

2/15/2006 minutes

Minutes of a Public Hearing held by the Town Board Meeting held by the Town Board of the Town of Riverhead at Riverhead Town Hall, Howell Avenue, Riverhead, New York on Wednesday, February 15, 2006 at 3:00 p.m.

Present:

Philip Cardinale,	Supervisor
George Bartunek,	Councilman
Barbara Blass,	Councilwoman
John Dunleavy,	Councilman

Also Present:

Melissa Giguere,	Deputy Town Clerk
Dawn Thomas, Esq.,	Town Attorney

Absent:

Edward Densieski,	Councilman
Barbara Grattan,	Town Clerk

Supervisor Cardinale called the meeting to order.

(At this time, the CD was not working)

Linda Margolin - speaker

Charles Voorhis

James Goughran: "Good afternoon, Mr. Supervisor, Members of the Town Board, ladies and gentlemen. Thank you very much for giving us the opportunity. My name is James Goughran. I'm an attorney with offices at 191 New York Avenue, Huntington, New York 11743 and I am today representing Local 1500 of the United Food and Commercial (inaudible) Union in opposition to this application.

And, Mr. Supervisor, if it's all right with you, I have some documents that I would like to enter into the record and, you know, I will be referring to some of them so if I could hand them up now."

Supervisor Cardinale: "Fine."

James Goughran: "Would that be okay? There should be one for each, one for the town attorney, one for the town clerk. And I guess I just had a question at the outset. It's my understanding that there is going to be a period after this hearing to permit submission of documents?"

2/15/2006 minutes

Supervisor Cardinale: "Yes. I'll hold the hearing open after its conclusion of the verbal evidence for 10 days to submit any written information or evidence."

James Goughran: "Okay. Because there was an issue- I have experts who will testify, and there was an issue about the availability last week of the original EIS documents which, of course, this supplemental refers to. So as long as we could get a copy of that within the 10 day period, then we would like to especially supplement the expert testimony on that. There was a question of possibly being (inaudible) or something. I know it exists because I had looked at it early last year."

Supervisor Cardinale: "The original- are you talking about the original two part- "

James Goughran: "The original DEIS for the Lowes."

Supervisor Cardinale: "Oh, I understand."

James Goughran: "Because lots of what's in this refers to facts in that and without reading both, you can't fully understand, particularly the expert needs it. So- "

Supervisor Cardinale: "Okay."

James Goughran: "-- ten days would be sufficient if we, you know, obtain that document-- "

Supervisor Cardinale: "Okay."

James Goughran: "-- soon."

Supervisor Cardinale: "Do you have that- "

Dawn Thomas: (Inaudible)

Supervisor Cardinale: "Very good."

James Goughran: "Thank you very much."

Supervisor Cardinale: "Okay."

James Goughran: "This EIS has so many legally fatal flaws that I believe the town board has no choice but to not only reject it, but to reject this application outright.

First of all, I believe pursuant to SEQRA, the processes are wrong. A supplemental EIS is something that should be submitted if you're making modifications to a project, increasing the size of a

2/15/2006 minutes

building, you're perhaps changing a tenant or two, moving the parking, moving the landscaping. That's not what is being done here.

What's being done here is they are using an old DEIS for a project that has been long since abandoned, there's not going to be any Lowes store built there, and they're working off of basically a fictional project that no longer exists to submit a supplemental EIS. I believe it's wrong for the process, it's wrong for the public, and the proper way for— the legal way for them to proceed would be to submit an entirely new EIS.

Secondly, the— and also because you have significantly changed the rules, the land use, both your master plan as well as your zoning code has been updated since and referencing all of the stuff to an old EIS just doesn't work under SEQRA.

This application also is not legal because it does not comply with your new zoning for this site. The RC zoning only permits a hotel or retail stores and shops developed in a campus style layout with no strip or free standing businesses permitted.

They're proposing something totally different. A large big box Wal-Mart with a second free standing store, retail that's unknown, that they're not disclosing what they're going to do with this. Clearly the Wal-Mart is a free standing building and a free standing business. And their EIS really doesn't dispute this. They simply argue that the town board has the authority to ignore the intent of the legislation, ignore the intent of the zoning altogether.

And I argue that you do have that authority but not through this process. You would have that authority if they came before you to present an application for a change of zone.

It's also clear that the town board in revising the zoning code and master plan for the area did not want big boxes put in the DRC zone. Instead the recodification of the code very clearly wanted them put in the Business F district which include establishments engaged in selling goods and merchandise to the general public for personal or household consumption provided that the entire structure housing such use is occupied by a single tenant or a single owner use and shall be in a structure of no less than 100,000 square feet. If that is not a big box Wal-Mart, I don't know what is.

You also have a problem in that there are two specific uses in the site plan that you also do not permit in the DRC zone. A tire and lube center is very clearly an automotive use that you basically ban from most of your commercial zones. You really only want them in your industrial zones. You have to go to a zoning board for a special permit I believe in most of those zones, and it's not permitted here.

2/15/2006 minutes

You also do not include as an accessory use permitted in this zone a snack bar and I suggest that the food court that they're proposing would come under your definition in your new zoning code as a snack bar.

And in their EIS, their supplemental EIS, the applicant just kind of alternates between blatantly stating that they meet the zoning but they don't provide any details to shore that up, to admitting that it doesn't meet the zoning but to argue that the town board has the authority to waive the zoning or that basically what they're saying is that it should be a change of zone application.

Just quickly, I want to try and give you some examples of that. On page S-1 they use the language that there is a greater conformance to zoning with this proposal as opposed to the Lowes proposal. Well, a greater conformance is not conformance to the zoning. It just means that they're closer to the zoning but that they don't meet it.

Also pages 2-4 and 2-5, they again argue that they meet the zoning because the use that they're proposing is similar to other uses that surround it. Well other uses that surround it predominantly are the ones they're referencing are all in other zones or they're prior non-conforming use.

On page S-9, again, they actually refer to— instead of referring to the subject site to say it meets the zoning, they refer to this portion of the Route 58 corridor meets the zoning, and they ignore the fact that it's— it doesn't meet the zoning.

Again, on page S-14, they just say that it's in conformance with the existing zoning except for required relaxations which they never really define.

So and throughout the document in many cases, they kind of hedge and say in general the site plan meets the zoning. Well you have the authority to site something if it meets the zoning not if it just sort of generally meets the zoning.

In fact, on page S-12, they point out to argue that they're more in conformance with the zoning than the Lowes was, that the old Applebees in the old Lowes proposal was a restaurant and that restaurants are not permitted in this zone. Well, they've got a food court. Okay. That's a snack bar which also is not permitted in this zone.

I just want to read one section— I have to find it. This I find incredible as it relates to zoning. This is quoting on page 3-A of the DEIS. The purpose and intent portion of the DRC regulation is not a specific regulation. It is merely a statement of the town board's intent for the development in the zone.

2/15/2006 minutes

I mean the most important part of a zoning code and when you establish zoning districts is your intent as to what type of development you would like to see in each of those specific zones. To just argue that you have the authority to totally disregard the intent of legislation, I think is wrong and it's even bizarre.

They also cite Section 108-311 of town law- of your town code rather to say that it gives them the right to vary that. I have submitted a copy of that in part. It's talking about minor changes in the way a site is laid out. It clearly does not give you the authority to vary the use and permit a use that is not permitted at all.

And, again, specifically you would be- if you approve this, you would be allowing free standing which is illegal, no campus style layout which you require campus style layout, they're not proposing it, and the tire and lube center and the snack bar.

And, in fact, I have reviewed your new section as it relates to the establishment of the- and procedures for the transfer of development rights and in no way do I see any language in there nor in the town law, state law sections that they cite that gives the town board the authority to ignore the zoning and do this.

However, let's say I'm wrong and that you do have this authority and that I don't know what I'm talking about. You can just come here and do whatever you want and waive or ignore or vary the zoning as it relates to uses. Well, I suggest that you are- would be setting a terrible precedent for all future development in the town of Riverhead because this is, you know, one of the largest new applications, commercial applications that you're facing under your new zoning code and your new master plan which, by the way, I commend the town board for.

I think you did an excellent job with it and it's got a lot of great aspects to it and it's really forward looking. But then to just start out with this application and just give these wild crazy interpretations that the applicant is asking you is just going to blow a hole through your zoning code and your master plan and I think you could probably drive about 12 Wal-Mart tractor trailers right through.

Now, and also with reference to the letter that the Supervisor put into the record at the beginning of this hearing, while we dispute that letter, also point out that there is nothing that stop Wal-Mart if you approve this application from expanding. Under the code as you have written it, if you're going to interpret that they could build at this site despite the zoning, they could go get some more transfer credits and expand it to a super size store or whatever they wanted to do.

2/15/2006 minutes

Now, a little bit about campus style development. I reviewed some of your documents and your records and I could not really find any legislative history to show why you selected that other than some references to some people talking about— citizens talking about wanting it to look similar to Tanger and that's what campus style development is.

I have submitted to you for your review something that I did find. A report that was done at the University of California in Berkeley that talks about the American campus context where it basically looks at the history of campus style architecture through the United States. It's kind of interesting. It goes back to Thomas Jefferson's idea of an academical village for the University of Virginia and then it talks about the picturesque era, the (inaudible) arts era and the modern era and I submit that for your review. I would suggest that it does not include— I don't think there's a new Wal-Mart era, and that Wal-Mart doesn't fit anything like this.

In fact, on page S-3, Wal-Mart admits this. They admit that they will not be a campus style architecture. Oh, in other places they'll say that they do. They just— without backing it up. But they say when they talk about the second unknown free standing building, that it will be designed in an architectural style complimentary to that of a Wal-Mart structure, using building materials having colors and textures similar to that of a Wal-Mart store.

And then also if you look through your master plan, one of the goals is to promote— improve architecture and site design, traffic circulation and open space conservation along Route 58. So I think that's part of why you have this campus style development that has been proposed.

Also, violates your master plan. I gave you a copy of page 212 of your master plan of November 2003, and it lists the preferred land uses, the design concepts and while your zoning code did not totally incorporate verbatim every aspect of your master plan, it was pretty close and, again, the master plan design concepts, campus like layouts, no— this is for the DRC zone, no strip development free standing businesses permitted, and they want outlet centers, shopping centers, hotels, a couple of other things like new auto dealers, cinemas which the master plan included but you did not— the town board did not include when it was codified.

And also Commissioner Hanley in his letter of August 1, 2005 to Mr. Morton Weber (phonetic) also states that the accessory uses are not in compliance with the master plan nor the implementing zoning code and that the site plan does not conform to the purpose section. And I submitted a copy of that.

2/15/2006 minutes

I've also submitted for the record copies of the minutes of the scoping hearing as well as some correspondence I submitted prior to and after that. I just-- as part of the record because it relates to some economic issues as well as it also relates to some of the zoning arguments that I made and I know we have one new member of the town board, welcome, who wasn't here at that hearing. But I think it's important to refer to that as well.

There appears to be, unless I'm missing something in your files, no referral to the Suffolk County Planning Commission and that is another reason why this application I believe is not legal. Because the Lowes application was rejected by the Suffolk County Planning Commission on December 5, 2001 for a variety of reasons. It constitutes unwarranted further intensification of further retail commercial development and a lot about violating more regional master plans as well as creating a traffic nightmare.

I would suggest that despite everything they say in their DEIS that a large Wal-Mart center plus this additional unknown 27,000 square foot retail is going to be much more intense than the Lowes and so it really is obligation that this application be referred to the Suffolk County Planning Commission.

Now, I don't think you have the authority to just say well because the Planning Commission rejected the old one, we can approve the new one with four votes without sending it to them. In fact, I've also includes some correspondence from County Executive Stephen Levy where you can infer from that that he's basically saying that, you know, he's hopeful that the town will at some point submit it to the Suffolk County Planning Commission for their review. To my knowledge, that hasn't been done yet and I believe this application is fatal if it does not, especially since I will have an expert who will testify, who will talk about the traffic nightmares you will be creating throughout Route 58 in the town of Riverhead as a result of this project.

I think-- and the fact that the county would then have to go in and put in all sorts of improvements to Route 58, a four lane highway throughout where it isn't already, and the county has an interest in that because of that.

Now, under town code 108 (inaudible) H, they have to provide preservation credits, transfer of development rights to the site. All they say in their presentation, is that they intend to acquire and present to the town 40 preservation credits to be redeemed for this project. I do not believe that's the way your law works. I read through the entire law that you created and I believe that they have an obligation to present to you now through this process, through the SEQRA process when they filed this application, to let you know exactly what property, what parcels or parcel they are going to submit. You have a whole procedure here to review it, to make sure

2/15/2006 minutes

that it meets the criteria, planning, environmental, that it is- that it's something that is going to be worthwhile for the future of Riverhead.

So it's very important that that be done. And it's also- state ethics laws require that you have that kind of disclosure before you act on this. I know you all to be very honorable, decent, honest public officials. That goes without saying.

But how do you know, if you vote on this, if you don't know what properties they're using to transfer the development rights, who owns those properties. How do you know that you didn't have a former client or have a relative or have somebody who might have an interest in the property without your knowledge?

You approve the EIS, you approve, you know, the zoning, you know, what do you do at that point if it turns out when they show you the land, whoops, I shouldn't have voted for that. I think it creates a bad problem for you as well as the public, plus I've read through your law and it seems clear that it is the intent to have the applicant submit exactly what they propose to use for the transferring of the development rights.

Quickly let me go through some points because I'm taking a lot of time.

I love page S-11. It says that the site will be maintained and monitored by Wal-Mart thereby reducing and/or minimizing the potential work load of the Riverhead police department. Now, I don't think that gives proper information to you for the EIS that Wal-Mart is going to be self-policing.

Socio-economic impact is totally deficient. I think my written comments that I submitted for the prior hearing cover that pretty much in detail and I repeat them through my comments to you but for example on page S-12, they just focus on the relocation of one Wal-Mart to another. And they talk about the jobs that are going to be created from the Wal-Mart as well as construction jobs and permanent jobs.

The EIS requires them to do more than that. They have to talk about the potential negative impacts. They can try to argue that there are none, but they have to tell you what they are and then try to prove to you that they're not. They have to show you whether or not businesses are going to be closed down. They have to show you whether or not people are going to be put out of work.

In fact, in Fishkill, New York, they put in a large Wal-Mart like this right near a regional shopping mall and guess what? Shortly after that, that shopping mall closed down and that area became a ghost town other than the Wal-Mart.

2/15/2006 minutes

You've had problems in the past with your downtown when Tanger came in and other development. I think you need to know whether or not this application if it's approved is going to have the same potential negative affects, not only to your downtown but to your Route 58 corridor as well.

In fact, you will see on- they bury it all the way D-1 appendix D-1 page 10, but they admit that the average salary will be \$20,000 of the Wal-Mart employee which certainly is below the median income for residents of the town of Riverhead and suggests by closing stores, they're going to create job loss and also diminish standards of living for people who will be unemployed and might have to go to Wal-Mart at \$20,000 a year because they'll have no choice. They don't even address this issue.

Throughout there are other problems such as findings statements, staff reports, they have all sorts of reports from the old EIS that they just use for this, they don't have updated staff reports unless something has come in recently that I haven't seen from planning and some of your various departments looking at this proposed application.

They have a lot about storm water but they don't talk at all about the impact of the storm water with leaks or runoff from the tire and lube center. And, in fact, they communicate to the police department, the fire department, sanitation department, the letters I've read that they've included in this presentation, they just talk about the old Wal-Mart becoming the new Wal-Mart and nowhere do they tell about a tire and lube center.

What about oil spills? What about emergencies with fires? What about the sanitation department? Shouldn't they analyze what they're going to do with all these tires and all the oil waste?

So basically, in conclusion, I think you have to reject this EIS. You have to reject this application altogether. It violates the zoning code, it violates SEQRA, it violates your master plan, and I also suggest that if you actually did approve this under these circumstances, you'd basically be throwing out this great zoning code and master plan that you've adopted because people could come in and develop commercially with all sorts of creative arguments that you might not approve but the courts might later using this as a precedent.

I thank you very much."

Supervisor Cardinale: "Thank you. Yes, come up, please. Indicate your name, please."

2/15/2006 minutes

Rev. Steven Cantwell: "Yes. My name is Rev. Steven Cantwell, I'm a Vincentian priest. I reside in Southampton but I work in the north and south fork.

Good day, Mr. Supervisor, Board and my sisters and brothers. Briefly, there's just two points that I'd like to make mainly concern Wal-Mart, about Wal-Mart and any, well, mainly, this situation. Basically the bible speaks about, the first Chapter, Genesis, speaks about we are all made in the image of God. I think that we just need to take- be conscious of how we respect ourselves and our environment. And I think that there are concerns that we should be aware of and Wal-Mart should be aware of.

Without going into any details, papers that I have been given, and the second issue has to do with being aware of how we act justly. I believe the prophet Isaiah, the prophet Michah, Chapter 6 speaks about how we are called to act justly and knowing- Wal-Mart deals with China, a country which does not respect its own citizens. It's important that they think twice about how they can respect the workers in this country and how they can be trailblazers instead of, you know, disobeying the laws as they're set.

That's all I wish to say."

Supervisor Cardinale: "Thank you."

Joe Shanahan: "Good afternoon. Joe Shanahan, a resident of Riverhead. I think most of you know me except for the new guy, but I've been here for quite some time.

I'd like to say that in listening to the first gentleman get up, I'm very gratified that he came all the way from Huntington to protect the good citizens of Riverhead from getting a lube job and eating in the snack court. I can tell you that I'm not afraid of the big bad Wal-Mart. It- actually it's pretty good for me because I'm in construction.

There's a lot of my neighbors that are unemployed in construction and I'm looking forward to jobs like this to keep them going through the winter and the spring.

Also there was some touches on the traffic congestion. We all knew for decades that that Route 58 was going to be developed and it's not so bad. I mean, you live in Riverhead, you know how to get to the stores. I've got to go to Home Depot, I go off Sound Avenue and I cut in through there and then stop and have something to eat at Applebees. So the traffic congestion is not a big problem. And if there's a lot of congestion, you know, I'll go to the store another time. It's not a big deal.

But as I said, there's a lot of people including myself that make their living out of construction. Wal-Mart has been good enough to

2/15/2006 minutes

employ a lot of local people and I would like to see this town board not worrying about being picked upon by a gentleman with tweezers because if we listen to that, we'll never build anything.

So I would applaud you in your efforts to approve this construction project. Thank you."

Brian Ketcham: "Good afternoon. My name is Brian Ketcham. I'm a transportation and environmental planner licensed in the State of New York. I've been retained by the United Food and Commercial Workers International to review and critique the traffic analysis of the supplemental DEIS (inaudible).

I have prepared a detailed report summarizing my findings which you- which is being distributed with now because Wal-Mart claims it has no impact- no traffic impact on your community.

I've also prepared a detailed traffic simulation of the study area. I'd like to talk about that in a minute. I will provide you with a CD with the results of that analysis for your own in house review.

So, what's wrong with Wal-Mart's traffic analysis? First, they collect a very limited traffic sample in March and early May. Those are winter data. They fail to correct for worst case summer conditions when traffic volumes can be very much greater than has been assumed in this analysis. The consequence of this oversight is to assume much more available roadway capacity for Wal-Mart than is justified.

Second. It is not clear what was assumed for conditions in 2007 without the Wal-Mart. While they appear to account for some new development, they provide no details. Where this development is located, how trips are assigned, and so forth. They provide no maps at all in the DEIS or in the traffic analysis that could help you understand what they have- what they're reporting.

Third. Trip generation for Wal-Mart presumably for the no build development as well are ITE average rates. And I stress average rates. ITE reports a broad range of trip generation rates for shopping centers. Wal-Mart is not your average destination discount store. It is the largest company in the world attracting a third of Americans every week. It clearly is going to attract a lot to this site. They are moving from the current location two miles to the east to better position themselves to catch pass by trips including those shoppers at Tanger Mall. Surely Wal-Mart cannot be considered average. Wal-Mart has significantly underestimated the number of trips it will generate in your community.

2/15/2006 minutes

Fourth. Wal-Mart claims two-thirds of its traffic will come to and from the east. They provide no basis for this assertion. Data provided for the Tanger Mall suggests just the opposite, that most of the traffic will go to and from the west.

Fifth. Wal-Mart claims a large reduction from trips in pass by traffic. Application of this pass by credit is a tricky business and Wal-Mart has not done this very well. Certainly shoppers— examples— shoppers from Tanger might shop at Wal-Mart and some shoppers might— this is in terms of pass by trips— might decide to cross County Road 58 and go to the Wal-Mart. They assign absolutely not one trip connecting between the two projects. Wal-Mart apparently doesn't think that Tanger shoppers are interested in Wal-Mart.

Moreover, pass by trips simply vanish from the Wal-Mart analysis. Pass by trips are already in the traffic stream along county road 58. However, they have to enter and leave the Wal-Mart site. They have to park. Pass by trips are completely missing from the Wal-Mart traffic analysis.

Sixth. Wal-Mart is providing about 900 parking places. However, it reports it will generate 1,100 trips on an average Saturday. Are 900 spaces sufficient for 1,100 vehicles? Will 900 spaces accommodate Christmas shoppers when double the average monthly traffic occurs in some big box stores like Target? Will holiday traffic spill over onto CR 58? We don't know. It's not addressed in the traffic analysis.

Seventh. Wal-Mart claims no traffic impact on your community and, therefore, little need for mitigation. What mitigation they do identify they blame on others. I found this hard to believe so I prepared a detailed simulation model for the county road 58 corridor. I increased Wal-Mart's low ball baseline data by 20%. I corrected for their assumed no build traffic assignments. I corrected Wal-Mart's failure to properly account for pass by traffic. I did not increase Wal-Mart's trip generation although that, too, should have been done.

I found that indeed Wal-Mart will have a very significant traffic impact along CR58. Some of these impacts can be mitigated by doing what Home Depot did at Mill Road, increase roadway capacity and increase capacity at intersections.

Mitigation at Mill Road required— the biggest impact that Wal-Mart has, however, is in fact at Mill Road and mitigation at Mill Road will require further widening of both the intersection approaches and county road itself from Mill Road west to the Long Island Expressway. Who is going to pay for this?

Wal-Mart asserts it will have no traffic impacts on your community. They are wrong. Take a look at the results of the Synchro model that I have provided to you. Wal-Mart traffic will cause huge

2/15/2006 minutes

delays along CR 58 from the LIE to Home Depot and even further to the east. Wal-Mart uses low balled numbers and the highway capacity manual procedures to bury these impacts. Simulation modeling displays these impacts for all to see and they are severe.

And by under reporting traffic impacts, Wal-Mart under report—actually fails to report impacts on air pollution and traffic noise. Wal-Mart will add more than 30% to the traffic at the intersections of the two proposed entrances to the property across from Tanger. You cannot ignore these impacts on air pollution and traffic noise.

The Wal-Mart traffic analysis is filled with errors and omissions. It reports no impacts where impacts will be huge. The town of Riverhead cannot possibly approve this project on the basis of the materials before you.

Now in the report that I have provided, I give you about a dozen things that Wal-Mart is going to have to do to correct for this. I think if you leaf through the report, you'll see some snapshots of the model showing severe congestion with the Wal-Mart in place.

I think— I came prepared to show this model. I don't think we've got the time or the facility to do that. But it might be useful to meet with your planning department, your engineering department to show them how this model works and how, in fact, how severe this project will impact the community.

So thank you."

Supervisor Cardinale: "Thank you. Rick, you want to get the information how you can contact Mr. Ketcham? Yes, please tell us your name."

Carolyn Konheim: "I'm Carolyn Konheim. I'm also a certified environmental professional. I'm president of a consulting company, Konheim and Ketcham which for 25 years has been preparing environmental and traffic studies mainly for government agencies.

Prior that, I was regional director of the New York State Department of Environmental Conservation where I helped formulate much of the environmental regulations we're discussing today.

Currently for our principal clients, the New York State Department of Transportation, I'm working on three major roadway projects in Suffolk County. I also chair community consulting services, a non for profit organization, that largely donates technical assistance to communities. This continues my career that began with the founding of Citizens for Clean Air in 1964.

2/15/2006 minutes

On this assignment, I'm working with Brian Ketcham Engineering to assist the United Food and Commercial Workers achieve a legitimate environmental review of the proposed Headriver Wal-Mart store.

My overall conclusion is that the draft supplemental EIS violates the fundamental disclosure mandate of the state environmental quality review act. Many of the existing conditions and project impacts are reported in the DEIS only by reference to the final environmental impact statement for the prior proposed project on the site. While theoretically there's an opportunity for public comment on the final EIS between issuance of the EIS and approval by the lead agency, your board, in fact, for all practical purposes, there is no public review.

This means that entirely new documents prepared in response to the most pressing concerns at public hearing and apparent deficiencies of the DEIS were not subject to independent public scrutiny. Thus it is unacceptable for the supplemental EIS not to provide project's specific analysis in this document on recurring issues on the current project on the mere assertion that they were legitimately addressed in the final impact statement on the prior project.

To be used as a basis for decision making for the current project, the new material in the final impact statement should be included in the current EIS as was done to a limited extent with Appendix C Water Resources.

However, this section which appears to be a portion of the response to comments makes repeated references to Appendices J and K of the final EIS whereas neither are provided. This puts the reviewer in the— of this supplemental, in the position of not knowing he or she is dealing with half a deck until it's too late to try and get the full EIS especially difficult because the attorneys were not able to obtain it a week prior to the hearing. Apparently it's been destroyed by flood in the basement. This is like being Hansel and Gretel trying to find crumbs of data down a path. Instead of birds taking away, the flood has taken away the documentation. But this violates the fundamental full disclosure obligation of the supplemental prepared under the state environmental quality review act.

This lack of verifiable data applies doubly to the cumulative impacts of redevelopment of the current Wal-Mart site which are glossed over in this document on the grounds that they were dealt with under the town's comprehensive plan and generic environmental impact statement. Although Mr. Gaughran complemented that, I have not had an opportunity to see that and have no way of knowing whether things— elements such as the traffic (inaudible) that you just heard reported are also true of the generic EIS.

And the statement that I will give you, I have demonstrated that the water resources impact analysis does not disclose, it does not

2/15/2006 minutes

even examine the effect of putting 50 tons a year of deicing salt on the property in the paved areas into the ground water. It does not address concerns of the Central Pine Barrens Commission and I have demonstrated that the air quality analysis does not disclose at all that Suffolk County is in violation of clean air standards in particular the main health threat. It ignores altogether the effect of the project (inaudible).

The omission in the EIS of anything about (inaudible) is particularly derelict because the federal, USEPA, is responding to many scientific studies that increasingly link breathing fine (inaudible) to a series of significant health problems. Recent studies by the California Air Resources Board and the American Lung Association equates the number of premature deaths due to the non-attainment of (inaudible) standards to being equal to the number of deaths of second hand smoke, about twice the number of deaths of traffic accidents and three times the number of deaths due to homicides in California.

Therefore, it is untenable in this supplemental section on air resources to use the New York State Department of Transportation Environmental Procedures Manual as a basis for its air quality impact analysis for analyzing carbon monoxide but ignore altogether that same document's requirements for (inaudible) matter that has been in effect since September of 2004.

The EPM requires micro scale modeling of the three highest volume intersections which you just heard from Mr. Ketcham along CR 58. I have also demonstrated with his corrected future traffic volumes at the three most affected intersections that a CO, a carbon monoxide micro scale analysis is likely to be needed.

I also find it curious that noise conditions and impacts are entirely ignored and the lighting plan does not address the impacts of lighting on the night sky. It just addresses the adequacy of the parking lot.

But all of those pale compared to the main reason people either support or oppose this project, the socio-economic impact analysis. It's totally disingenuous with the supplemental EIS to conclude that quote the proposed project will result in significant increases in taxes, wages, and employment during both temporary construction, long term site occupancy. This is not supported at all by the environmental impact analysis.

The study itself fails to respond to its charge which was, one, to examine whether construction and operation of the Headriver Wal-Mart of Riverhead will have a positive impact on the local economy, estimate the number of construction and permanent jobs the project will create, important as we just heard from the prior speaker, and estimate the anticipated tax revenues to the town of Riverhead,

2/15/2006 minutes

Suffolk County, the school district and other local taxing authorities.

Well, what do we have? The alleged economic impact analysis is a study in obfuscation. The study makes no distinction between what is additional due to the project and what is due to the existing Wal-Mart store and it reinterprets the local economy to be the Long Island economy.

Even though I don't think it's so important to focus on the short term construction benefits because they are so short term, it's worth noting that the economic analysts (inaudible) study, made no attempt to determine Wal-Mart's (inaudible) cookie cutter construction practices and without any basis assume 60% of the material for construction are purchased on Long Island.

He then uses a generic model of the US Department of Commerce to estimate the multiplier effects of these expenditures on the Long Island economy, not the town of Riverhead economy.

On operation, the economic analysis is most misleading in information that the employment at Headriver Wal-Mart will pump seven million dollars a year directly into the economy. This is based on 350 full time employees on the payroll but there are currently 350 full time employees on the existing payroll. In fact, the— all the benefits are due to the 27,000 square feet addition to the Wal-Mart site and the 40 retail jobs that are assumed to be there from this unknown, unnamed, totally we don't know what that facility is going to be, and that those people who are assumed also making \$20,000 a year are going to spend half their— well, we'll get to that in a second.

Anyway, at best the increment appears to be only the increment— income coming from the 40 additional retail jobs on this site and the jobs that they may create by spending because, I guess, they're big spenders and they're going to generate 28 more jobs somewhere down the line in this ripple effect.

When— so this— is at best it's 1.3 million. And that's very optimistic.

When it comes to taxes to be paid to various governments, the study makes some effort to break out local impacts and sales taxes that will be paid to Suffolk County by Wal-Mart. But, again, they are taking credit for the— when they report \$251,654 in sales tax of the year, that's from the existing— that includes the existing facility and makes no attempt to break out what is the difference.

It also assumes that these 40 employees and their 28 ripple effect neighbors are going to spend half of their \$20,000 income on things that are charged to sales taxes. Now people who are making

2/15/2006 minutes

\$20,000 a year, are not spending half of their money on things that are subject to sales taxes.

This estimate also accepts the assertion in the DEIS that Wal-Mart's relocation will not take any more sales away from other stores at the west end of town than they have already over the last five years. They said we've done whatever damage we're going to do and we're not going to have any more effect. We have been together for five years.

And it assumes that Wal-Mart will not be given any sales tax exemptions by the generous town of Riverhead.

In the estimate of real estate taxes, both the supplemental and the appendix presented only the total for the new site rather than the increment of the real estate taxes for the current store. If we apportion these according to the increase of square footage, the total increment in real estate taxes is about \$82,000 a year, of which \$78,800 goes to the school district in the town of Riverhead. Now, this assumes that Wal-Mart is not being given standard tax abatements.

If Wal-Mart is taking advantage of the town's Industrial Development authority programs which typically abates 50% of the taxes in the first year and they restore the full tax levy in 5% increments over the next 10 years. In this case, the typical abatement would apply to the taxes on the entire facility. So Wal-Mart could actually reduce its current tax payment of \$210,000 to Riverhead by half of the larger amount, \$146,000, for a net loss to the town of \$62,000 in the first year which will become a little bit better by 5% increments in the ensuing years.

Of course, this economic impact analysis does not account for any additional costs to the town such as for policing, child care, health care, much less traffic lights and a new traffic lane. It provides no analysis whatsoever of the make (inaudible) of the 40 new full time employees. It fails to mention that these are most likely part time employees who do not receive benefits such as health insurance, sick days and vacation time. It omits discussion of work schedules that forces parents to work on weekends and other times when children are not in school, all imposing additional long term social costs on the town and the county.

For the DEIS to ignore these persistent issues in regard to Wal-Mart is unresponsive to the charge of examining whether the construction and operation of the Headriver Wal-Mart at Riverhead will have a positive impact on the economy.

Again, the supplemental EIS has utterly failed this disclosure mandate."

2/15/2006 minutes

Supervisor Cardinale: "Thank you."

John Kennedy: "Good afternoon. My name is John M. Kennedy. I represent the Nassau/Suffolk building trades. We are a group of construction workers, men and women, that reside in both Nassau and Suffolk counties.

I'd like to talk about the big box concept if you will. We do all Targets, Price Club, Wal-Mart, Lowes, Home Depot, Sam's, BJ, and all of the major supermarkets which are Stop and Shop super stores. We do all of them. And for us at this particular time or probably at any time for us to carve out any number of these different stores, would be suicide for us. We have probably-- close to 30% of our membership is unemployed right now. And this offers 271 jobs. I heard it mentioned, they're only short term.

All construction jobs that we work on are short time. But when you talk about building are you're building all over Long Island-- we're able to survive just by the skin of our teeth. There isn't a week that goes by right now where one or us or many of us don't attend a meeting such as this when people do not want to build on Long Island.

I believe personally, I've lived here all my life, if we don't continue to grow, Long Island is going to just sink because we need economic development, we need a tax base.

There was mentioned about traffic, about a four lane highway. We would love nothing better than to build a highway of four lanes from Tanger right to the circle. That's employment for us. We'd love to do that and would like to.

We probably have about 5,000 of our members that live in the town of Riverhead. We would love to be able to put some of them to work and put them to work as soon as possible. We ask you to move on the application. We want to compliment you for all of the work opportunity that we've had on that Route 58 corridor. Those were all jobs that most of them were done by the building trades and we're grateful to you.

Thank you."

Supervisor Cardinale: "Thank you."

Dan Hilton: "Good afternoon, Mr. Supervisor, Town Board Members. My name is Dan Hilton, 30 Benjamin Street in Wading River.

I have to tell you I am all for this construction in Riverhead. I'm a Local 25 electrician and I've been out of work since November. Being that there's a lot of lawyers in the room here, to put it in

2/15/2006 minutes

perspective, it's like having too many lawyers in the office and not enough cases.

Since moving to the town seven years ago, my family has embraced it, from volunteering my time in both scout camps to the restoration projects at the Hallockville Museums. I've also embraced the town paper, the News Review. With its new editor, Mr. Stephans, I've kept my eyes peeled to any voluntary needs that my local union can provide.

In watching channel 22 and seeing what Apollo and the Spector Group have in mind for the downtown area, is exciting and there's no doubt in my mind that we'll be nationally recognized in our transformation.

This is still not enough. This Wal-Mart along with what I believe a proposed Stop and Shop, will put me back to work. I have approximately 10 more weeks of unemployment and I need a job.

So please consider this. Thank you."

Supervisor Cardinale: "Thank you."

Donald Fiore: "Town Supervisor, distinguished Members of the Board. My name is Donald Fiore. I'm the business manager of Local Union 25, the International Brotherhood of Electrical Workers. We have our office at 370 Motor Parkway in Hauppauge. We also have another office on 6 Main Street in Riverhead.

I wasn't going to get up today to speak on this but after hearing the overly lengthy orations from some of the people up here who are extremely concerned about the Riverhead area but do not reside in here, I had to get up and say something.

And I know everybody sitting up there is I hope- can see through what's going on here and what appears to be an effort by the United Food and Commercial Workers to stop this project. And I say to you this. If Wal-Mart had union workers in that store, we would not be here today talking about that.

I heard people talk about \$20,000 jobs. Let me tell you something. The members of our local union and the members of our building trades would have loved to have made \$20,000 last year. So, please, do not diminish any type of salary that we may earn, what we may earn and what we don't earn. Twenty thousand dollars to some of our people would have been a God send, especially around Christmas time and the holidays when they didn't have that \$20,000 or didn't make that \$20,000 for the year.

And I'm going to echo the words of business manager president, Jack Kennedy, I say business manager, he was business manager of Local

2/15/2006 minutes

25 and it— and he's now the president of the building trades, our construction industry, 90% of that is short term. There's no long term job that goes through four or five years. There's no jobs that when we get on to the jobs we stay there forever and ever and ever. We knew that going in. We knew that when we became electricians or painters or carpenters or sheet metal workers. We all knew that. We took it at face value and tightened up our belt buckles, held up our boot straps. We went to work and we built Long Island.

Now Riverhead whether it likes it or not is growing. You can't stop that growth. There are more people coming into Riverhead every day. It's not the business so much that's going to create the traffic. It's the people that are going to be living in the Riverhead township. They're going to create traffic also.

So as far as the problems with traffic, you are going to have traffic now or you're going to have it later. And I tell you this because I've been in the business for 40 years. It's cheaper to build now than it is to build later. And I ask you to move this subject, let that Wal-Mart go up. Henny penny, the sky is not falling, Riverhead will not die, it will just prosper and grow. That is why we have made our office here in the Riverhead area.

Thank you so much."

Supervisor Cardinale: "Thank you."

Matt Eager: "Members--"

Supervisor Cardinale: "Okay, could you just hold for one second to verify the tape machine is in working order. Okay. Take a couple minutes. Okay, but she needs to get you on tape. We can resume. Indicate your name, please."

Matt Eager: "My name is Matt Eager. I am a resident of Riverhead. I'm— it seems like we've set up kind of a dialogue here between what has been termed lawyers and what has been termed construction workers in my mind. I'm neither one. I'm just a person who lives here and— but what struck me as I sat here and listened to all this is how absolutely convincing it was to me, the analysis that were presented and reasons why the plan that's been submitted to you is completely flawed and yet the counter-argument seems to be that, well, whether it's flawed or not, you should crash ahead and proceed with construction because people need jobs.

And I find that a rather disturbing mind set to take. I haven't been privy to all the details that you have. You know more about this than I do, of course. The question is not really— we know, I think the answer to the question. How many Wal-Mart's or how big of a Wal-Mart does Wal-Mart believe it needs in this community. The question

2/15/2006 minutes

is what do the citizens of Riverhead believe is the largest Wal-Mart that could be in this community.

One thing that is known with certainty is that across the nation Wal-Mart has not been healthy for small local businesses and downtown. It has not been healthy for people who end up with part time poorly compensated jobs and it also struck me that it was kind of odd that we have, you know, a great downtown revitalization project in hand and it's not clear to me at all how making a bigger Wal-Mart is going to work at cross purposes with that.

So I'd just like you to consider all these kinds of things in your deliberations. Thank you."

Supervisor Cardinale: "Thank you. Yes, sir."

Ray Hubschmidt: "Good afternoon. I wasn't going to get up and talk. I am Ray Hubschmidt, resident of Suffolk County, member of Local 25 IBW construction worker.

What I'd like to say is number one, construction unions aren't for just barge ahead and forget about all environmental impact studies and stuff like that. We are very careful. We probably have more members of our organizations that belong to conservation groups. I, myself, as a fisherman, I don't want anything happening to the ground waters. I love Long Island.

Two of my three children have decided in the last 15 years to leave Long Island because of the economic opportunities that are drying up and shortly within a year or two, I expect my daughter to follow suit. I hear these groups, I hate to pit any group against another group but like it was said earlier, if the Wal-Mart workers were union workers, we would not be sitting here at this meeting, or if we were, it would be very few people in the audience against this Wal-Mart being built.

To me they're using their leverage, holding a gun to your head blatantly.

In closing, (inaudible) these groups. I would just like to mention one thing. You cannot organize vacant land. You can only organize working people. Thank you very much."

Supervisor Cardinale: "Thank you. Okay. If there is any other comment, I'd be pleased to take it at this time. If not, okay, I'll take that comment, please. I'll take the opportunity to reiterate that the record will remain open for 10 days for submission of any written material. The original environmental impact statement for the Headriver project will be available through the town attorney's office if anybody wishes to review it. Yes."

2/15/2006 minutes

Ron Caputo: "Good afternoon, Mr. Supervisor, Town Board. My name is Ron Caputo. I'm a representative for District Council 9 International Union of Painters and Allied Trades.

I have approximately a thousand members and growing here on Long Island. Twenty per cent of them live out here on the east end of Long Island. The majority of my membership supports this project as far as the people that live here. All of my membership supports this project because our people want to go to work.

Let's set that aside for a minute. There were a couple of statements made that there were union workers are not- this should be a community issue. There's a Wal-Mart right down the street and what I understand they want to put a new one up and they're going to close that one. I look at this opportunity not only as a work opportunity but as an opportunity to work together with the CW, to organize the workers at Wal-Mart. We could be the first area in the United States to actually organize or send them away like they did in Canada.

So as far as we're concerned as the painters and allied trades, this is an opportunity to make history. We ask of the town board to please support this project and build this Wal-Mart.

Thank you."

Supervisor Cardinale: "Thank you."

Michelle Lynch: "Good afternoon. My name is Michelle Lynch. I am a proud resident of the town of Riverhead and I live in Riverhead. And a couple of points. I know the UFCW is against it. Maybe they're concerned, too, about jobs. They happen to represent the people that work in King Kullen, so maybe that's their concern.

I also know that Waldbaums is also represented by union workers. So that is a concern because we all know that when Wal-Mart comes to town, businesses do close down. And I am concerned as a resident because the tire company coming in Wal-Mart, well, I happen to buy my tires at Scotty. There will be many people that will not be going to local people to buy tires so there will be an adverse impact on businesses.

We all know that Wal-Mart is a billion dollar company, that they pay low paying jobs, poor benefits. It might seem like, oh, \$20,000 for the average worker, I believe makes the minimum wage.

The town architecture review board missed their opportunity I feel to have all buildings when they did all this building that's going on, I think it's wonderful that we have all these great stores that everybody can shop and spend all their money in, but they missed

2/15/2006 minutes

the opportunity on building everything to a conform look. It would have been nice to drive into town, instead of seeing cement buildings or all different kind, to see the same aesthetic pleasing look and say, wow, what a nice town. It looks really quaint.

And I hope that going forward, they will look at that and do something.

We all know that Wal-Mart's building is just big square boxes with a nice blue on the outside.

I want to say that the site violates the town zoning in the updated master plan. It was not designated for big box stores. And the traffic study that was done, I believe, was for winter traffic. It was not done for summer or weekend traffic. And, myself, when I come home on the LIE, I have to think now of which way I'm going to go home. And I have to go out of my way because for me to go home, I have to go to Roanoke Avenue, down to Sound. So some days I have to totally, especially in the summer, go out of my way.

With the Wal-Mart right there, I definitely will have to go out of my just as other people in town will have to go out of their way to avoid the congestion that will be there.

And I also have concerns hearing today that Wal-Mart is talking about transfer of credits and I think we should know up front where those transfer credits are coming from. Also I recommend the town board send this to the Suffolk Planning Commission for review. Thank you."

Supervisor Cardinale: "Thank you. Larry."

Larry Oxman: "Good afternoon. Larry Oxman, property owner in the town of Riverhead with offices downtown and on Route 58. I'm a commercial real estate broker. I also have equity with property on Route 58 so that's about all the disclosure that you could ask for.

Interesting bunch of people here talking but let's talk about the benefits of the commercial build out on Route 58 which is the subject of the result of the master plan that took many, many years to complete.

I'm a little surprised that the DRC has that exact language because big boxes was what was always contemplated for that area. Someone mentioned Business F. Business F is the manufactures outlet. The only property that's zoned Business F I believe is Tanger. Certainly to have campus style, very nice. But as you have BC, SC and destination retail, it was clearly that was the property that was to hold the big boxes. If the code doesn't reflect that, the code should be changed.

2/15/2006 minutes

Again, after years of discussion and research and talking about it, that was the area where this belongs.

This project of about 170,000 square feet of commercial development, I believe should bring in about, whether it's Wal-Mart or some other store, should bring in about 350, \$375,000 worth of annual taxes to Riverhead. Riverhead is the county seat. Route 58 was the corridor that previous town boards and you have echoed which will be the commercial destination area of the town and for that matter the east end.

So I say this quite seriously. Riverhead is the county seat. I think that you should start thinking that way, that this is the hub of eastern Long Island. You've clearly asked for commercial development to come here. It's knocking on your door as you quite well know. So, this was the intent that you should carry through.

If the environmental impact statement is flawed, then they have to go back and fix it no matter how many times until it's right. Because the worse thing that could happen is that if you let something go through that's flawed and at the eleventh hour litigation is started and it becomes successful and they have to go back to the drawing board. This is the drawing board right now. Make sure the applicant does it right and move forward.

Thank you."

Supervisor Cardinale: "Thank you. If there is any other comment, I'd like to take it now. If not, this will continue open for written comment through the 25th of February. And I want to thank you all for coming. To use a phrase, you've given us much food for thought. We've heard from various groups. One thing I want to clarify and I guess echo the last comment, is that whether Wal-Mart is good for Riverhead or good for America is a much more interesting question than unfortunately this board is forced to look at.

What we have to look at is what further issues— what further analysis of the designated issues is required for inclusion in the FEIS and for the information that we received today from Jim and others I appreciate that because we will make a better FEIS result.

And the other issue that is before us is what further analysis is necessary in order to make whatever decision is made by this board fully in compliance with applicable law which echoes Larry because I don't see any purpose in doing it wrong, so like with the Riverhead Center, we'll be talking about this five years from now.

So we'll do our best to do our job and I thank you for coming here to help us to do it."

2/15/2006 minutes

Meeting adjourned - left open for
written comment for 10 days