

CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

In the Matter of the
Public Hearing on the
SOUTHAMPTON TRADEPERSONS CENTER (PHASE II)

Brookhaven Town Offices
Route 112
Medford, New York

March 12, 1997
5:00 p.m.

PUBLIC HEARING

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

2 GEORGE PROIOS
3 Chairman
4 County of Suffolk

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

8 DORIS ROTH
9 General Counsel for the Commission

10 JOHN GIRANDOLA
11 Town of Brookhaven
12 Planning Division

13 RAYMOND CORWIN, Executive Director of Central Pine
14 Barrens Joint Planning and Policy Commission

15 ANDREW P. FRELENG, Chief Planner, Department of
16 Land Management, Planning Division

17 A L S O P R E S E N T :

18 DONNA PLUNKETT
19 Staff to Commission

20 LORRAINE TREZZA

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CHAIRMAN: I'd like to call the meeting of the Central Pine Barrens Joint Planning and Policy Commission to order. This is a public hearing pursuant to the Environmental Conservation Law, Article 57-0121, subsection 10.

I will introduce myself. I'm George Proios acting chairman of the County Executive's office, Robert Gaffney, chairman of the commission. I will ask each of the members to introduce yourselves.

MR. COWEN: I'm Raymond Cowen, I am here representing Governor Pataki.

MS. ROTH: Doris Roth, McMillan, Rather, Bennett and Rigano, P.C., General Counsel for the Commission.

MR. GIRANDOLA: John Girandola representing the Supervisor for Brookhaven, Felix Grucci.

MR. FRELENG: Andrew Freleng, representing the Town of Southampton Supervisor, Vincent Cannuscio.

CHAIRMAN: We had two hearings that were scheduled that we are going to adjourn. For the record, let me first read those into the record:

The first was Chardonnay Woods, East

Quogue. That hearing is going to be postponed indefinitely until we hear further word on the condition of the environmental impact statement from the Town of Southampton.

The second public hearing was that of Ron Feld on a core area application in Flanders that was being postponed until June 4th, 1997.

Our third one on the agenda is Southampton Tradespersons Center, (Phase II).

Project Description: The addition of three new buildings containing a total of 34,955 square feet and associated parking and infrastructure on a site with two existing buildings containing a total of 12,033 square feet. The total site area is 8.14 acres of which 3.59 acres are in a Light Industrial 40 zoning district and 4.54 acres are in the Country Residence 200 zoning.

Project Location: W/S County Route 31, N/O Stewart Avenue, Westhampton, Town of Southampton.

Suffolk County Tax Map Number:
900-286-2-38.1.

Does the applicant wish to make a presentation?

MR. GAZZA: Mr. Chairman, and members

of the Board.

For the record, my name is Joseph Frederic Gazza, Ogden Lane, Quogue, New York. I'm the owner of the subject premises and the applicant that is appearing before you this afternoon.

I appear before you requesting a hardship exemption in order that I may utilize my property for purposes that in my opinion are not inconsistent with the plan. I would like to begin by showing the Board a site plan which, of course, you have a copy of already but we can work from this site plan. It has highlighted colors to better explain the subject application before you.

The property that I am the owner of -- if you look at the key map -- shows that there's a cross hatch area -- a lot of property off the road -- and then there's a small portion on the road on Westhampton Riverhead Road opposite the Suffolk County Airport of Westhampton. The Board may be familiar with this. This is the application that was approximately two years ago before you pertaining to the front portion of this property where I constructed two 6,000 square foot commercial buildings shown in red on the key map and highlighted in red on the overall survey site plan map. The red buildings constituted the phase one of this

project which was that portion of the land area. We had a total land area of 8.14 acres and phase one comprised approximately three-quarters of an acre so we have about seven and-a-half acres that we are going to be talking about this afternoon that I call phase two of my project, my property.

The seven and-a-half acre portion is rather long and rather narrow; 165 foot is the width and the length is 1,894 feet.

The survey shows -- stops over here, but in actuality this land runs a considerable distance as shown on the key map but for plotting purposes they couldn't run this piece of paper another four feet so there is a substantial portion of the land -- approximately five acres -- that goes beyond the last proposed building which is today's subject application.

The three buildings shown in orange which I call phase two which is the final utilization of my property. This is a two phase project. Phase one and phase two was the subject of review by the Southampton Town Board. Approximately three years ago when I had started with my proposed use for my entire 8.14 acre parcel I had proposed 46,000 plus or minus square feet of buildings. The project was to be phased because I did not have the funds to build all the buildings at

once and I proceeded with what I could afford to do and I could afford, and I did, build the two red buildings which before they were completed were rented. They were immediately rented. So we have the two red buildings phase one, COs approved by all the agencies; your agency the Health Department, the Planning Department from the Town of Southampton. Mission accomplished. The next mission is the parcel to the rear; seven and-a-half acres to the rear.

Now, the seven and-a-half acres to rear was reviewed by Southampton Board three years ago. It was reviewed in connection with an exemption process that I had to apply for to utilize this property from the Town of Southampton. There was a process whereby if you paid a fee, a public hearing was conducted and the Town Board, by resolution after a SEQRA determination and coordinated review, determined that the utilization of phase one and phase two would not be contrary to the policies of the Town of Southampton or in conflict with the zoning and land use regulations, clearing restrictions. The Town reviewed this from every level of their code and found that this phase one and phase two would be in compliance and the Town of Southampton Town Board granted the exemption for me to proceed with phase one and phase two.

However, because of the financial reasons and because of other constraints, one of which was the Planning Board which became involved and determined that the phase one would have less effect and could be approved in an easier manner than considering phase one and phase two together. So two years ago we did phase one and now I am back to complete the project to complete the use of my property by phase two.

The site plan outlines the different categories of clearing, building coverage, parking, all the things that are necessary and to determine if they are in compliance with everyone's regulations. I'm sure Donna Plunkett has reviewed this map and determined about the land clearings and the percentage of coverage would be in compliance with not only the town code but the Pine Barrens regulations. When one studies the table, one could determine that if we look at the overall project, phase one and phase two, taken together -- remember we have an area of 8.14 acres, the subject premises, we add onto that an area of two and-a-half acres which is the TDR land -- you may recall had given up land further to the north that was selected by the Health Department to transfer its rights down, sat them on top of this property and then donated the fee title to that land to the Town or the nature conservancy?

MS. PLUNKETT: The nature conservancy.

MR. GAZZA: The nature conservancy.

So although the subject premises is 8.14 acres, we have an additional two and-a-half acres of rights sitting on top of it which brings it up to about a little over ten acres when we figure out the overall area for different computation purposes.

We have an existing proposed building coverage. At present the two red buildings cover 2.6 percent of my property. The new phase two -- orange buildings -- when we count the area of those buildings and we compute the coverage, it gives another 7.4 percent of land area coverage. So phase one and phase two taken together would be ten percent coverage of my property.

MR. FRELENG: Does that include the two and-a-half acres you have banked, the TDRs you have banked?

MR. GAZZA: Yes, it does.

MR. FRELENG: So you are including that?

MR. GAZZA: Right.

In the computation, I include all land area of the project.

The clearing which is important

especially to this Commission because of the foliage that exists -- or used to exist in this area before the fire -- there's a computation that the existing clearing amounts to .67 hundredths of an acre and the proposed clearing to accommodate the additional phase two -- three buildings and all the parking would be an extra 2.2 acres. So the total clearing, phase one and phase two of all of my property would be 25 percent of the land -- actually total 117,386 square feet -- all tabulated -- so we get an understanding that I'm going to be clearing -- if I'm successful with the phase two project -- 25 percent maximum of my property.

MS. PLUNKETT: You are taking the total ten acres plus?

MR. GAZZA: That's right. The 8.14 plus the two and-a-half I have brought over.

By looking at that two and-a-half that I have brought over as part of the overall project, the land was sterilized, it was preserved forever and its rights -- all of its rights -- were brought over here. Its sanitary rights, its land clearing rights, its development rights.

So my proposal is to utilize, by clearing 25 percent of my land, preserve 75 percent of the land, which is a substantial compliance with your

regulations.

To move on to the character of this area, I have a brand new aerial photograph in color. I can't leave this with the Board because I borrowed this from the Town of Southampton, Zoning Board of Appeals. I have it on loan for 24 hours, but it's possible to get it back if you want to look at it again.

The subject property I have outlined in red. We see the existing two buildings. The red buildings -- those appear -- this photo was taken 4/15/96 --

MR. FRELENG: While those buildings were being constructed?

MR. GAZZA: While those buildings were being constructed. One has a roof on and the other one doesn't even have one on yet.

It shows the Suffolk County Dubraski Airport to the east. This is Stuart Avenue, the airport entrance, and the BOCES school complex in Westhampton. This little patch over here -- that was just a little patch case. You may recall that we had a cut out of the map

MS. PLUNKETT: The mapless application we call it.

MR. GAZZA: You can tell by the roofs

of the various other industrial buildings that exist along the airport road -- the Westhampton Riverhead Road. People with this Commission may recall my prior presentation, this road had a 12 inch public water main, it has heavy free phase electric, telephone, all kinds of utilities underneath it and infrastructure exists along this heavy trafficked County Road.

The access to my property has been approved by Suffolk County, Department of Public Works, and it has been constructed with drainage and curbing and width in mind to accommodate phase two of my project so that there would be no additional entrance onto the county road, and the corridor for access has been so designed to provide for appropriate flow of traffic without further curb cuts on a busy County Road.

Additionally, LILCO has set a very large transformer which is adequate to serve phase two of my project. I have had things in line, and in planning from the beginning, to proceed with the phase two, by providing electric service, I even have water lines underneath the parking area to be connected to the phase two buildings of the public water supply -- telephone lines -- everything is in place ready for the buildings.

Of importance --

CHAIRMAN: Where is the road access that goes from the parcels in the front to the back?

MS. PLUNKETT: Between the buildings.

MR. GAZZA: There's head-on parking.

MS. PLUNKETT: Right through the parking lot.

MR. GAZZA: Two directions. Parking spaces like this (indicating.)

CHAIRMAN: Coming down between the side parking and the new building?

MR. GAZZA: Right; we have a 24 foot -- 26 foot corridor which is sufficient to let two cars to pass. It gives access to the buildings in the rear.

Back to the color aerial photograph. This photo shows the results of the wild fire. We can tell that the blackened areas were those areas that were scorched, just defoliated right to the ground. There are some areas that are orange that were -- trees got scorched but they weren't burned to the ground and that shows how the firefighters attempted to preserve these buildings and protect these buildings and their occupants from the wild fire which moved from the northwest -- that was the flow of the fire -- so the fire came in this direction (indicating). The fire

fighters took a stand along County Road 31 to protect the BOCES school and various buildings and they were successful. They pushed back the fire and they were successful for a number of reasons. Number one, they had a heroic effort. Number two, they had a public water supply along this road. They had fire hydrants that they tapped into and they sprayed down -- every one of these buildings got a bath and that was of extreme importance. I spoke with various fire departments and they said without the public water their efforts would not have had the water available to suppress the fire. They also had heavy equipment which they brought onto the job; bulldozers, payloader, all kinds of equipment to create a fire break to push that fire back, and as you could see certain areas for example where the Bennett Propane -- the big propane tank -- you could see how they pushed back in this area to keep that fire -- before the fire even got there -- they wanted to create an area where the fire couldn't jump -- they were so afraid of this propane and in other areas it went through the plumbing building and they pushed back over here (indicating) I guess to stop it from getting into the bus company where you see all those buses -- so the firefighters had the public water, the heavy equipment and the effort of all the fire fighting teams and they

were able to hold the fire back along this corridor of the road, but in their efforts, a portion of my property, which is the phase two subject application before you, was bulldozed over to protect that fire from jumping over and destroying the buildings that were down wind from the fire. So we have a portion of my property that is no longer in a natural state in an area that's been disturbed and in an area that is zoned light industrial, and in an area that is in close proximity to existing industrial buildings not only to the south but also to the north of other buildings along the Westhampton Riverhead Road, all of an industrial commercial nature, including the Suffolk County Water Authority building which is at the south side of Sunrise Highway which is furthest to the north.

Now, the Commission may recall that when I discussed my phase one application before you, that I had outlined that I owned this property having acquired it by deed since 1981, 1984 and 1988. Bought three different pieces and pieced it all together. I had a combined cost of \$116,414, and during my period of ownership I added up the real estate taxes which amounted to \$19,808. This is when the property was entirely vacant. Now, of course, a portion of the

property has buildings on it and I'm certain that my taxes for this coming year will go up substantially to reflect the improvements.

The Suffolk County Department of Health Services was also involved as the Town of Southampton, Town Board, was involved in looking at this project as a phase one and phase two combined. The Health Department Board of Review which studied this application, had given approval to phase one and phase two. So we have the Town Board in place, we have the Health Department Board of Review in place --

CHAIRMAN: What was the date of that?

MR. GAZZA: Approximately two and-a-half, three years ago.

CHAIRMAN: What was the date?

MR. GAZZA: On 1/4/93 the Health Department rendered a determination that phase one and phase two would not have a substantial adverse effect on the groundwater quality and it was approved by the Suffolk County Board of Review for Health Services Department.

CHAIRMAN: The Town's review wasn't a final approval; was it?

MR. GAZZA: It was an exemption the --

MS. PLUNKETT: The Planning Board then

reviewed when they did the SEQRA on phase one.

MR. GAZZA: Correct

MS. PLUNKETT: The Planning Board has reviewed the map at phase one. There is a SEQRA on phase one. The SEQRA has not been completed at phase two. We were the coordinator on phase two.

MR. GAZZA: It was completed under the Town Board's western environmental generic impact study exemption for the overall project.

MS. PLUNKETT: That resolution doesn't analyze the specific impact associated with that development.

MR. GAZZA: Well, I have a copy of the Town Board's western environmental generic impact study exemption dated November 22, 1994, which was made a part of my application. They discuss commercial industrial buildings totaling 45,959 square feet and land area of 8.14 acres.

Maybe we will have to look a little bit further into that Town Board action. Whether that constituted the final review under SEQRA or an additional review is necessary for phase two under SEQRA, I'm not certain on that point.

CHAIRMAN: If it did then you wouldn't have to be here. If you have the final approval or

SEQRA completed prior to June of '93.

MR. GAZZA: I wouldn't need an exemption from the Pine Barrens Commission?

CHAIRMAN: It would have been grandfathered. He doesn't have a site plan for phase two. The other exemptions if SEQRA -- the SEQRA has been completed; correct?

MS. ROTH: The SEQRA determination from the Planning Board is March 27, 1995. That's only on phase one. The 1994 resolution of the Town Board, the exemption from the western GEIS is not an approval of the project, it's simply an exemption from the western GEIS so the review can go forward. As a matter of fact, the resolution states whereas the within Town Board review of the application for an exemption constitutes neither an approval or a disapproval of the proposed project. It simply allows the staff to seek a review under the exemption. So that's in 1994.

MS. PLUNKETT: That's not a SEQRA determination on the project. That was just the GEIS. We coordinated under SEQRA the phase one and phase two. If you remember, the Town took lead agency and did the SEQRA on phase one and that was the second resolution that we had from the Town. That is subsequent.

MR. GAZZA: I'm a little uncertain as

to whether the Town Board can act on an exemption without doing a SEQRA determination.

My recollection was that they had proceeded under SEQRA. I have to look into that further.

CHAIRMAN: Where on the map is the 4.5 acres of CR 200 which is residential? Where's the residential?

MR. GAZZA: The two and-a-half acres of residential land --

MS. PLUNKETT: No, the remaining residential area of the property is -- shows up just this piece here. It's not showing up on the map. On the key map it runs to the north.

Out on the 8.14, approximately four plus acres. The other two and-a-half acres -- were those residential as well?

MR. GAZZA: Yes, CR 200 residential.

MS. PLUNKETT: Those are non-contiguous. Those two and-a-half acres were used by the Health Department to allow him to have the sewage floor come in with the buildings that he was proposing there. I don't know if that was before.

MR. FRELENG: On the calculation here on the maximum clearing permitted, the LI 40 zoning

category you are permitted, according to your calculations, was 78,313 square feet.

MR. GAZZA: That's correct. That's based on 50 percent permissible clearing under the Town regulations.

MR. FRELENG: CR 200 calculation, 39,600 square feet, where is that coming from?

MR. GAZZA: That is coming from this portion over here of the -- this much of my property is CR 200. Approximately five acres of land.

MR. FRELENG: So the total lot calculated is how much area to be cleared of the entire parcel and then you are allocating a certain amount of clearing that would be permitted under the TDR that's back on the property, 39,900 square feet.

MR. GAZZA: That's correct and those TDR parts are itemized past that number, area parcels, a little bit below the table you are referring to.

MR. FRELENG: I just wanted to be clear where you came up with the land -- for want of a better term -- that came up with the 914,813 square feet of allowable clearing.

MS. PLUNKETT: What percentage did you use for the CR 200?

MR. GAZZA: Twenty percent.

MS. PLUNKETT: I think it's 15 percent.

MR. GAZZA: Fifteen is if it's over a certain size, but it's 20 if it's below a certain size. Then we review this to make sure the calculation was correct.

MR. FRELENG: A certain size -- I couldn't confirm the percentage.

MR. GIRANDOLA: What are you going to do with the remainder of residential land?

MR. GAZZA: That's the backyard of that project. The backyard, so to speak, is never going to be used. It's like you have a home and you have two acres of land and you build on an acre and an acre is your backyard.

MR. GIRANDOLA: The parcel is held entirely in one deed?

MR. GAZZA: One deed, in my name, correct. This is a single and separate 8.14 acre parcel, Joseph Frederic Gazza, the sole owner. I have a title insurance policy. I could provide the Board with a copy of that if necessary.

The industrial portion is the value to me, of this 8.14 acre parcel. The concept of utilizing land in this area for residential purposes has never

been acceptable to me. There isn't a house within a mile of this property. It's every use is commercial, industrial, airport, municipality, water authority -- no residential uses. There's no neighborhood. There is no facilities for families, for children. It's not a residential area, and the use of this property for industrial is the value, and to sacrifice or to preserve that portion of the property residential, is a fair preservation for me as the owner of the property, and to preserve a certain amount of the property under the town regulations, under your regulations. The land -- if I took someone onto the land and walked on the land, you wouldn't be able to tell when you passed over the industrial into the residential. It all looks the same.

MR. GIRANDOLA: How would you make it preserved as a residential portion?

MR. GAZZA: Well, the Town has maximum clearance. For example, 20 percent maximum clearing of residential land. So any percent of the residential land under the Town regulations would not be disturbed.

MR. GIRANDOLA: Could you not just get credits of that?

MR. GAZZA: I need all of the area --

MR. GIRANDOLA: To satisfy Health?

MR. GAZZA: (Continuing) -- to satisfy

more than Health. To satisfy Town Planning and the health. This project is so designed that when phase two is completed, I will have used up all the rights that I have to the 8.14 acres, two and-a-half acres, almost to the square foot of the building. I computed it and reviewed it with the engineers and then --

MR. GIRANDOLA: There's no possibility that -- in other words, you are saying that you do not have any rights to go to a clearinghouse and ask for credits?

MR. GAZZA: No.

CHAIRMAN: What sort of instrument would you consider from the Town in order to memorialize this?

MR. GAZZA: Well, the Town Planning Board is very good with instruments. They have instruments that lock up uses on property.

MR. GIRANDOLA: Covenants?

MR. GAZZA: Covenants, declarations. At present there is a declaration on this property that was imposed by the Planning Board of the Town of Southampton with the phase one buildings.

MS. PLUNKETT: Did you bring that as we requested?

MR. GAZZA: Well, I couldn't find it, but

what I did bring -- I brought the Planning Board's approved map with their stamp on it -- their approval stamp and on the back of this is the Planning Board's resolution of approval of the phase one which makes reference -- I have it highlighted in yellow -- about the covenant that is recorded on this property which was unusual at the time. This is the first covenant that I have ever entered into -- whereby the Planning Board said Mr. Gazza, we are going to approve your phase one but we want the county, the state, the Town -- we want this land to be available for purchase by the government agency -- the remainder of our land in the rear. They said to me why not allow some time for Government to acquire this land in the rear from you, and they said how about a covenant -- which they are famous for -- in the event that the applicant has offered a covenant to restrict any further development of the property for a period of two years. So I signed and recorded a covenant which I guess the Town of Southampton is holding the original covenant -- covenants, once recorded go back to the town.

MS. PLUNKETT: Do you have a copy of that, Joe?

MR. GAZZA: I might. I have a beer box this thick with legal papers in connection with this

project and it would take several hours to go through it to find it. I went through the last three inches of it before I came here today and couldn't find it.

MS. PLUNKETT: Counsel does want to see that.

MS. ROTH: I want to see it. I think you can just go to the County Clerk's office and give a search under your name and you will find a covenant.

MR. GAZZA: That is accomplishable but searching under my name is difficult. Possibly --

CHAIRMAN: The Planning Board --

MR. GAZZA: They have the original which is the best evidence.

MS. ROTH: But that covenant deals with simply the two year moratorium. It doesn't have anything to do with preserving a portion of the property.

MR. GAZZA: The Planning Board said to restrict further development of the project for two years. I remember it because it was approved on July 12th which was my birthday and they said two years, give us two years.

MR. COWEN: So July 12th is when it was approved?

MR. GAZZA: Correct.

Now, I did appear before the Planning Board about three months ago, and I asked the Planning Board if they had a problem with my proceeding with applications on my property before the two years elapsed, and their response was this was not a problem as long as I didn't proceed with development. I'm not building, I'm just proceeding with the paperwork, and my guesstimate is that maybe July 12th, I might be through with some of the paperwork.

MR. FRELENG: I understand that that beer box was full when you started this project.

MR. GAZZA: I will be expanding to another box.

MR. CHAIRMAN: Let me see if we can get the SEQRA issue straight.

According to this letter dated November of 1994, it says that "the Town finds an exemption from the provision of chapter 324...That is not an action within the meaning of the state review act." So even though the exemption was SEQRA, they did not go through SEQRA --

MS. PLUNKETT: Not for the exemption portion --

CHAIRMAN: (Continuing) -- but they went before -- subsequent to that.

MS. PLUNKETT: We have that on file.

CHAIRMAN: I have the negative declaration for the 8.4 acre site for the .52 acres to be approved on that site. That's what the negative declaration was for. There's no SEQRA for the new portion. Who is the lead agency for that?

MS. PLUNKETT: We have to coordinate -- this matter is just strictly for review by counsel when we got the application. This was exactly my question, and I called Joe right after the last meeting and I asked if it was a covenant and I also asked for a revised EAF. The EAF on file needs to just be amended to reflect the changes, and the most recent project, and I was hoping you would have had that for me tonight so that I could proceed with the coordination process. We have to coordinate under SEQRA, and as soon as you get that to me, we can move.

CHAIRMAN: Aren't we going to request lead agency status?

MS. PLUNKETT: Well, we coordinate it if the Town wants it.

CHAIRMAN: We are going to ask to be lead agency.

MR. FRELENG: You have the application for lead agency until somebody else wants it.

CHAIRMAN: We have to have a negative declaration at hand before we proceed.

MS. ROTH: Sure.

MS. PLUNKETT: The time period for your decision has been running -- starts ticking until SEQRA is resolved. So the sooner we get that, the sooner we can gather answers.

MR. FRELENG: The Town code requires a 50 foot transitional yard between industrial and residential property for non-residential zones and residential zones. The brick building on the north end of your property, the existing brick building provides a 50 foot buffer, and the proposed 8,750 square foot building shows a 50 foot buffer between the CR 200 property to the west and your site. I just want to ask you why there is no 50 foot transitional buffer between the proposed 8700 square foot building and CR 200 plans that you own to the north?

MR. GAZZA: Well, I own all the land, so it is protected. It's the buffer. It's a buffer that's going to be approximately a thousand feet. We can show a buffer if you prefer on the final map. But it's a thousand feet of land that's all going to be buffer. If you want to show a little line on there, show that little bit. That could be adjusted without a

problem.

MR. FRELENG: Okay.

CHAIRMAN: It would just be the filing of a covenant for that portion of the property?

MR. GAZZA: With the Planning Board? Several covenants. They have covenants pertaining to use. The Planning Board would like to control what type of uses can be conducted on the property in cooperation with the Health Department. They only want uses that are compatible to the environment, that without having even a chance of alluding --

CHAIRMAN: No, I'm talking about the area difference to the north.

MR. GAZZA: That can remain vacant. Whatever protection is necessary by this department or by the Health Department or the Town or all three --

MR. COWEN: What kind of uses do you have in the pre-existing buildings?

MR. GAZZA: I started out with Pinpoint Navigation. They occupied three of the units. They are an instrument distributor. They bring instruments over from Japan for navigation of marine, airplanes and cars. They assemble them and they distribute them.

I have Bob Stevens Television and appliance. He uses two units for a warehouse. He

stores his white goods there and he has a truck and loads them and unloads them and distributes them.

I have the Rosanti Carpet Company. They do carpet cleaning. They have a truck and they go out and they travel in the Westhampton, Southampton area. They bring their truck back there to the unit.

I have the Pine Barrens Printing. They do paper flyers for government agencies, private individuals, stationery, photocopying.

And I have the Stalker Outfit which is a fishing tackle distributing company. They work off of the Internet and get orders in for hooks and elaborate lures for offshore fishing and put them in little packages and send them out to people and it's quite interesting. They showed me what a box of hooks costs -- \$250. They take them out and put them in little packages and sell these packages for \$7.00. When they get all done, they get \$2500 for the same box of hooks.

MS. PLUNKETT: What are they called; killer lures?

MR. GAZZA: They have different names. No, Stalker Outfit. Stalker.

MS. PLUNKETT: Could you describe in detail what the character of the land area is?

MR. GAZZA: The land area as shown on

the area photograph is scorched. It consists of scrub oak and burned over pine. I don't think there is vegetation over there that is more than two or three feet high. The land is flat as a pancake. There is no topography there. The topo lines on my site plan, I don't think it varies a foot in 800 feet. The land in that area is just flat. The soil is -- you have about three or four inches of mulch soil on top and then you have a foot, foot and-a-half of loam material and then you have straight sand. There is very little gravel. It's almost just straight sand. When we installed the parking lot catch basin in the phase one, my contractor commented it's just like beach sand, perfect dry crystal sand, and the surrounding area as shown on the photo is of the same nature. The pine barren plain is flat; it's light sandy soil.

In preparing the EAF, I was trying to determine if there was any wild life which I noticed on this property, because I have been there for two years and I haven't seen a rabbit there. It's just maybe some seagull to fly over, but there is no wildlife there. I remember there were hunters came in the fall -- rabbit hunters. They went to the property and parked behind my buildings and they were rabbit hunters and they came back an hour later. They didn't have a rabbit. I can't

tell if there is anything in the form of wildlife. To my observation, I haven't seen any.

MR. COWEN: You have been here before and you know the criteria we have in the statute.

MR. GAZZA: Yes.

MR. COWEN: Could you click through those?

MR. GAZZA: Yes, I recognize that an applicant such as myself, must outline certain conditions for the extraordinary hardship for compelling public needs. I'm not a government agency, and I don't know if the public needs are going to be applicable to this, but pertaining to my end of the case, I know that 57-121A calls for particular physical surroundings of property as it was a criteria. And as I stated earlier, there is all commercial, industrial surrounding this property. We have the largest airport in Suffolk county, area-wise, directly across the street. The division line for the core area of the center line of the road. So if I were adjacent to a compatible growth area where industrial development is supposed to be induced to occur at the time this -- because it's municipally owned by the County Airport, was supposed to develop industrially to accommodate the needs of the Town and the area. Maybe we could look at that as a

compelling public need. Zoning is supposed to provide for all issues so the communities can live in harmony with each other and people can work in the area. We mentioned we are getting near and if it's any indication of how fast I was able to get tenants for my building -- and I have a waiting list at this time -- more tenants. There is no industrial space on Southampton area because those are scarce items, and there are people who need that space; local people who work in the area where they live, conduct business in our town and that's a compelling need. the Town must provide for an area to work and the People who occupy my space, they are all from the area. If they didn't have my attitude, they might have to go to Brookhaven Town or Islip town --

MR. GIRANDOLA: That's good reason to deny you.

MR. GAZZA: We talked about the airport, the road frontage, on industrial buildings, the fact that the area has been burned over and in parts bulldozed over. Criteria A2 talks about beneficial use of the remaining portions. The phase two portions of my property. What beneficial use do I have of this portion of my land at present? It's a buffer, but does that benefit me? Does that yield any financial return for me? No. I'm just glad that I own that. I can go

nature walking and berry picking -- there is no benefit or use that I have available to me without being able to improve on this property with some buildings to get some use, and because it's zoned light industrial, those buildings and that use would have to comply with the light industrial zone which I was asking to view the property. You could say that the beneficial use could be no uses if the County or the state or the Town acquired the property from me -- we would have negotiations, but that hasn't happened in a year and seven months. It could happen, but I don't think it's likely to happen. I don't think it's likely because I have been in contact with the county officials, with the Department of Real Estate, who purchased from me last December other property that I had with Suffolk Community College. Then we had discussions about my other holdings and it was explained to me that the public funds that are available are going to be spent on the most environmentally sensitive parcels that need the most protection, and it was not the opinion of the people I spoke to on the county level, that this type of a parcel of land so close to an existing industrial facility and sanitary system and parking lot -- it was not high on their priority list, so I feel safe that it's not going to be acquired .

That's why I'm proceeding at this point.

The other potential would be to somehow get development rights off of this property. So you're a commission and utilize those rights elsewhere, but I don't know if there is a procedure to give me development rights for light industrial zone land in place yet. Is there?

CHAIRMAN: Technically, yes.

MR. GAZZA: Technically? Is there a receiving area? It's questionable. I have been through the residential development rights procedure and I recognize that the five acres at the residential portion of this property would yield approximately one right, and if a right is worth \$5,600 in the Town of Southampton, by your own appraisal reports, then the market hasn't been developed yet in terms of what a right is worth. The conversion of this land as a development right and getting some type of value for those rights is going to be minuscule compared to the amount of money on investment property which covers the taxes that I pay on the property. So the concept of getting rights is not working, has not worked for me on other parcels -- certainly not going to work on this one where I have land that is so close to other buildings and connected to a public road. It's not a parcel that

would be conducive to converting the rights for utilization somewhere else.

MS. ROTH: Could you elaborate a little bit on the bulldozing; who did it, and where exactly on the property the bulldozing took place?

MR. GAZZA: Well, I don't know who did it exactly. I know that it happened as a result of the fire.

MS. ROTH: What do you mean by bulldozing?

MR. GAZZA: Well, if you look at the aerial photograph, there is some type of heavy equipment that was utilized behind the buildings to protect them from the fire. You will see tracks, you could see clearing areas where -- would you like to see the photograph?

This area was all closed off during the fires for about over a week. No one could even get in there. So I wasn't there to see who did it. I did see -- I saw a Town of Babylon bulldozer parked on Montauk Highway -- blue bulldozer -- I guess the firefighters brought out equipment from other towns. I saw another town's bulldozer -- a heavy payload on the Speonk Riverhead Road which is little bit to the --

MS. ROTH: Do you know what portion of

this has been bulldozed and would you define bulldozed?

MR. GAZZA: Well, push the trees. The tress and the foliage was pushed back haphazardly in a certain area. You could see that they went right through the Al Davino parking lot -- this clearing in here (indicating) and they just zigzagged around and created -- they went through here and bulldozed like a fire line. They actually stripped -- this area here they actually dug out. If you go there today you can actually see there is a depression.

VOICE: Are those lines that the bulldozer made?

MS. ROTH: These lighter lines?

CHAIRMAN: Does that indicate the sweeping of the machines?

MS. PLUNKETT: Not necessarily. I can just clarify before we go any further, I have visited the site yesterday and there is no evidence of bulldozer tracks on the property; okay? The entire area -- this photograph was taken probably immediately after the fires. Right now what you have is a smooth uniform cover of regrowing occurring pursuant to the fires. The property was burned but we do have scrub oak and other vegetation growing back. There is a small portion immediately adjacent to the Gazza parking lot that is

the gravel area that was made I suppose probably requested by the fire marshal. This is not an accurate depiction of the current state of the property and I would urge the Commission not to rely on this photograph as a matter of --

MS. ROTH: How much after the fire is this?

MS. PLUNKETT: This was taken on April of '96. So this was six months after the fire and we are now talking about almost a year, year and-a-half later from the fires. Before we get into a debate.

MR. GAZZA: Just to sum up on the criteria for the hardship exemption -- no adverse environmental effect on the project. The project is so designed to be in compliance with the Health Department's regulation to protect the ground water with improved sanitary conditions and discharge limits of sanitary waste only.

There's no adverse effect on the neighborhood. The neighborhood is of similar buildings, similar uses. There's no change. No change in the neighborhood with this proposed use. The intent of the Pine Barrens Act is to possibly exclude road front parcels -- there is a provision for exemption of parcels having road front damage.

Maybe that could be applicable to this. This is a road front parcel. I know that it's in the core but that's something to consider. If it was a parcel that was off the road, I wouldn't bring it up, but it does have direct road frontage and it could be a candidate for an exemption based on that under the criteria for a hardship exemption, and the labor is the minimum necessary, and in compliance with the clearing restrictions of your department, and in compliance with the Health Department's building coverage with the sanitary discharge so I don't need a variance. I can comply, but I do need the hardship exemption in order to use the property. Without permission to use this property in the phase two portion, I have no benefit, no dollar and cents reason why I should hold onto this land. I can't use it. It's a financial drain on me and for that reason alone I appeal for permission to use my property.

MR. COWEN: With respect to the last statement, the amount of building that you have there, as it relates to sewage flow, do you know how many gallons per day -- does that represent full build out of the acreage that you have available to develop there?

MR. GAZZA: We studied this -- my engineer, Mark, said this is all computation for sewage

on the site. I have to tell you that by the numbers it complies, but have you reviewed it Donna?

MS. PLUNKETT: That's why we needed to preserve this two and-a-half acres, so on the LI portion he maxed it out in terms of --

MR. COWEN: So that represents full build out?

MS. PLUNKETT: Right, and from the Planning Board as well.

MR. GIRANDOLA: Two and-a-half acres that are transferred over give the extra --

MS. PLUNKETT: Right, for that square footage of building.

CHAIRMAN: That's based on the fact that having given industry --

MS. PLUNKETT: Yes.

MR. GIRANDOLA: Your proposal here today is that you will not be developing this portion?

MR. GAZZA: If I'm successful in doing the phase two, the other agencies besides yours will so limit this project to these three buildings. The town planning -- because of clearing, because of other restraints they have with the Health Department.

MR. GIRANDOLA: So even if you had

excess, you are not proposing --

MR. GAZZA: Can't use it.

CHAIRMAN: Any further questions from the commission?

(WHEREUPON, there was no response.)

CHAIRMAN: Is there anyone from the public who wishes to address this matter?

MR. OLSEN: Yes, my name is Walter Olsen. I would just like to make a brief comment.

As a fellow resident and taxpayer of the Town of Southampton, of course I would be concerned about what development takes place, and I certainly wouldn't want to see anything happen that would be detrimental to the area that I live in, and in listening to what Mr. Gazza is proposing here today, it looks pretty obvious to me that he is offering something that I think would be very beneficial to the Town for several reasons. Number one, the big human cry has always been we don't want to see any more residential development done, it increases the pressures on the school system, it increases all of the needs for more services, and he's not proposing that. He's not proposing that. He's not proposing residential. What he is proposing is industrial which there seems to be a scarcity of in Southampton Town. It will have a very beneficial effect

on the tax base for the Town. In addition, it is technically a road front parcel which he certainly has the latitude to allow that sort of thing.

In addition, you are seeing already two and-a-half acres that has been sterilized, that the county and everybody else gets free and for nothing. In addition you have got another five acres of residential that will also be preserved at no cost to the municipality. I think it makes very good planning sense, and I think also that when you talk about full build out under the industrial part of it, I think that full build out is a good idea because as Mr. Gazza pointed out, you don't have a whole lot of industrial area that is in the Town of Southampton, and I think you should fully utilize anything you do have. I think for those reasons I would really urge the Board to approve this exemption. It makes good planning sense. The zoning is already in place for what he wants. He's not asking for a change of zone or anything like that. I hope you will take all of that into consideration and give a positive declaration on it.

MR. SEGAL: My name is Charles Segal. I'm a property owner, small property in Block 0900306, and I think Mr. Gazza's presentation and Mr. Olsen's remarks -- I'm in complete agreement. I think it's a

very reasonable use of that property. As a property owner and taxpayer, I'm in agreement with their proposal. Thank you.

CHAIRMAN: Anyone else?

MS. ROTH: Mr. Chairman, for the record, I would like to clarify that the amendment to Article 47 regarding road front property applies only to residential development on those road front parcels. Just so that you are aware of that.

MR. GAZZA: Mr. Chairman, one comment to close.

In the last paragraph of my written submission which was part of the record, and each member has been supplied with a copy of, I recognize that sometimes to get an extraordinary hardship permit you have to do something extraordinary, and I have compiled a list of core area parcels that I know of that I have been attempting to get Mrs. Dorothy Sawicki to purchase from me unsuccessfully to date even though they are in the true core area pristine in nature.

This letter was outlined in parcel dated December 21 of 1996 -- I will give the Board a copy. If the Board, your Board, could see fit to approve this phase two, I would take it upon myself to make a donation of some of these parcels to either the

nature conservancy or the town as an extra chip to throw into the deal. I have preserved two and-a-half acres. We are seeing five acres preserved, but I'm willing to go another step to show that I'm trying to do everything that I can within this program, in the Pine Barrens core area to preserve those real true core area parcels that are not close to the road. If the Commission reviews this list and finds that maybe an extra parcel or two may be needed to convince certain members that my intentions in preserving a balance through maybe looking for a mitigation measure -- I'm putting it on table. I'm here because I don't want to be denied. It's a lot of money and a lot of valuable land -- the industrial portion -- and I'm willing to give extra if I could get my use. I'm willing to work with the Commission. If this list is not accurate -- you don't like anything on this list, I would go so far as to acquire another parcel to be donated, within reason. I'm a business person, a reasonable person. I want to work with the Commission and maybe there's a sensitive parcel that needs to be protected, not surrounded by industrial buildings, across the street from the airport, with all infrastructure in place -- maybe I could buy that parcel and donate it to either the Town or the State to mitigate the impact of my project. I want that to be

part of the record to show that I'm sincere -- willing to do something extra to get that extraordinary hardship permit.

CHAIRMAN: We appreciate that but it's a little bit difficult to apply standards for parcels of land. We don't have the mechanism to do that unless you do it -- transfer credits over so that's factored into the calculations.

MR. COWEN: We wouldn't rule it out at this point.

CHAIRMAN: We still have a long way to go in terms of making a decision.

MR. GAZZA: I understand.

MS. PLUNKETT: You are supposed to give me an EAS report.

MR. GAZZA: I have one here. I was going to wait until our meeting today before I finished it and give it to you. It's the Town's EAS.

MS. PLUNKETT: You will drop it off in the next day or two.

MR. GAZZA: Yes. Maybe we can look at it after the meeting. If you have a moment you can help me with it.

MS. PLUNKETT: Okay.

MR. GAZZA: In furtherance of the

donation of another parcel for mitigation, I do have four-tenths of credit, Pine Barrens credit. I would certainly put that in and possibly leave some additional credit if I'm able to obtain it. So land for mitigation, maybe some credit for mitigation. I'm here to work with you and certainly if the staff wants to talk to me about the list, some ideas the Board members may have, I am here to work with you.

CHAIRMAN: Thank you.

MR. COWEN: One final comment, George.

I think several times Mr. Gazza, in his presentation, referred to clearing standards in the core and there really are no such standards for the core. Those standards might be contained in the Southampton Town Ordinance, but technically there's no clearing standard in our plan for the core.

MR. OLSEN: Just one final comment. I obviously didn't mean a positive declaration in a SEQRA sense. I meant a positive vote from the Board on this application.

One final point that I forgot to touch on, and that is the idea of the purchase of this property. Obviously, Mr. Gazza has signed a covenant that agreed to wait two years to give everybody a chance to buy it. Nobody has done that. To ask him to wait

further, I don't think is a reasonable request, and in addition, if you look at this parcel and it's value and what it would cost the county and everybody else to purchase it, I think it would be prohibitive. It's far too valuable to purchase a piece of industrial property like that and waste the taxpayers money on something like that when there are far more valuable parcels further in that are worthy of preservation. So for that reason alone, I would urge you to approve the application.

CHAIRMAN: Thank you. I would like to call the hearing to a close. I will leave the comment period open until I think the close of business on April 22nd which will give us plenty of time to receive the additional documents, especially pertaining to SEQRA. When that's all in order, we will decide who the lead agency will be. At that time the Commission can make a public statement with respect to the land and a final decision will be made pending negative-positive declaration of SEQRA in the time frame that will follow. That's pursuant to the amendment of the law we had last year.

Thank you very much.


(Time noted: 6:20 p.m.)

* * *

CERTIFICATION

I, LORRAINE D. BERARDI, Court Reporter,
do hereby certify that the foregoing minutes were
recorded by me and transcribed under my supervision
and are a true and correct transcript of the
proceedings held on March 12, 1997, at
Medford, New York, in this matter.

Dated: March 31, 1997


LORRAINE D. BERARDI