Minutes of a Scoping Hearing held by the Town Board of the Town of Riverhead at Town Hall, Howell Avenue, Riverhead, New York on Wednesday, December 9, 1998, at 1:00 p.m.

Present:

Mark Kwasna,	Councilman
Philip Cardinale,	Councilman
Christopher Kent,	Deputy Supervisor

Also Present:

Barbara Grattan,	Town Clerk
Adam Grossman, Esq.,	Town Attorney

Deputy Supervisor Kent called the meeting to order at 1:25 p.m.

Public Hearing opened: 1:25 p.m.

Barbara Grattan: "I have affidavits of publishing and posting of public hearing to be held at Riverhead Town Hall, Riverhead, New York at 1:00 p.m. on December 9, 1998 to hear all interested persons who wish to be heard regarding the consideration of the environmental issues associated with the supplemental draft environmental impact statement to be prepared in support of the site plan application of Maidstone Landing LLC to allow the construction of 82 condominium units on property located at Sound Avenue, Northville."

Deputy Supervisor Kent: "Thank you. We'll start off with Rick Hanley, the Planning Director."

Rick Hanley: "Thank you. As the Clerk noted, the Town Board is in receipt of a site plan application from Maidstone Landing LLC for the construction of 82 condominium units located at Sound Avenue in Riverhead. Just as a note, we do have a draft scope of issues which indicated a different parcel. So I just wanted to make the record clear on that.

Upon review of the petition and the accompanying environmental assessment form the Town Board as the lead agency determined the action to be a Type 1 action and required the preparation of a supplemental EIS. We have received a draft scope of issues from the property owner-- or the applicant, and those-- that draft scope was transmitted all involved agencies, being the New York State DEC as

well as Suffolk County Health Department.

Again, as the Clerk said, the purpose of today's hearing is to identify all of the relevant environmental issues associated with this project so that they can be addressed in the supplemental EIS. Thank you."

Deputy Supervisor Kent: "Thank you. We're now going to open the floor up to the public. We're not going to limit your time, but we ask that you make your comments relevant to the draft scoping document that has been presented to the Town. So I open it up to the floor. Anybody who would like to be recognized? Carolyn? Please, when you come up to the microphone, we are taping this so we'd like you to state your name. If you're an attorney, who you are representing, and your address."

Carolyn Zenk: "Good afternoon, members of the Town Board. My name is Carolyn Ann Zenk. I'm representing the North Fork Environmental Council and I live in Hampton Bays at 121 Ponquogue Avenue, P-O-N-Q-U-O-G-U-E.

I'd like to thank you first of all for having the scoping hearing. I'd also like to thank Mr. Kent for all his work. He's been trying to negotiate a path between the community and the developers and I have to admire his work in trying to get everyone together. Thank you very much, Chris.

I would also like to thank you on behalf of the North Fork Environmental Council for requiring a supplemental environmental impact statement. Certainly I believe that it's legally required and it just makes a lot of sense. The action is a Type 1 action. Under SEQRA that means there's a presumption in favor of environmental impact statement. As everybody knows, the developer had placed condominiums on top of an old conservation easement that had been laid out as part of the old State Environmental Quality Review Act process. The developer had also violated a number of the old Seawatch SEQRA conditions and covenants and, of course, the site has radically changed. There's been some clear cutting in the middle of the site, etc.

So all in all, we believe that it makes a lot of sense to have a supplemental impact statement because SEQRA requires that any action that may have significant impact on the environment should be studied.

It's ironic-- I did take a look at some of the local news and I noted that the developer had protested that a supplemental environmental impact statement was being required. The reason I thought that ironic is because I think it really is in the best interests of all parties, the North Fork Environmental Council, the community at large, the Town and the developer, ironically, to require a supplement. It just puts the developer in a much better position because it's-- you're going more conservative look at things, you're trying to be safer about things, and doing things by way of proper procedure just means that there's less of a chance that you're going to be beaten in litigation.

So, again, I urge the developers to look at this as a positive thing and just carry on.

I'd also like to make a note in general. In Riverhead I've noticed just by reading some of the press that oftentimes or sometimes the Town of Riverhead is resisting environmental impact statements. I have to say whether I was representing an environmental group or whether I was representing developers on a continuing basis, I would always recommend that when in doubt you have an environmental impact statement. When in doubt, you do a supplemental environmental impact statement. Why, again, it just puts you in a nice, safe legal position and as (inaudible) people want to be heard and as part of the democratic process you want to make sure people are heard and included.

So it just makes a lot of sense. Why spend ten thousand, twenty thousand, I've seen as much as fifty thousand dollars spent on towns defending negative declarations when they could have simply said positive declaration, had a hearing like this, done the procedure correctly, and just carried on. So I really haven't understood the resistance to environmental impact statements. So, again, that is all to commend you for what you are doing today.

Of course, procedure isn't everything and we've all gone through a long, arduous process to do the right thing out there on the Maidstone condominium project and to do the right thing by the environment and the right thing by the developer. So we're hoping that when all the dust settles, something meaningful comes out of the project and the process. It's important that there really is protection of the environment on the Maidstone site.

Some of the things that the North Fork Environmental Council is

expecting to see at the end of the process are the following and we've submitted this in writing before. We believe that a detailed environmental analysis must result in the following conclusions.

First, that that old seawatch easement for the most part should be followed along the bluffline and along the wetland. In the middle of the site where the old seawatch easement was not as important, we're willing to take a look at letting the middle go. We do believe that that easement should remain essentially intact.

We'd like to see that the condominiums are set back from the wetlands on the site and the bluffs. It just makes a lot of sense. Staying back of the bluffs, will keep that beautiful view of the Long Island Sound open and clear. You have a beautiful view over there from Iron Pier Park looking at that line of bluffs. By keeping the condominiums back, you keep that site distance available for the public and those beautiful vistas available. It just makes sense. There's been a lot of erosion on the east end recently with the storms and all that and putting condos or houses or anything close to the bluffs is just a bad idea. You'll have more problems later. People will ask for structural solutions down the line, so it just makes sense to stay back. So we'd like to see that.

When one looks at the Maidstone site, there are still some remaining old beautiful trees, 30 to 50 feet high. They make a big difference when anybody is looking at that site from several hundred feet away, from several miles away, we would like to see come out of this process a clear delineation of where the remaining trees are, and, as much as possible, we would like to see those trees stay on the site. Why? It's beautiful. They take a long time to grow, they keep the soils in place, and all this unnecessary destruction, it doesn't make any sense. And just from a pure economic point of view, towns with more trees, towns that protect the environment, they do better. Their economies do better; the quality of life is better; property values are better. So, trying to save some of those old trees makes a lot of sense to us.

We are lucky enough to have an archaeologist with us here tonight. I will keep my comments brief on archaeology. She will be talking to us shortly. Between the old impact statement and the new impact statement, there have been some significant finds in archaeology. The State Environmental Quality Review Act requires that a hard look or thorough analysis be done of areas of environmental concern. Archaeology is certainly a concern here and we believe that-

- well, basically, I've had some meetings with-- Chris and I were at a few meetings and I knew I didn't have the expertise to evaluate archaeological material. Chris was generous enough to see he did not and Rick Hanley conceded the same. We all knew that some kind of a hard look would have to be taken elsewhere essentially. So I think that you're going to have to get some expertise in to take a look at the archaeologic material that's already been submitted.

Finally, the North Fork Environmental Council is hoping that you will limit the amount of lawns up there, clearing, and the use of toxic fertilizers in pesticides.

In closing, I'd just like to note-- I know that the Town faces a lot of difficult litigation at the present time concerning the Maidstone. And sometimes it's tempting to give a lot of ground on things when you're faced with litigation, but I think that the most important message the Town of Riverhead can send is that you're expecting good environmental protection and that those developers who cooperate with the Town to give environmental protection to go through the proper procedures are going to find themselves basically sailing through the process, and those who are violating local laws, clear cutting when they shouldn't, violating the Coastal Erosion Hazard Area Act as in this case the Wetland Acts in this case, the Town code as in this case, and litigating as in this case, that those who do that are going to have a rougher road. I know in the short run it may be tempting to give in to some of the pressure of litigation but I have to say that in the long run after a while when the message gets out that the Town is going to be tough on the environment, the Town is going to expect the proper procedure, the Town is going to cooperate and let the process be easier on people who are also cooperating, I think in the long run your work is much easier. It's this back and forth stuff where, you know, developers are getting a lot of mileage when they build on top of conservation easements or break the law or litigate, I think in the long run caving into that is not a good thing. It makes your work hard.

In closing, rather than going into any more detail today, in order to keep things short, I'm going to submit some of our past written material into the record and hope Rick Hanley will do his usual thorough job of going through the scoping comments that we have and making sure they are incorporated into the record. So I'll put this in December 9, 1998, Maidstone Scoping Hearing into the record."

<u>Deputy Supervisor Kent:</u> "Is that it?"

Carolyn Zenk: "Thank you once again for requiring the supplemental impact statement."

Deputy Supervisor Kent: "You're welcome. We would ask that if anybody does have written material, to please submit them to the Clerk at this time. We are also going to accept written comments as part of this hearing, we will-- at the end we will provide the mailing address and the amount of time you will have to submit written documents. Does anybody else want to be heard on this?"

Dr. Gaynelle Stone: "This was obviously made for very tall people."

Deputy Supervisor Kent: "Well, just lower the-- "

Dr. Gaynell Stone: "I'm Dr. Gaynell Stone. I'm officer of the Suffolk County Archaeological Association."

Barbara Grattan: "Dr. Stone, what's your first name?"

Dr. Gaynell Stone: "Gaynell, G-A-Y-N-E-L-L, all one word. We've had an interest in this site for the last 10 years. We wrote a letter to the Town Board in 1989 expressing our concerns about a very unique and sensitive spot. In fact, we warned the Town back in 1989 that the whole Town is an exceptionally sensitive area. The very name tells you that, Riverhead. Riverhead means lots of water running down to a central place, which is the Peconic River. Wherever you had water, you had native people living.

So this has certainly been borne out by the archaeology that's been done at this site. The first stage 1 and stage 2 and I might just briefly say that stage 1 is where you assess the site, you simply do a literature search, you see what other sites are nearby. Possibly do a walkover of the site if it appears to be sensitive. And stage 2 is where if you found enough things to make it appear sensitive, you then go out and do testholes to try to assess what you found the first time. Also to delineate the boundaries of what might be the sites.

The third stage is excavation which usually only occurs when so much is found that if someone wishes to proceed with disturbing the land they then have to remove the archaeological artifacts in order to proceed because when they excavate, they destroy the archaeological site forever.

So since this site was found eligible for the National Register in stage 1 as well as in stage 2, that tells you that it was found to be a very rare and intact site. It's rare on Long Island for a site to not be plowed. This was an area that had not been plowed. But one of the points that was made is that it was not reviewed under the SEQRA law and there's been a great deal of disturbance of the site which kind of militates against being able to retrieve the archaeological information.

It's also my opinion and that of a number of other archaeologists that I have consulted with that these reports are inadequate. And since the Town lacks trained people, people who can do this sort of thing, you really have to get some sort of expertise involved in the Town.

We also would recommend that you send these reports, in fact, I would recommend that the Town send all of its archaeological reports to Dr. Robert Cuhn (phonetic) who is a state archaeologist, State Office of Parks, Recreation, Historic Preservation and get their opinion on this.

Usually in a situation where you have a very extensive and sensitive archaeological site, the best choice is to avoidance. The Town of Huntington has done this, the Town of Southampton has done this when they have had sites come up like this. They simply would set aside as parkland or green space or open space the sensitive parts of the site.

The second choice if the people are determined to build on the site, is stage 3 which means extensive excavation and I mean very extensive and usually pretty expensive excavation. You have to remove most of the evidence before you build on top of it. And again I have not seen the stage 3 report. I believe one has not been presented yet, you know, again, the stage 2 was considered inadequate. So I urge the Town to consider avoidance, that's the cheapest way, although maybe if you can't put houses there maybe you as the developer don't see it that way. And also get some expertise in the Town and send your sites to be reviewed by the State Archaeologist. Thank you."

<u>Carolyn Zenk:</u> "When you say avoidance, you're talking about the fact that the condominiums are sitting right now on top of the archaeologic site, right, so you're talking about taking those units off the site?"

Dr. Gaynell Stone: "Right. That means-- "

Carolyn Zenk: "Could you elaborate to the Board why-- "

Deputy Supervisor Kent: "Hold on, Carolyn, Carolyn."

Carolyn Zenk: "I'm sorry."

Deputy Supervisor Kent: "We can't really have conversations between the speakers, so if you would like her to address another topic, she can always come back to the microphone. So, please don't engage in conversation. First we can't get that on the tape, so-- all right."

Dr. Gaynell Stone: "Well, I've been asked to address what I mean by avoidance. That means not building on top of the areas that are most sensitive, leaving it as open space or parkland which has been done very successfully by several other towns here on Long Island."

Deputy Supervisor Kent: "I'm sorry. Could you tell me what did you classify that stage of analysis where you do extensive excavation?"

Dr. Gaynell Stone: "Stage 3."

Deputy Supervisor Kent: "Stage 3."

Dr. Gaynell Stone: "Which I believe they say it's been done. Just a letter from October, 1997 saying stage 3 has been done and though people who have seen the excavation squares feel that it's an inadequate number to really meet the needs of a stage 3 excavation."

Deputy Supervisor Kent: "Okay, thank you."

Beverly Prentiss: "I'm Beverly Prentiss, 31 Henry Louis Lane, Jamesport, which is about a third of a mile from the Maidstone site. I speak as a local resident but also President of North Fork Audubon Society and as a group we support the North Fork Environmental Council's efforts here today in especially protecting the bluff, the pond and the wetland area. Specifically, I'd like to talk about the birds since that is my area of expertise and living right in the area, in the past eight years we've seen over 150 species of birds which makes it quite a rich area for birds. In particular, we've seen bald

eagles perching in these tall trees that have been mentioned today on several occasions. We assume that they're coming over from Connecticut because it's been in the winter time. And they use the pond because of the fish supply there. Also ospreys are there a good part of the summer and spring. Although they haven't nested they utilize the pond especially on days when the Sound and the Bay are rough and the pond is still calm enough that they have the visibility they can see fish in the area.

Two other particular species I'd like to mention are wood ducks that have been nesting. We saw at least one pair nest successfully this past spring and yellow warblers. Yellow warblers are a new tropical species that are of particular concern right now because their numbers are dwindling. And yellow warblers have a nesting colony in the area right close to the pond. Actually on both sides of the pond they nest and so if brush were cleared right up to the edge of the pond, it would probably destroy the nesting habitat for these particular birds. Near tropical means that they summer here and they winter in the tropics.

That concludes my comments. Thank you."

Deputy Supervisor Kent: "Thank you."

Mary Laurel Lamont: "Good day. My name is Mary Laurel Lamont. I will submit something in writing fairly soon and I have several concerns. But the two I'd like to discuss would be on the bluff area restoration and in the wetland area. Since this really hasn't been discussed before, I would hope this would be addressed in the supplemental impact statement that's going to come as a result of this meeting.

Let me just say that first that the native plants that they are going to be using in the restoration are good and the quantities are good and I think that's a very good start for this. However, since the developer was not fined for the initial clearing of area within the protected zone, in the coastal hazard zone, I think in the supplemental impact statement that's going to be coming out, there should be a management and maintenance plan for these plants that are going to be plugged into the ground and I would like to see discussed how these plants are going to be maintained. Just sticking it in the ground and walking away won't do. Deer, people, (inaudible), you have to protect these plants. So I'd like to see discussion as to how they will be maintained and I think a long term maintenance project should

be discussed in this on those particular plants that are going to be put back into the bluff area.

Also I'd like to see on the freshwater wetland area options discussed. Some of the options that I would like to see discussed on this would be a restoration of the entire site and the wetland area that has been taken down. In those options, I would like to see including native wetland trees that were taken down on site within the wetland area, the 100 foot area, other wetland vegetation that was taken out, I'd like to see that restored.

If the option of the wet meadow or the grassy swale is taken into account instead of restoring it to the way it was, then I'd like to see a detailed list as to what plants are going to be put in there. Are turf grasses going to be used? I'd like to see the discussion pros and cons of turf grasses as opposed to natural or native plants. And I'd like to see pros and cons of-- mostly pros-- of natural plant communities such as the ones that were already there that were taken down.

I'd like to see that if the wet meadow or the grassy swale, whichever one is decided to go in through this area, how is it going to be maintained? Are chemicals going to be maintained in there, will they be used? Will it be mowed? What are they going to use to eliminate certain unwanted plants that invade into this wetland system? And also, how's that going to affect the plants and the animals that are already there at the pond area if they decide to use chemical herbicides or pesticides or whatever. I think a detailed analysis should be provided in that.

I'd also like to see something discussed on the survival rates of plants that are put into the grassy swale, whatever it's decided what goes in there. If this wet meadow or swale becomes a temporary pond, if there's washover from the Sound or if we have severe storms and it becomes a pond, a temporary pond, a long term pond, I'd like to see something discussed as to survival rates of the plants that they are putting in, how are they going to adapt, how are they going to survive, will there be any maintenance plan to put back the grassy swale once the water recedes or goes away?

So those are just some of the comments that I would like to make at this point and I'll submit others in writing fairly soon. Thank you."

Deputy Supervisor Kent: "Yes, we are. We will announce that at the end. Rick, what is customary on that? Mrs. Miloski."

Ann Miloski: "My name is Ann Miloski and I live in Calverton. I would just like to commend the Town for having this scope hearing and for doing the positive environmental impact statement. And I think that's very important to do on any large development and as your first speaker stated we'd have less litigation if this was done in the future. And the other thing I would like to say on the condominiums, I think it's very important to have the setback because it's on the bluff and you have a lot of erosion and that makes a lot of sense. Thank you."

Deputy Supervisor Kent: "Thank you. Anyone else like to be heard? No one else? Jeff, do you have anything you want to say about any of the-- okay, not at this time. That's okay. That's what we do all the time up here."

Tom Horyczun: "My name is Tom Horzczun, 42 Adelia (phonetic) Path. I'm just like a quarter a mile away from the whole project and I've kind of watched it go along the whole time. I'm not a big environmentalist, just a concerned citizen who really loves where he lives and have seen this whole thing-- that area just totally devastated. I mean it's been reduced to a sand mine right now, people are driving up the hill with their trucks, motorcycles, everything else. But it's just a mess. But looking forward-- I just want to make sure that, you know, steps are taken to preserve the pond because being that obviously the pond is down hill, I could see that thing dying in a couple of years from fertilizers and everything else washing down into the pond.

Secondly, just kind of try and maintain as much as the natural vegetation that is still there. That that would be helpful and restoration, just, you know, make sure that we don't settle for something sub par. Make the developer really come across with the right plan and finally, I'd just like to reiterate what Carolyn said about not conceding, you know, on this litigation because litigation is being held over our head. After all, the developer is the one that kind of caused this whole mess. The Town of Riverhead didn't do anything wrong. He just came in here and just kind of disregarded the laws regarding this site.

So I just would like the Town to really hold fast and if anybody is going to make major concessions, it should be the developer.

Thanks."

Deputy Supervisor Kent: "Thank you. Anyone else? Yes, Dr. Stone."

Dr. Gaynell Stone: "I have been asked to elaborate on a few of the things that I said. Like why is saving the site, i.e., avoidance, superior to extensive excavation? Well, for one thing, it might be cheaper, you know. If the excavation is going to cost a lot of money, I guess the developer would have to weigh that versus how much money he would lose on the number of houses that couldn't be built on top of it. I kind of doubt it. Probably he makes more money off the houses than that so that is a possibility.

The other thing is, if you save it as open space, then it is of course aesthetic in its own sense, can add a lovely dimension to the site, you are also saving the site for future study. And as we well know in archaeology, every 10 years our techniques get much better. So something that's done 10 years in the past, would look very primitive by the kind of high-tech things that are coming along for the future. So in archaeology, we have something-- an ethic called conservation archaeology which means you never excavate a site in totality. You always leave part of it for future study. But there's also problems with avoidance and this is something, I think, that came up in Riverhead-- in Southampton Town, is that once you have worked this out with the developer that you leave the site as open space, there's no one really monitoring it. So that means that in the future a developer could, you know, put up some auxiliary buildings. They could bulldoze it to make more parking lots, they could do things like that and then nobody would know that they did it until it was too late. So, there is a danger there for that.

And what are the dangers of excavation? Well, if it's done inadequately then obviously you lose a lot of information from the site. And since this is one that would be eligible for the National Register that would be very sad.

And, I guess the State archaeologist I think would-- I assume would give you advice for free. He's certainly done that for some other sites that I know about in Suffolk County. I don't know how long or forver he would do that, but if you wanted to get a consultant archaeologist to help you with the situation, you have to assume that this is a professional that you would have to pay. You don't have archaeologists running around just with nothing to do who will give

you free advice. It's hard work. They would have to assess all these papers so that's the case. And there are a number of ones here on Long Island who do have good credentials who could do a good job."

Deputy Supervisor Kent: "Okay. Thank you. Anybody else have any comments to be made at this time? We are going to keep the record open for written-- the submission of written comments. I'd like to put a deadline of next Friday, which I think is December 18 at 5:00 p.m. So if you'd like to have your written comments considered by this Board, please submit them prior to Friday, December 18 at 5:00 p.m. 200 Howell Avenue, Riverhead, New York 11901. I think that should be directed to the Planning Director, attention.

So if there is nothing further, I would just keep the meeting-- we're going to keep the hearing open for written comments only. So we are going to close the public hearing at this point."

Public Hearing closed: 1:55 p.m.

Barbara Grattan
Town Clerk