Association may choose to
14 deed it to the Nature Conservancy, might deed it
15 to the Conservancy up front. I have no idea.
16 My intent initially was to make it a five acre
17 grid. See, I have got a funny feeling. Okay.
18 My funny feeling says that all of this activity
19 and this is all clearing, road clearings, bikes,
20 you can see the motorcycle trails. You can see
21 the tire tracks. All right. There are junk
22 cars. All this activity is going to continue.
23 All right. You know what, they are going to
24 come piling up my street, they are going to park
25 right in front of our expensive homes, going to

1
2 get out unload their motorcycles and go back
3 here and ride (indicating). Okay. That's why I
4 want to try and control the property with a
5 five-acre grid, build houses, 12 houses about a
6 pocket, okay, just a pocket being destroyed per
7 each house, approximately one acre, a road up
8 the middle, put in a very narrow road, type of
9 road you see in Brookville. All right. God
10 only knows they function over there on these
11 18-foot, 19-foot wide roads and nobody hits
12 anybody. Maybe you have to drive safer. But
13 regardless, okay, I think we came down what was
14 it 24-foot wide road, 24 feet, that's
15 ridiculous. An affluent area is supposed to
16 look country. 24 foot with curbs. But I think
17 we are a long ways off from that. I am really
18 trying to create that country atmosphere. But I
19 was concerned. Okay. I wanted the five-acre
20 grid because I am concerned about up here
21 (indicating). I want to try to re-vegetate over
22 time this land. And you got to remember four
23 acres per house would be untouched. Think about
24 it. Four acres a house untouched. Okay. So
25 this would be growing back slowly but surely.

1
2 And you know damn well if somebody's living
3 there in a half million dollar house, somebody
4 comes back on the back of their property, they
5 are going to get them out of there. All right.
6 There are a few other things about limiting
7 fences and other things to try to make the place
8 very scenic. But we really have talked about
9 that. The Town and I, Town and I really talked
10 on a limited basis. Not because I don't like
11 them and probably not because they don't like
12 me, but because the Town, okay, and the County
13 have already decided save the property, so why
14 talk?

15 MR. THIELE: You know, I think we have
16 heard that part of the presentation. I just
17 wanted to see if there is any other questions.

18 MR. COWEN: You have two cleared areas on
19 the left-hand side, do you know what the
20 original intent was in the clearing there?

21 MR. FURIA: These areas? Those are open
22 fields, I presume. They were cleared years ago.

23 MR. THIELE: Any other questions?

24 MR. FURIA: If anybody's -- I did not
25 clear them.

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2 MR. THIELE: Any other questions? If not,
3 thank you very much.

4 Dick had -- I am sorry.

5 Just for the speaker.

6 Anybody else would who would like to be
7 heard?

8 Mr. Amper.

9 MR. AMPER: Folks, about nine years ago I
10 bought a bunch of Grumman stock. And I wanted
11 to make a bunch of money and drive a Mercedes.
12 But people all over the place decided that they
13 wanted peace. They wanted to stop threatening
14 one another. And my Grumman stock went down.

15 Nine years ago Mr. Furia bought a piece of
16 property. The boom times were people were
17 making a ton of money in investment,
18 development. He bought it in the Pine Barrens.
19 And guess what, in the nine years people all
20 over the place decided they wanted to protect
21 the Pine Barrens. Mr. Furia referred to
22 manifest destiny. And there is just a little
23 problem out there somehow or another if you make
24 an investment in real estate in Suffolk County,
25 you're automatically entitled to make a bundle

1 doing it. I don't happen to agree with that. I
2 don't think the people of State of New York,
3 people in Suffolk County spent more than 45
4 states in this country buying up under land and
5 preserving it. I am sympathetic to Mr. Furia's
6 position. If he was unable to build in
7 Brookhaven during that particular nine-year
8 period. He wasn't the only one. We couldn't
9 stop him from building in Brookhaven Town from
10 that period of time. So he got a bad shake. If
11 Mr. Furia can't sell the land in this program
12 because the County and State and Federal
13 Government can't produce the bucks. That is a
14 tragedy. We do have an obligation to the people
15 that own property, private property, in the area
16 to compensate them one way or another. To tell
17 them to wait longer can seem unfair considering
18 it's not the fault of the environmentalist, it's
19 not the fault of this Commission. The notion
20 that the 111 border is confusing or uncertain
21 shouldn't be. The problem with Long Island from
22 the outset has been that each person has come
23 and said we built all of this, let me build just
24 one more. At some point or other the folks here
25

1 and the folks in Albany said we have to find
2 some way, some place, some mechanism to decide
3 how much we can afford there, this is where it
4 ought to be. I think they made a good decision
5 about this. Where I am not sympathetic about
6 Mr. Furia's position is that while everybody is
7 trying to be on this list to deal in a first
8 year with the first 20 or 30 million dollars for
9 acquisition, Mr. Furia's already been on the
10 list. The County's already approached him and
11 tried to make a fair market offer. People
12 aren't buying land in the Pine Barrens or
13 elsewhere now. We are in a building slump. The
14 Pine Barrens issue had not come up, there hadn't
15 been a court prohibition in ages. Most of these
16 projects have been grandfathered out. We still
17 don't see lots of building. This Commission may
18 offer everybody the best possibility to acquire
19 land that really isn't worth as much anymore
20 because there is just no need for that project
21 as there was before. It's not the
22 responsibility of the people of Suffolk County
23 to provide any particular level of compensation.
24 Fair market value. I understand there are
25

1 appraisals underway as we speak. Will T.D.R.'s
2 work? Is there a land swap in the office?
3 Brookhaven people pulled it off before. There
4 is no reason to believe he can't do it now. We
5 have more people trying harder than ever before
6 to develop a workable T.D.R. or to develop a
7 land swap program. And they have only been at
8 it for seven months. I was ranting and raving a
9 little bit earlier this evening about the fact
10 that this, that we only have five more to do it,
11 but we mean to produce a method. And we are
12 asking folks who have been through this process
13 to help us do it, to help us find out whether
14 T.D.R. could work for you. If the Commission
15 gives it the chance that perhaps the Town didn't
16 give Mr. Furia, perhaps a land swap is
17 available. The inventory took eight months. We
18 thought the Town and the County knew where the
19 land they owned was and who the private property
20 owners, it took a long time as it turns out, but
21 it's been done. And now for the first time we
22 are beginning to do acquisitions. And we are
23 pressing it, Hauppauge and Albany and Washington
24 to get bucks for compensation that would work
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2 both to preserve the environment and properly
3 compensate private property owners on the basis
4 of environmental importance of the property and
5 how long that individual private property owner
6 has been in the process. That's fair to all
7 sides. And we are close to be able to do it.
8 To give Mr. Furia a Hardship Exemption now and
9 on the basis of the reasons that he is asking
10 undercuts our capacity to preserve all the Pine
11 Barrens possibly unnecessarily.

12 We urge the Commission to consider all of
13 the options first. Let's put the plan in place.
14 Let's find out what all of the available
15 recourses that have been designed in this
16 program can do for Mr. Furia. And let's
17 negotiate in good faith to give him fair market
18 value for his land. The Pine Barrens Society
19 recognizes the importance of that land. We
20 support that acquisition. But we don't support
21 a Hardship Application at this time.

22 Thanks.

23 MR. THIELE: Thank you.

24 Any questions for Mr. Amper?

25 MR. THIELE: Yes.

Who would like to be heard?

MR. SCHMELTZER: Me.

MR. THIELE: Your name for the record.

MR. SCHMELTZER: My name is George L.

Schmeltzer. I live in Calverton. I am familiar with this land, known it for many years. I know the former owner, Seth Morgan. That land went way back, was a farm. Had a well on it and brick lined, well, which is filled, and many acres that were cleared. But the land was not the best land around. So I guess it ceased to be a farm. But it's a beautiful area. What you call kettle holes I call swells (sic). And most of the year they are filled with frogs and I guess dear ticks and birds, everything else. Ducks land there. I saw in a map that was proposed five acres. I see, I think it's the Town that want, they demand that catch basins or big sumps be put in there to catch the water. Guess you can use orther words for it. So to me if that was done to catch all the water, these kettle holes would dry up. The kettle holes are taking water now, not enough water to fill in both, so I think they shouldn't ask for stuff

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2 like that to catch the water. It's naturally
3 done now.

4 And of course I think that they should be
5 allowed to make at least five acres, I mean a
6 dozen houses, five acres each. It will protect
7 the land. If you squeeze them together down to
8 one or two acres, the land that's not owned
9 eventually will be full of junk. Is the Town
10 gonna be responsible to keep it clean or to keep
11 the dirt bikes out? I see many places where we
12 have a lot of erosion in the woods because of
13 that.

14 And Mr. Amper here, I suggest that the
15 Pine Barrens Society pool their resources and
16 buy the Pine Barrens themselves. They can look
17 at it, walk on it, sleep on it if they want to.
18 And none of them do that. Little bit
19 hypocritical. I think Mr. Amper also says he
20 bought Grumman stock and they went down and he
21 lost money. Well, he is the one that wants no
22 industries. He is always yakking all the time
23 about no industry. So I think he got what he
24 wanted. I hope the Town let's Mr. Amper (sic)
25 do what's reasonable.

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2 And this, the way the Town, State and
3 County acts now, if we did that 200 years ago,
4 we'd have no country. Maybe they are trying to
5 destroy the country now. The people don't want
6 anybody to move in here. Now we see about
7 T.D.R. Riverhead Town Board had a meeting last
8 September about T.D.R. and decided it should be
9 one acre. So I asked them a, five members of
10 the Town Board, which of you live on a house, in
11 a house which has one acre under it? Not one.
12 Not one. So I call them a bunch of hypocrites.
13 And the biggest lot was five acres, went down to
14 about three tenths of an acre. Everybody else
15 had a one acre minimum, not themselves. That's
16 different. I wonder who of this Board here,
17 what size lots you have under your houses. Any
18 of you have an acre or more?

19 MS. SWICK: Yes.

20 MR. THIELE: Well, this is a Public
21 Hearing where you get to address us.

22 MR. SCHMELTZER: Pardon me?

23 MR. THIELE: If you want to get to what's
24 relevant.

25 MR. SCHMELTZER: Well, do you have an acre

1
2 under your house?

3 MR. THIELE: I don't see where that's
4 relevant.

5 MR. SCHMELTZER: That means you don't.
6 You're weaseling. So that's a typical
7 politician, do as I say, but don't do as I do.
8 Most of them are all alike. So if you don't
9 want too many people around, tell the Federal
10 Government to cut off the immigration. You're
11 acting now, it's somewhat like a human animal
12 farm. You tell the humans what size pen they
13 live in, what size shack or house, we do that to
14 cattle and pigs, not people. Really, you're
15 killing the country. You're not the only ones.
16 Look what we got in Washington now. I think
17 they are doing height to the storm for two days,
18 I heard I think the nation improved for two days
19 when they closed the Government offices. I
20 think the Town here improved when they closed it
21 one day for the storm. If they close more
22 often, I think we'd improve still more.

23 Thank you.

24 MR. THIELE: Thank you.

25 MR. SCHMELTZER: You still wouldn't say

1
2 what size your lot is.

3 MR. THIELE: Any questions for the
4 speaker?

5 Does anyone else want to be heard?

6 MR. DARROW: Good evening. My name is Kim
7 Darrow. And I'm here on behalf of the Long
8 Island Greenbelt Trail Conference, which is a
9 hiking organization which builds and maintains
10 trails on Long Island including in the Pine
11 Barrens.

12 The position of the Long Island Greenbelt
13 Trail Conference is that this application for
14 Hardship Exemption should be denied.

15 The presentation of Mr. Furia and his
16 environmental consultant lasted about an hour,
17 but unfortunately practically none of that
18 presentation really addressed the Hardship
19 Exemption Standards of the statute. He
20 established neither extraordinary hardship nor
21 compelling public need.

22 The subject parcel is one of the largest
23 relatively intact undeveloped areas in the
24 Central Pine Barrens. The Manorville Hills,
25 which is bounded by the Long Island Expressway,

1
2 County Road 24, County Road 51 and 111, that
3 whole large area has the potential to be a
4 natural, scenic and recreational area, of
5 National park quality in the sense of its fairly
6 continuous, undisturbed by development nature.
7 Some of the most dramatic topography of the Pine
8 Barrens is found there and was actually
9 acknowledged by the applicant. The entire
10 Manorville Hills, this entire are should be
11 preserved for future generations.

12 Mr. Furia's case for Hardship relies
13 entirely on the false claim that the disturbance
14 and illegal use of off-road vehicles on his
15 parcel is unique to that parcel. It is a
16 disturbed parcel. And anybody whose been there
17 knows that. But so is the rest of the
18 Manorville Hills. So are many other areas in
19 the Pine Barrens. I've hiked throughout the
20 Manorville Hills. And unfortunately, one of the
21 heartaches of anybody who loves this area is the
22 abuse that it takes. I can show you other areas
23 of the Manorville Hills where the ruts from
24 motorized vehicles are above my head, and above
25 the heads of individuals considerably taller

1
2 than I am. As I said, the problem of land
3 scarred and eroded by motor bikes, four-wheelers
4 and other motorized vehicles afflicts the entire
5 area. While some sections may be less affected
6 than Mr. Furia's parcels, others are just as
7 blighted. What is needed here is concerned
8 management and law enforcement, not housing
9 development.

10 Any Hardship that Mr. Furia may be
11 experiencing appears to result from his own
12 unique cash flow difficulties not -- and I am
13 quoting from the law -- not "unique
14 circumstances peculiar to the subject property."
15 The law in defining the Hardship Exemption has
16 to arise from characteristics of the property
17 that do not apply to or affect other property in
18 the immediate vicinity. I thought it was
19 interesting that his environmental consultant in
20 comparing it to the land across 111 from it said
21 I can't tell the difference. There is no innate
22 feature of that property that's unique to it
23 that makes it different from the land around it
24 that can be used to justify a Hardship
25 Exemption.

1
2 As far as the other possible leg to stand
3 on to justify Hardship Exemption, that is the
4 compelling public need. I think Mr. Furia's
5 attempt to show a compelling public need for
6 \$500,000 houses cannot really be taken
7 seriously. He hasn't even attempted to
8 demonstrate that such a development -- and here
9 again I am quoting from the statute -- "will
10 serve an essential health or safety need of the
11 municipality." I don't think \$500,000 falls in
12 a category of essential health or safety needs.

13 Finally, there are additional requirements
14 that are set forth in the statutes and they are
15 not met. The proposed development would indeed
16 -- and again, this is the language of the
17 statute -- "result in substantial impairment of
18 the resources of the Core Preservation area"
19 that's the end of the quote -- by disrupting the
20 natural integrity of the Manorville Hills
21 natural area. Furthermore, development of such
22 a relatively large parcel in Core Preservation
23 area -- and regardless of the process that ended
24 up with this configuration, the land south of
25 111 is in the compatible growth area, the land

1
2 north of 111, which includes Mr. Furia's
3 property, is in the Core, the Core Preservation
4 area, and that's why we are here at this Hearing
5 -- development of such a relatively large parcel
6 in the Core Preservation area is inconsistent
7 with the purposes, objectives and the general
8 spirit and intent of the Pine Barrens Protection
9 Act. And that's one of the additional
10 requirements, that it be consistent with the
11 purposes and objectives of the act.

12 The final additional requirement that the
13 waiver requested is the minimum relief necessary
14 to relieve such Hardship doesn't really arise
15 because he hasn't established a Hardship.

16 Now, we are sympathetic with his plight.
17 That he appears to have made a good faith effort
18 to try to go through the procedures required for
19 development. But that doesn't establish
20 Hardship. And the solution to that is public
21 acquisition, T. D. R., some other way to make
22 him whole in terms of what he is entitled to, if
23 his land is deprived by public acts from value,
24 but it doesn't qualify as a Hardship Exemption.

25 And the Long Island Greenbelt Trail

1
2 Conference urges the Commission to deny the
3 Hardship Application.

4 And I have five copies of the written
5 statement that I've prepared for the Commission
6 (Hanging).

7 Thank you.

8 MR. THIELE: Thank you very much.

9 Questions?

10 MR. PROIOS: Yes. A couple.

11 MR. THIELE: Yes.

12 MR. PROIOS: If I understood you correctly
13 you were agreeing with Dr. Johnson from an
14 ecological point of view that the land
15 surrounding, including south of 111 are equally
16 important, no ecological barrier either natural
17 or whatever there that segregates these lands?

18 MR. DARROW: Sure. This land is equalized
19 neither more nor less important than the land
20 around. But that's precisely one of the reasons
21 why it doesn't meet a Hardship Exemption
22 Standard because the standard is based on
23 something that is unique about the subject
24 parcel, that differentiates it from the land
25 around it. And he hasn't established anything.

1
2 The only thing that he is pointed to that in his
3 written submission, and to the extent that he
4 even addressed the issue tonight, that he
5 alleges makes it different, is the abuse that
6 it's taken. But I could take the Commission out
7 and show them many, many areas in the Manorville
8 Hills in the immediate area that are just as
9 abused that are shocking, there are lots of
10 junked cars dumped in there, piles of junk, the
11 area's crisscrossed with motorbike trails, with
12 four-wheeler trails. And it cries out for
13 management which, of course, is one of the
14 purposes of Land Use Plan that the Commission is
15 preparing. But it's not something that's unique
16 to his particular parcel. It's endemic to the
17 area unfortunately. And hopefully the Pine
18 Barrens Protection and Land Use Plan will over
19 time correct this situation.

20 MR. THIELE: Thank you.

21 Any other questions?

22 Okay.

23 Thank you very much.

24 MR. FURIA: Can we get one second for
25 rebuttal?

1
2 MR. THIELE: No. We will see who else
3 wants to be heard. If you want to speak after
4 everyone else.

5 MR. FURIA: That would be summary.

6 MR. MORGAN: Just for the record, my name
7 is Seth C. Morgan, one of the previous owners on
8 this parcel that Mr. Furia now owns. I haven't
9 seen Mr. Furia since the, since the day I sold
10 the property. I believe it was 1985. I haven't
11 talked to him. And I frankly I never intended
12 to be here tonight. And I got wind of this
13 meeting very late today. But I do have an input
14 here, which I think will help to set the record
15 straight.

16 Mr. Furia does indeed have a Hardship. I
17 know because I went through myself personally
18 for a number of years the same thing that Mr.
19 Furia has been going through. A correction
20 also, earlier it was mentioned that the property
21 was two acres. While I held the property within
22 a period of 10 years, less than two years the
23 property went through four zoning changes, up
24 zoned in each case for which I was never
25 compensated not one nickel, not one dime.

1
2 I am surprised you haven't had a heart
3 attack yet. I've had seven, my first one's
4 going back to my trials with the Town of
5 Brookhaven, trying to get the property
6 developed. I had people interested in it for a
7 golf course, wonderful idea. Town of Brookhaven
8 smiled and that was about it, it went nowhere.
9 And I didn't make the presentations on it. It
10 was done by the people interested in putting the
11 golf course in. And they were prime movers that
12 had the money to do it and do it properly.
13 Matter of fact, they've done several on the
14 Island.

15 Now, I don't want to draw this out too
16 much. But I want to say that I'm convinced in
17 my own mind that my health problems and I say
18 I've had seven heart attacks since 1982, and I
19 was forced without any compensation, forced to
20 sell that property. I was unable to build on it
21 back then. And I've been out here in Brookhaven
22 Township for close to 50 years now. I'm just
23 lucky I am not dead. I've come close a number
24 of times. But I know what Mr. Furia's going
25 through. And I know that I haven't heard

1
2 anybody here tonight mention anything about his
3 Constitutional Rights. And yet everybody, I
4 presume who is sitting up there, has taken an
5 oath of office, I believe, if not you
6 personally, if you're representing someone who
7 should be there, they have taken an oath of
8 office. And that oath of office is not to
9 marxism or lennonism or communism, it's to the
10 Constitution of the United States and the Bill
11 of Rights, in particular the Bill of Rights,
12 what Government cannot do to its people. And
13 I've seen 30, 40 close to 50 years of
14 mismanagement of Government out here in Suffolk
15 County of the public being sold out, their
16 Consitutional Rights to be sold as if it's --
17 somebody mentioned about Russia before, it's no
18 different than if somebody were living in
19 Russia. That's what this country has been
20 relegated to. Also, when I held the property
21 within that period of less than 10 years, they
22 were up zoned four times. It meant that it was
23 water downed like stock. Talking about, that
24 gentleman for the State, his name, or I don't
25 know if he is still there, having his stock go

1
2 down. Well, you can always sell it when you got
3 to move. There is ways to handle that, it's
4 called a stock loss order, by the way.

5 Anyway, I sympathize with Mr. Furia. I'll
6 be looking very carefully to see what happens
7 here. Because I know how hard it was. I know
8 that when I had it that I had problems with the
9 motorbikes and things like that coming in,
10 people coming in, people cutting wood, people
11 coming in dumping garbage. But I used to patrol
12 that property at least once a day and sometimes,
13 most of the time twice a day it was patrolled.
14 Some years later Brookhaven Town passed an
15 ordinance where you couldn't ride on private
16 property unless you had written permission. And
17 that was a good order, but it came through too
18 late. And of course it wasn't, wasn't followed
19 up by the police. So I understand what he's
20 going through. And I have only been on that
21 property once since I sold it in 1985. And it
22 made me just sick to death to see what had
23 happened, people in there camping, putting fires
24 in there. I understand Mr. Furia doesn't live
25 out here. And I just sympathize with him. But

1
2 he has his rights. And as far as I'm concerned,
3 any public official who does not enforce the
4 Constitutional Rights of an American Citizen,
5 and I am talking particularly about the Bill of
6 Rights, those rights which Government cannot,
7 it's spelled out, cannot abridge, and yet I see
8 it done everyday of the week at the Federal
9 level, the State level, the County level, the
10 Town level. And I say to myself, what have we
11 elected to public office? Almost never hear
12 about it anymore. They don't care about the
13 rights of Citizens. And yet that's the very
14 basis for our country.

15 And in closing, I just want to say one
16 other thing. George Washington, God bless you
17 wherever you are. I am almost his age myself
18 right now, when he died. He had it right. He
19 said Government is like a fire, it can be a
20 useful servant or out of control a fearful
21 master. And I have seen that come to play in
22 America so much in recent years and recent
23 decades. So I just ask you to vote for the
24 Constitution and vote the Bill of Rights.
25 Because I am living proof. If I could transfer

1
2 my, how did he put it here, my hardship, if I
3 could transfer my hardship that I've had, my
4 health hardship to you, Russ Furia, you've got
5 it with my blessings.

6 Thank you very much.

7 MR. FURIA: Thank you.

8 MR. THIELE: Any questions for the
9 speaker?

10 Thank you.

11 MR. SCHWENK: My name is Edwin Schwenk,
12 Executive Director of Long Island Builders
13 Institute. We are not taking a position on this
14 application one way or the other. However, I
15 think what has been pointed up here tonight as
16 it was in the neighbor Hearing here a month ago,
17 is the same problem as to how we are going to
18 compensate or reconcile this matter should this
19 distinguished group decide that the Hardship is
20 got no order. And you know what that's all
21 about, that gets down to money. And that's what
22 we need. And Mr. Amper and I had a press
23 conference here two weeks ago in respect to what
24 we expect from the State of New York to live up
25 to their commitment to supply 10 million dollars

1
2 for funding for acquisitions. The County of
3 Suffolk has already put up 10 million dollars.
4 And I think that right here and again, not to
5 try to pre-judge the case whether Mr. Furia
6 should have that property to build on or whether
7 it should be a taking and should be compensated,
8 I do think he's had enough problems with his
9 T. D. R. efforts, with his land swap efforts,
10 that should this turn out to be a negative
11 situation for Mr. Furia, the first thing that
12 should happen is that negotiations should start
13 immediately and have Mr. Furia compensated
14 properly in concurrence with the Constitution of
15 the United States, the Bill of Rights, so that
16 in fact we do have a Pine Barrens Legislative
17 Act that is doing exactly what it's supposed to
18 do, which is to function. And I think Mr. Furia
19 with his nine years of difficulty, I think this
20 should be a quick decision which there has to be
21 by this Board within 30 days, I believe. And I
22 think if the decision is negative, and again, I
23 am not trying to pre-judge as to whether he
24 should be approved or shouldn't be approved, but
25 should it not happen that he should be allowed

1
2 to go ahead, and I think in all fairness as a
3 private property owner with 63 acres of land
4 that he's tried to he develop for nine years
5 plus, plus what happened with this gentleman
6 prior to his time, there should be an immediate
7 action taken to take care of the Constitutional
8 Rights of Mr. Furia.

9 Thank you very much.

10 MR. THIELE: Thank you.

11 Any questions?

12 Thank you.

13 We are going to take a five-minute break
14 to give the Stenographer a little break. We
15 will be back a little after 9:20.

16 (Whereupon, at 9:17 p.m. a short break was
17 taken.)

18 (Whereupon, at 9:23 the Hearing resumed.)

19 MR. THIELE: I'd like to call the Hearing
20 back to order if I could.

21 And I'd like to ask if there is anyone
22 else who would like to be heard with regard to
23 the Public Hearing?

24 Yes.

25 MS. ENGLAND: My name is Marilyn England.

1
2 I am President of the Open Space Council. We
3 are an environmental advocacy group based in
4 town. I am also on the Pine Barrens Advisory
5 Committee. My statement tonight will be from the
6 Open Space Council.

7 Just to start out, our position is that
8 the Hardship should be denied. Some of the
9 observations I have, one is I have yet to hear a
10 developer admit that his or her project is an
11 environmental nightmare. And certainly Mr.
12 Furia hasn't disappointed me. Dick's point is
13 well taken. Every argument is the same, my
14 project will have no impact. And that's how we
15 got Brooklyn, Queens and Nassau and western
16 Suffolk and slowly eastern Suffolk is following.
17 Piece by piece project by project and that is
18 why we needed first the lawsuit and now
19 legislation to protect what's left, clean
20 drinking water and a reminiscence of wilderness
21 of 52,000 acres of Pine Barrens.

22 The argument that dumping and other
23 disturbances qualify as a reason for a
24 particular piece of property to be developed
25 don't hold any water literally. Because they

1
2 are, they are reversible events. And these are
3 events that the land, Evolving Land Management
4 Plan is seeking to address restoration,
5 stewardship and law enforcement. So these are
6 not reasons to think that a piece of property
7 would be better off developed.

8 And one of the other things I've heard
9 bandied about here tonight is the issue of
10 takes. I am not an attorney. But I have
11 recently read the Constitution. And the part
12 of it that references to the issue of the
13 compensation by the Government. And what we are
14 really just talking about is just compensation.
15 Nobody is suggesting that we just take Mr.
16 Furia's land and do not compensate him in some
17 way for this land. Just compensation. Not to
18 make someone a millionaire and not to take the
19 use of someone's land away without compensating
20 them for that. And that's really all it is. So
21 I don't think that this is a takes issue.

22 I believe that this proposal contradicts
23 the intent, the letter and the spirit of the
24 Pine Barrens Preservation Act. Approval would
25 set a dangerous precedent that would be

1
2 difficult to override in the future and would
3 allow continuation of the fragmentation the
4 legislation is meant to prevent. Mr. Furia
5 should pursue perhaps more enthusiastically the
6 compensation alternatives open to him.

7 In our view he does not qualify for a
8 Hardship Exemption for the reasons he has
9 outlined tonight, here tonight.

10 Thank you.

11 MR. THIELE: Thank you.

12 Any questions for the speaker?

13 Is there anyone else who would like to be
14 heard with regard to this application?

15 Yes.

16 MR. WHELAN: My name is Thomas Whelan. I
17 am a resident of Wading River, Riverhead. I've
18 heard tonight discussion that Mr. Furia's land
19 is such that it needs to be preserved. And if
20 this Board denies his application for a Hardship
21 Variance tonight, the only conclusion, and if
22 the Board also believes that his land should be
23 placed in a public trust and publically
24 preserved, if that's the case, what the Board
25 should be do, and the various other agencies

1
2 that have been delaying his project for the last
3 seven or eight years, they should just
4 immediately just decide to condemn his land. By
5 condemning his land, that would place him on an
6 even playing field with the Government. At
7 least with Condemnation Proceeding he can step
8 forward and offer to a Judge what the value of
9 his land is. Instead what has happened to him
10 it seems in the last seven or eight years he has
11 been placed in the status of condemnation
12 blight, where no one is willing to buy his land,
13 no one's willing to offer him the true value of
14 his land. He is not allowed to develop his
15 land. There is just no takers. If the
16 environmentalist and Mr. Amper and whoever
17 believe that the time has come that land values
18 are so low, condemn it, take it. He has also
19 shown tonight that the other alternatives are
20 just not feasible, Transfer of Development
21 Rights will never work. It's impossible. He's
22 shown that, he's tried that, it's not just going
23 to work. Other alternatives, land swaps, he's
24 tried that. It doesn't seem to work either. If
25 you're going to stop him from developing his

1
2 land, pursue a policy of non-development, take
3 it, conserve it and pay the fair and reasonable
4 price that a Judge determines it is, not a price
5 that you're going to, that you hopefully a price
6 that he is finally going to agree to after seven
7 or eight years of trying to develop this land
8 and maybe throw his hands up and says take it
9 for this value. And that is the only fair way
10 that this matter should be resolved. So I would
11 say that again, the Board should either grant
12 him his exemption or determine to condemn him
13 immediately.

14 Thank you.

15 Questions?

16 MR. THIELE: Thank you very much.

17 MR. FURIA: Thank you.

18 MR. THIELE: Is there anyone else who
19 would like to be heard?

20 Yes. Sherry.

21 MS. JOHNSON: Good evening. It's been a
22 long night. So I will be very brief. My name
23 is Sherry Johnson. For the record, I serve as
24 the Program Director for the North Fork
25 Environmental Council and also the Council

Representative on the Advisory Committee.

I'd like to add the belief of the North Fork Environmental Council to the record that the application for Hardship should be denied for this project. We concur with the issues that Mr. Darrow went over earlier that this does not meet the Hardship requirements under the statute. And under that, because it does not meet those requirements, this application should be denied. That would be setting a very, very big precedent if you were to allow it and not deny it.

We also sympathize with everything that this applicant has gone through over the past nine years. I saw this project years ago when I sat on the Pine Barrens Review. He isn't joking about what he's been through. You do whatever you can, if you do deny it, to work with him. I don't know if condemnation would necessarily agree with you. But I do believe that you should work with him in good faith and try to resolve this so we can save the property.

Thank you.

MR. BARRY: John Barry. I am a land owner

1
2 in the Pine Barrens. And I think this project
3 is a sensible use of the land. It's a disaster
4 what's happened out there. There is no, there
5 is no police protection. There is no fire
6 protection. There is no reason for anyone to go
7 there except people who are doing illegal
8 things. So such trespassing, dumping, midnight
9 parties. I own the land next to him, his
10 proposed project. And it is really a sin what
11 has happened in the last five, seven years.
12 With the five-acre zoning you can have drinking
13 water, you can have a decent neighborhood.
14 You're not going to overtax the school system.
15 There is, there is no fault to his project that
16 I can see. These people who are opposed to it
17 don't live there, not one of them own property
18 there.

19 That's it.

20 MR. THIELE: Thank you.

21 Any questions?

22 MR. FURIA: Thank you very much.

23 MR. THIELE: Thank you.

24 Is there anyone else who would like to be
25 heard?

1
2 MR. FURIA: Summary?

3 MR. PROIOS: Clarification, what is your
4 Hardship that you're asking for now? Exactly
5 what are you asking for, 12 units in the form
6 that the Town has just recently required; in
7 other words, on the cluster or are you asking
8 for the over the five-year --

9 MR. FURIA: Let me clarify that for you.
10 What I want the Commission to do, okay, is to
11 first rule its buildable or non-buildable. All
12 right. And second, if it does rule that it's
13 buildable, what I want the Commission to do is
14 advise me whether my five-acre grid is
15 acceptable or whether the Commission would
16 rather see the two-acre cluster. It's a kind of
17 modified cluster. Because I am not getting the
18 true yield that I had to start with with the
19 property, which would have been 30 houses. I
20 have given up 18 houses on two acres each to
21 wind up with 12 houses on two acres each. And
22 what I am going -- so I am asking you to pick
23 between those two proposals, even though the
24 Town of Brookhaven, okay, completed SEQRA and
25 recommended the two-acre cluster, all right, I

1
2 feel that the difference between the two acre
3 and the five acre is minimal. And that in
4 reality in producing the five-acre grid, nobody
5 will have to patrol the other 40 acres of my
6 property. What I'll be doing is creating a four
7 acre greenbelt behind every one of the houses,
8 that is the 12 houses, so in essence you have
9 your greenbelt spread out over the whole
10 property with a narrow road up the middle of it,
11 okay, instead of having the greenbelt towards
12 the rear of the property. All right. And the
13 rear of the property and down the sides will all
14 be vegetation. I think that in the long run I
15 can revegetate the property, all right, save the
16 other kettle hole and keep the tourists or the
17 terrorists off the property.

18 So what I am asking you to do is first
19 rule, yes, it's buildable or no, it isn't. What
20 I am asking you to do second is tell me which
21 one of two proposals I can have. Now you may
22 say that's in violation of what the Town has
23 just said. But I understand from talking with
24 people in the Town they were like betwixt and
25 between which way to go. And I understand also

1
2 that if I reapply under the SEQRA Process in a
3 short period of time they can give me the
4 five-acre grid.

5 There is also another reason to rule the
6 five-acre grid here, okay, if the agency does
7 not, okay, you know, if they say it's buildable,
8 all right, and that is a, that even though you
9 people here tonight say that this property is
10 buildable, if you did say that, I have to deal
11 with the rest of the world who will probably sue
12 me and say that it's non-buildable. All right.
13 Which means I am back to negotiating with you to
14 try to sell you this property. If you rule that
15 it's buildable and tell me that you're offering
16 me a two-acre cluster, devaluation for the
17 second time, it's the second time, remember the
18 Town up zoned the property, 30 houses, two-acre
19 zoning to five-acre zoning 12 houses, that was
20 devaluation to two-acre cluster, 12 houses,
21 which is a devaluation for the second time. All
22 right. So what will happen here is that if you
23 rule it's buildable and rule two acre cluster,
24 you will have devalued the property twice. And
25 at that point in time I am going to have to say

1 yes, I'll build it, go imminent domain if you
2 want to save it. All right. Keep in mind if
3 you rule yes, it's buildable, five-acre grid
4 valuation purpose. And sale of the property to
5 the Nature Conservancy would be a possible
6 alternative to me. That possible alternative
7 would, even though I might not want to go that
8 route, might be my only alternative because of
9 the ensuing litigation which I expect will
10 develop. So in other words, even if you rule
11 yes, the property is buildable as a five-acre
12 grid, I probably won't get to build it anyway.
13 I have to overcome all of this. And to be quite
14 honest with you, I just don't know if it's in me
15 anymore. All right. It could become another
16 legal nightmare for five to seven years. If you
17 rule no, the property's not buildable, I am
18 going to sue you tomorrow. It's that simple.
19 All right. Imminent domain, time to end it. If
20 you're telling me I can't build it, I have no
21 rights, you've left me no alternative. All
22 right. I put this Hardship Application in to
23 end this problem. Okay. The next step is
24 litigation. I'd like to avoid that. If the
25

1
2 County genuinely feels they want to buy this
3 property, they should make a genuine offer.
4 Because I don't think I want to fight it for
5 another three to five years. That's not saying
6 I am rolling over, dying, okay, I want to give
7 up. All right.

8 Somebody mentioned financial problems. I
9 am going to tell you I bought the property just
10 before it heated up. I bought the property
11 right, all right. My finances are fine. Okay.
12 I have got cash flow glitches like everybody
13 else. But the bottom line is no matter how long
14 it takes I am going to hang right in there. All
15 right. I have gone this far. I am going the
16 distance. All right.

17 Backtracking to impacts on drinking water.
18 I don't see a difference in the drinking water
19 impact one side of the road to the other side of
20 the road. None at all. All right. I haven't
21 been grandfathered the way everybody else was on
22 the other side of the road. I suffered a
23 Hardship right there.

24 Phil Sanderman, who is the Town Attorney,
25 in one conversation with me said to me, Russ,

1 why don't you sue? Okay. And I respect Mr.
2 Sanderman. I said Phil, if I sue, you're
3 talking another three to five years. All right.
4 Maybe I should have bought this property when I
5 was was a kid. Okay. By the time I get to be a
6 Senior Citizen, maybe I will have a resolution.
7 I am into it nine years now. I said, Phil, no,
8 forget it. But the bottom line is, okay, my
9 feeling, I am entitled to equal protection under
10 the law. The Town should have grandfathered my
11 property. They didn't. They only effected a
12 couple of us on the other side of the road.
13 Matter of fact, all this conversation here
14 tonight only effects I think two people north of
15 the County Road 111 that have active
16 applications in, for approximately nine years.
17 Okay. In one way or the other when we bought
18 the property we tried to learn what we could do
19 with it or what we couldn't do with it. My
20 application started in 1988. I bought the
21 property in February of '85. But the bottom
22 line is for nine years I've been trying. Okay.
23 So it only effects two of us, your decision.
24

25 There is also other legal

1
2 ramifications out of this whole thing. If you
3 people vote no, you may have other people who
4 went broke on my side of the road trying to
5 develop property come back with massive
6 lawsuits. So you have to vote yes. Okay. The
7 lawsuits and what you're going to pay for my
8 property make my property so pricey per acre it
9 will remind you of that 1,200 acres you could
10 have had for free when you bought 200 acres for
11 18 million. All right. There's a lot riding on
12 this decision tonight. My opinion, the Board
13 should vote yes, it's buildable and five-acre
14 grid and let the negotiations begin. Probably
15 the only feasible answer to this problem. The
16 Town's two-acre cluster is going to put you into
17 imminent domain. I don't think it will produce
18 the valuation, although certain people within
19 the Town think a two-acre cluster in this area
20 might be as valuable as a five-acre grid. My
21 appraisals, I don't know where you got yours
22 from, don't substantiate it. I've done my
23 homework. So I ask you to build, for summary, I
24 ask you to summarize either yes, it's buildable
25 or no, it's not buildable. And if you summarize

yes, build, I ask you for a five-acre grid.

As far as Hardship goes, there is a Hardship, definite Hardship. This has been torture. Okay. To allow one side of the road to construct 400 houses and not allow the other side of the road to construct 12 houses is Hardship. You're allowing the farmer on the south side to harvest his crop, yet the farmer on the north side can't harvest his crop. Anybody here ever try to buy a piece of real estate? Go try. The first thing that you learn is there is no profit in building your own house. Because once the builder gets the property subdivided, he charges you enough money for the land that you pay him the profit and he never puts a stick of wood in the ground. To ask me to take a token amount of money per acre for this property at this point in time, I have harvested the crop, I am ready, anybody that's got 2,000 hours or so, I will go over every page of these papers with you. You know what you will learn, there is no drinking water problem in the County of Suffolk. You took care of it with the zoning. You've already up zoned all us

1
2 people out east. The next thing you'll learn is
3 that you can't pump drinking water in the County
4 of Suffolk from out east to western Suffolk,
5 economically it's not feasible. There is
6 nothing in your favor. Long Island's too flat,
7 too level, it ain't gonna happen. The third
8 thing you're gonna learn is that the habitat
9 that you all want to preserve and protect, when
10 you start pumping massive amounts of drinking
11 water out, you're going to change the nature of
12 eastern Long Island. Pump enough drinking water
13 out of here, you might drop the Peconic River
14 water table. It might so to speak dry up a bit
15 or reduce the level of it. And as you reduce
16 the level of it, the acidic content, okay, in
17 the Peconic River is going to rise. As acidic
18 content rises -- somebody told me it was 30
19 percent already -- guess what, the wildlife in
20 it is going to croak. So you're trying to
21 preserve the habitat, where are you going to put
22 all this drinking water, not to mention, and all
23 the rest of the County. We studied everything.
24 Take the Town of Huntington, operating on four
25 to six parts per million. If I dropped water

1 over my place and I am at 2.54 on five-acre
2 grid, my water's better than Huntington's water
3 still. The other thing you have to remember is
4 there is nitrogen coming out of the area on its
5 own. If you think I am creating that 2.54, I'm
6 not. It's possible that -- correct me if I am
7 wrong -- it's possible that you have one or two
8 parts per million coming out of the atmosphere,
9 coming out of decomposing leaves. I am also
10 putting nothing in the ground. We even
11 calculated how much dog shit could come out per
12 house, per day.

14 It's pretty sad what you have done here.

15 Okay.

16 I have got to tell you my heart was in
17 this property. And I didn't ask him to come
18 tonight. I haven't talked to him in probably
19 almost a decade. All right. Matter of fact, I
20 think it was February 22, 1985. Matter of fact,
21 he was still alive it amazed me. I am talking
22 about Mr. Morgan, when he sold me that property,
23 that property, his hand shook. He should tell
24 you he owned it since 1946. From '46 to '85 the
25 man walked the property, okay, with a pair of

1 pruning shears and pruned it. A lot of the hard
2 wood on the property, the Tall Oak Trees and the
3 Pines and Walnuts and this and that, the Hickory
4 that you people all love, because the Pine
5 barrens is really scrub Pine. He planted it.
6 Yeah. You just saw Johnny Appleseed. Okay. He
7 walked around and planted it. He gave up the
8 property because he was behind in property
9 taxes. That's right. The County of Suffolk
10 owned the property you're about to buy back from
11 me. The property that I redeemed from the
12 County of Suffolk. Only I didn't know I was
13 redeeming it at the time. Okay. The back taxes
14 were behind, you know. He had another heart
15 attack or whatever. Couldn't pay the bill. And
16 my down payment helped him redeem the property.
17 And of course I didn't know it at the time,
18 okay, but that's where my down payment went. He
19 asked me to release it from escrow and I thought
20 about it I said oh, okay. Where was he going?
21 He was looking to pay the property taxes. It
22 was after the fact he came to me and told me
23 about it. I mean he needed to close the
24 property. Okay. But his hand shook, okay, when
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2 compatible, non-compatible growth area, there is
3 a 30-day period of time in which there should be
4 a Hearing. And then there is a 30-day time in
5 which the Commission has to respond. And Mr.
6 Rogano indicated to me that they would adhere to
7 the 60-day outside limits even though they
8 hadn't held the Hearing in a timely fashion.

9 As far as the valuation of the property
10 goes, this topic goes, to come up sooner or
11 later, one has to remember I don't think there
12 are any valid comprables in the Town of
13 Manorville anymore. There couldn't possibly be
14 after so many years of inverse chilling effect
15 created by up zonings by the Town, at the
16 recommendation of the County. And there
17 couldn't possibly be, okay, after so many years
18 of Mr. Amper's efforts to preserve the drinking
19 water and there couldn't possibly be after so
20 many years of a lack of construction,
21 everybody's afraid to play the game anymore.
22 Okay. Whether it's personal or business.

23 I'm almost done.

24 MR. THIELE: Okay.

25 MR. FURIA: And so it's a difficult

1
2 situation plus you have to remember if you vote
3 two-acre cluster for the second time, you will
4 have devalued the property. I don't know where,
5 how you're going to compare 69 acres, the sylvan
6 acres, it's 75 builders acres to 2 acre pieces
7 scattered across the road, okay, in valuation.
8 Cause you're asking me to give away 40 acres.
9 All right. And the nitrate loading on the other
10 side of the road, for people interested in
11 preserving the drinking water, far exceeds what
12 I will be doing on my side of the road, probably
13 almost double what's done on my side of the
14 road, which is precisely why this is a Hardship.
15 You have singled out me and telling me I can't
16 build. Yet the other side of the road is
17 perfectly fine. And I want to make this clear.
18 Okay. I don't wish Mr. Mancini any hard
19 feelings. Because according to the New York
20 State Guidelines, the County of Suffolk
21 Guidelines, the 208 Study, all right, Mancini's
22 well within his rights to build that property.

23 I think that's it.

24 MR. THIELE: Okay.

25 Thank you much.

1
2 Any further questions?

3 If not, is there anyone who desires to
4 have the ability to submit additional written
5 comments on this application? Because we do
6 have as was mentioned a time constraint by which
7 to act. So if there is no, if there is not
8 anybody who would like to submit additional
9 written comments, I would like to make a motion
10 to close this Public Hearing. And I think the
11 Commission intends to make a decision on
12 February 23rd. So I will make a motion to close
13 the Hearing. Is there a second?

14 MR. COWEN: I second.

15 MR. THIELE: Seconded by Ray Cowen.

16 All those in favor?

17 MS. SWICK: I.

18 MR. THIELE: I.

19 MR. PROIOS: I.

20 MS. FILMANSKI: I.

21 MR. COWEN: I.

22 MR. THIELE: Opposed?

23 The Hearing is adjourned.

24 Thank you very much.

25 MR. FURIA: Thank you very much.

1
2 DR. JACKSON: Thank you.

3 MR. THIELE: That concludes the business
4 for the Commission for the evening.

5 Thank you.

6 (TIME NOTED: (9:55 p.m.)
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CERTIFICATE OF REPORTER

I, DONNA L. RITZMANN, hereby certify that the within Hearing was held before me on the 17th day of February, 1994.

That the within transcript is a true record of the within Hearing.

That I am not connected by blood or marriage with any of the parties. I am not interested directly or indirectly in the matter in controversy.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of February, 1994.


DONNA L. RITZMANN