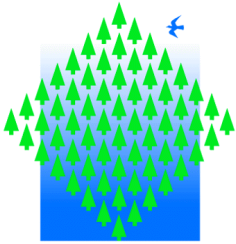


Commission Meeting Summary (FINAL)
for Wednesday, September 5, 2001 (Approved 9/26/01)
Riverhead Town Hall
200 Howell Avenue (at East Main Street), Riverhead, NY
2:00 pm



**CENTRAL
PINE
BARRENS**

**JOINT
PLANNING
&
POLICY
COMMISSION**

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Chair

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Member

Ray E. Cowen
Member

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Commission members present: Mr. Proios and Mr. Sklar (for Suffolk County; Mr. Proios voting), Ms. Prusinowski (for Brookhaven), Mr. MacLellan (for Riverhead at the time noted), Mr. Murphree (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Plunkett, Ms. Jakobsen, Ms. Carter and Mr. Rizzo (from the Commission), and Mr. Spitz (from the NYS Department of Environmental Conservation). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:12 pm by Mr. Proios, with a four member quorum consisting of Mr. Proios, Ms. Prusinowski, Mr. MacLellan, and Mr. Cowen.

Public Comment

Summary: Mr. Walter Olsen, representing Civil Property Rights Associates, spoke regarding the problem of ticks in the undeveloped areas of the pine barrens. He passed around a plastic bag containing a pair of white socks, along with a magnifying glass, and said that they were heavily infested with very small ticks, and stated that this problem has been created by the preservation of so much land. He also stated that the Commission ought to be doing something about this problem; that the undeveloped areas are a hostile environment; that last year the tick problem was considerably smaller; and that there are reactions to the preservation of land. He asked whether the government agencies have explored the availability of controls for this problem, and stated that this is a public health threat.

Mr. Proios remarked that he has spoken with the DEC Commissioner regarding the problems posed by the Canada geese and deer populations, and the possibility of more active wildlife management programs. Mr. Olsen then noted that there are also problems with gypsy moths, oakworms, and defoliation of trees. Mr. Proios stated that he would bring up this issue at the next Protected lands Council meeting.

Mr. MacLellan arrived during the preceding discussion, and a five member

quorum was present for the remainder of the meeting.

Administrative

- ! Summary of 8/8 meeting: review, approval

Summary: The following change was suggested to the 8/8/01 meeting minutes: under "Islander East Pipeline Company", the first sentence should read: "The attached comments that the Commission submitted to the Federal Energy Regulatory Commission (FERC) for this gas pipeline project's federal Environmental Assessment were distributed." **A motion was made by Mr. MacLellan and seconded by Mr. Cowen to approve the 8/8/01 Commission meeting summary with that change. The motion was approved by a 5-0 vote.**

- ! Update of Commission officer designations

Summary: Mr. Corwin recommended that the Commission designate the Commission staff as Assistant Secretaries for the Commission, thereby providing the Commission staff with the same officer designation that the Chairs, Vice Chairs, Co-Chairs and Co-Vice Chairs of the Councils, Task Force, and Clearinghouse Board already have. **A motion was made by Mr. Cowen and seconded by Mr. MacLellan to designate the Commission staff as Assistant Secretaries of the Commission. The motion was approved by a 5-0 vote.**

- ! "Core Preservation Area Hardship Checklist" (resolution of 12/14/94): addition to require owner's affidavit

Summary: The attached copy of a Commission approved "Core Preservation Area Hardship Application Checklist" from 12/14/94 was distributed. Mr. Corwin explained that it was originally passed for use during the Plan development period, but that it has been generally utilized since then to assure that Core area application submittals have sufficient information.

He also noted that the staff is recommending that the attached owner's affidavit, which is not part of the Commission's 1994 checklist, be included as required Item Number 6, and that the Commission adopt the revised list as an administrative requirement for the submittal of core area applications. Ms. Carter remarked that the affidavit is based upon similar affidavits that many local municipalities require as part of applications that they receive. **A motion was then made by Mr. Cowen and seconded by Ms. Prusinowski to approve and adopt the revised Core Preservation Area Hardship Application Checklist. The motion was approved by a 5-0 vote.**

Pine Barrens Credit Program

- ! Status of overall program, Brookhaven Credit purchase offer

Summary: Mr. Rizzo reported that the next meeting of the Clearinghouse Board

is scheduled for 10/30/01 at a time and place to be arranged.

He also reported that contracts are being sent to bidders in Phase 1 (i.e., current holders of Credits or Letters of Interpretation) of the current Brookhaven Credit purchase offer by the Clearinghouse, and that the response deadline for Phase 2 (open to all other Core area Brookhaven property owners) of the same offer is tomorrow.

Plan Implementation

- ! Core area residential exemption ("roadfront") bill (S.3797, A.7354): status
Summary: Ms. Plunkett reported that there is no word yet regarding whether the bill has been signed.

- ! Plan interpretation re CGA clearance standard for sites using Pine Barrens Credits: draft resolution (draft distributed at 7/18 and 8/8 meetings)
Summary: Mr. Corwin distributed that attached draft resolution regarding the application of the Central Pine Barrens Plan's clearing standards to those subdivisions in the Compatible Growth Area which are utilizing Pine Barrens Credits. After a brief discussion, the attached draft resolution's last "Resolved" clause was changed to read "no additional special permits are required from the Commission." **A motion was then made by Ms. Prusinowski and seconded by Mr. Cowen to approve and adopt the attached draft resolution as changed. The motion was approved by a 5-0 vote.**

- ! Wildfire Task Force: addition of NY State Emergency Management Office (change to establishing resolution) and public awareness video status
Summary: Mr. Corwin distributed and discussed the attached copy of the Commission's resolution establishing the Wildfire Task Force (originally passed 11/8/95 and modified through 12/20/00). He reported that the Wildfire Task Force, at its last meeting on 8/29/01, formally recommended to the Commission that the New York State Emergency Management Office (SEMO) be added as a member agency of the Wildfire Task Force. **A motion was then made by Mr. Cowen and seconded by Ms. Prusinowski to modify the Wildfire Task Force establishment resolution to add the NY SEMO as a member. The motion was approved by a 5-0 vote.**

Ms. Jakobsen then distributed and discussed the attached memo, photographs, and work expansion proposals regarding the Wildfire Task Force Public Education Committee video proposal. She explained that the filming has been completed, and that editing is about to begin. She then noted that the original approval by the Commission for this project was for a total of \$16,360, with a provision for expanding that amount up to \$20,000 without further review by the Commission.

She explained that the Commission has received, through the efforts of Capt. Conklin of the NYS Forest Rangers, a matching funds grant from the U.S. Forest

Service. The grant provides a 50% match for Commission funds expended on the video, up to a maximum of \$10,000. Based upon this source of funding, Ms. Jakobsen explained that the Public Education Committee is seeking Commission approval to expand the amount of money to be spent on the video up to a maximum of \$27,460 (which will be reduced to \$17,460 when the \$10,000 reimbursement is received), and to use the additional funds to produce three public service announcements. They would cover high fire danger times, outdoor safety, and home fire safety along the wildland urban interface. The possibility of an expanded version of the original video would also be examined. **A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to approve the change in the amount of Commission expenditures from \$20,000 to \$27, 460 based upon the preceding discussion and the attached memo. The motion was approved by a 5-0 vote.**

Core Preservation Area

- ! Swan Lake Golf Club / Calverton (Riverhead) / site plan / new hardship: scheduling of hearing (decision date 12/1)
Summary: Ms. Jakobsen distributed a large application packet for this golf course clubhouse expansion project on the south side of Grumman Boulevard in Calverton, Riverhead Town (Suffolk County Tax Map 600-142-1-1.3; see attached cover letter from packet). She described the nature and details of the proposed site plan; explained that the application cites both the extraordinary hardship and the compelling public need portions of the pine barrens statute; stated that there is a 12/1/01 decision deadline for this, and asked whether this project review would be an uncoordinated review under the State Environmental Quality Review (SEQR) Act regulations. A discussion ensued regarding the SEQR status of this project within the Town. Since the Town has deemed this action as a Type 2 action, the Commission decided that it would perform an uncoordinated review.

Mr. Peter Danowski, attorney for the applicant was present and he spoke briefly regarding the small scale of the project within the larger 130 acres of the course, the fact that the expansion of the clubhouse would be into a parking area, and his hope that it would not require a permit from the Commission. After a brief discussion, the Commission members agreed that the project constitutes development since it is construction within the Core area and since it is similar to a previous application from another applicant for the Hampton Hills Golf Course in Southampton Town's portion of the core area. **A motion was then made by Mr. Murphree and seconded by Ms. Prusinowski to schedule a hearing on this project at the 9/26/01 Commission meeting at 2:00 pm. The motion was approved by a 5-0 vote.**

- ! Gazza / Westhampton (Southampton) / home residence office site plan / hardship (materials distributed 7/18)
- ! Gazza / Westhampton (Southampton) / agricultural clearing applications / hardships (seven separate applications) (materials distributed 7/18)

Summary: A separate stenographic transcript exists for these hearings.

- ! Gazza / Westhampton (Southampton) / core boundary change request: status of proponent's discussions with Suffolk County (hearing held 4/25)

Summary: This topic was covered by the Mr. Gazza during the preceding public hearings. At this point, Mr. Proios referred to a letter that he had with him which requested the County Attorney to provide an opinion on the types of uses which are permitted at the County Airport. There was no further discussion.

- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship: status of Request for Proposals for Draft EIS production (hearing held 9/13/00; from 7/18/01 and 8/8/01 meetings)

Summary: Ms. Plunkett explained that there is a question as to whether the Environmental Impact Statement (EIS) should cover just this site or all of the nearby agricultural clearing sites nearby for which Mr. Gazza has applications pending. A discussion ensued regarding the 10/1 deadline for responses from other agencies on the SEQR coordination for the seven agricultural clearing sites; the possibility of calling the agencies to determine their responses in time for the Commission to make a SEQRA determination on those applications at its 9/26 meeting; and determining at that time whether to combine these projects with the agricultural building EIS work. It was agreed that Mr. Rigano will meet with Mr. Gazza prior to the 9/26 Commission meeting to discuss all of Mr. Gazza's pending applications.

- ! Michaelangelo's Restaurant / Manorville (Brookhaven) / site plan: results of site visit; application status

Summary: Ms. Jakobsen distributed and discussed the attached memo and photographs summarizing the results of the 8/9/01 site visit to the property on the east side of County Road 111, in Manorville by herself, Ms. Diane Mazarakis of the Brookhaven Town Planning Division, and Mr. Mark Lyon, consultant for the property owner. In the lengthy discussion which followed, several topics were addressed: the construction and development which has occurred on the site since the September 1998 stipulation between the Commission and the property owner in settlement of a previous violation; the pending site plan before Brookhaven Town for further construction on the site; the lack of any application to the Commission for either the new development being proposed to the Town as well as the additional development that has already occurred since the 9/98 stipulation with the Commission; specifically, the failure of the owner to adhere to the conditions of the stipulation with regard to revegetation of portions of the site; the substitution of a paved patio area for previously agreed landscaping; the paving of an area that was to be landbanked parking; an unapproved fountain area; a paved walkway leading to a parking area on a neighboring property; other construction activities; the requirement of the pine barrens law that a core permit only provide for the minimum relief necessary; and the possible resolutions of the newest violations in light of the previous violations and the original stipulation. It was agreed that Mr. Rigano will speak with the attorneys for the property owner and report back to the Commission.

- ! Islander East Pipeline Company / Brookhaven / gas main: next steps in FERC process (from 8/8 meeting)

Summary: Ms. Jakobsen reported that the Islander East Pipeline Company has written to the Federal Energy Regulatory Commission stating that it would support the production of an EIS for this project. A discussion then occurred regarding the need to monitor more closely the amount of clearing that actually occurs when a corridor like the one proposed is created, and that discussion turned specifically to the current Keyspan gas pipeline corridor that is being created alongside the Long Island Expressway in Brookhaven Town. It was agreed that the staff will look into the possibility of obtaining aerial photographs of the clearing occurring along that Keyspan corridor.

- ! DeGregorio / Flanders (Southampton) / pending hardship: SEQRA coordination discussion (hearing scheduled for 9/26)

Summary: Ms. Carter and Mr. Murphree summarized the status of this residential subdivision along the west side of Pleasure Drive, In Flanders in Southampton Town. The property contains several existing residences that do not conform with the current Town laws, and the owner is seeking to subdivide the property. Mr. Murphree explained that the owner is seeking to replat the parcel with one residence per lot, and one parcel left as open space, but the latest proposal is apparently in conflict with the updated Southampton Town wetlands regulations. There is also concern that any attempt to relocate the residences to different locations on the property would cause more disturbance than leaving them where they are.

The discussion also touched upon whether Certificates of Occupancy (CO's) exist for the homes there now; whether the residences predate the Town requirement for CO's, the location of the parcel within the Town's Aquifer Protection Overlay District and the clearing restrictions associated with that overlay district; the differences between the application now before the Commission and that which is before the Town; the application of the Commission's informal policy of conducting uncoordinated SEQRA reviews on core area parcels to this application to the Commission; and the receipt of a request from the applicant to formally withdraw his application from several years ago which has remained incomplete and been held over at his request. **A motion was then made by Ms. Prusinowski and seconded by Mr. Murphree to formally accept the withdrawal of the older DeGregorio application to the Commission. The motion was approved by a 5-0 vote.** It was agreed that an uncoordinated SEQRA review of the current application to the Commission will be performed.

- ! IGHL / Manorville (Brookhaven) / subdivision / pending hardship: SEQRA status (not on the original agenda)

Summary: Ms. Carter explained that she wanted to be sure that the Commission wanted to conduct an uncoordinated review of this project. It was agreed that should be done, and that this is an unlisted action under SEQRA.

Compatible Growth Area (CGA)

- ! Brookhaven Town Center / Yaphank (Brookhaven): determination of jurisdiction (from 7/18/01 and 8/8/01 meetings)
Summary: Mr. Rigano reported that he has spoken with the applicant's representative, and that they need to do more work on their prior ambiguous submittal to the Commission. A brief discussion ensued regarding the decision date that the Commission would face if that prior submittal were to be determined to be an application.

- ! Devon Lane Land Division / Coram (Brookhaven): interpretation of clearing standard
Summary: Ms. Plunkett explained that this project involves the residential development of a split zoned parcel (Suffolk County Tax Map 200-430-2-24) along the north side of NYS Route 25 in Coram, and that it had been forwarded to the Commission for an interpretation of the CGA clearing standard.

The question arose within the Town as to how much of the northern portion of the parcel, which is zoned A2 Residence, can be cleared for a two lot subdivision, given that the southerly portion of the property, which is zoned J2 Business, is already commercially developed and was cleared in its entirety (those developments on the southerly portion of the parcel occurred prior to the pine barrens law). It was agreed that the entire parcel, including the developed site, should be considered as the project site. This means that the additional clearing that would be permitted for the new development is the difference between the allowance for the entire parcel minus that already cleared for the existing development.

Public Comment

Summary: Mr. Henry Dittmer, representing Civil Property Rights Associates, distributed two publications to the Commission Chair, one being a Summer 2001 newsletter from the property Rights Foundation of America and the other being a publication entitled The Property Owner's Experience published by the same organization.

Closed Advisory Session

Summary: A motion was made by Ms. Prusinowski and seconded by Mr. Murphree to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote, and the Commission entered into closed session from approximately 6:04 pm to 6:22 pm.

Adjournment

Summary: The meeting adjourned immediately following the closed advisory session without a formal adjournment resolution.

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Core Application Checklist and owner's affidavit (12/14/94 and undated; 3 pages)
4. Resolution re clearance standard for CGA projects using Credits (undated; 1 page)
5. Wildfire Task Force establishment resolution as amended (12/20/00; 6 pages)
6. WTF Public Education Committee video materials (misc. dates; 5 pages)
7. Cover letter from Swan Lake Golf Course application packet (8/1/01; 3 pages)
8. Memo re 8/9/01 site visit to Michaelangelo's Restaurant (undated; 2 pages)