

Appendix R



TOWN OF RIVERHEAD
PLANNING DEPARTMENT
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**Re: SEQR Final Scope of Issues for DEIS on Site Plan;
Shops at Riverhead. SCTM 0600-101-1-p/o3, 6 and 119-1-p/o5.1**

September 26 2007

Dear Mr. Danowski:

Pursuant to 6NYCRR Part 617.8(f) the Riverhead Planning Board, as lead agency, hereby issues the final scope of issues for inclusion in the above referenced document. The following is based on agency review of the voluntary DEIS by Freudenthal & Elkowitz, dated May 2007 submitted in lieu of an Environmental Assessment Form and on public comment of its content at the public scoping hearing held September 6, 2007.

1. Project Description: The action is a site plan petition to construct a retail facility of 12 buildings with an aggregate footprint of 480,990sq.ft. and 519,741sq.ft. gross floor area together with related site improvements on 41.55ac. of land zoned Destination Retail Center (DRC). The site is to be arranged by combining two tax parcels of 1.55 and 40ac. and by a conveyance of 1.01ac. of the larger piece in exchange for an equivalent area of an adjacent lot of 6.5ac. also zoned DRC. The proposed footprint and gross floor area exceed as of right building coverage and floor area ratio and are dependant on transferred development rights. Inclusion of 13,324sq.ft. (318 seats) of restaurant space may call for a use variance.

2. Potentially Significant Impacts: Agency analysis and scoping identified the potential for significant impact to: land; water and critical environmental areas; air; plants and animals; aesthetic resources; transportation resources; public health and growth and community character. The voluntary DEIS's focus on: subsurface conditions; soils and topography; water; ecology; land use; zoning and community character; transportation; air quality and noise; socioeconomics; community facilities and services and visual and cultural resources is in general harmony with the agency's interest.

A. Land and Water: Project attributes of the 41.55ac. development demonstrate a size and scope indicative of potentially significant short term construction and long term use impacts. In particular, the degree of disturbed and improved area heightens the potential for runoff, erosion

and fugitive dust effecting the subject site and adjacent properties including the heavily traveled public road.

B. Water and Critical Environmental Areas: The site's proposed 87.3% impervious surfacing represents a significant area for collection of urban runoff to be discharged to groundwater which is the sole source of the public water supply. In addition to the quality impact of that potential contamination, the project's possible use of nearly 123,000gpd of water may be a significant quantity impact on the public water purveyor: the Riverhead Water District. The project site lies within hydrogeologic zone III, as identified by the Suffolk County Health Department with recharge primarily to the deep groundwater aquifer tapped for public consumption. The site's also within the Central Suffolk Special Groundwater Protection Area, Critical Environmental Area established specifically for the purpose of groundwater protection.

C. Air: The anticipated project traffic could lead to increased vehicle congestion and idling time with a commensurate impact on air quality. Increased ground level ozone is of particular concern given the site's location within a severe ozone non attainment zone.

D. Plants and Animals: The project will remove about 96% (some 38ac.) of the site's pine-oak forest and meadow habitat in favor of hard surface and landscaping. The site represents the bulk of the area's contiguous natural habitat and beyond the direct loss of flora, neighboring areas become isolated fragments without the excess carrying capacity for displaced fauna.

E. Aesthetic Resources, Noise and Security: The project area includes another large retail facility, a recreational, an industrial and various commercial uses. There are also residential uses adjacent to the north and east. The size and density of the intent is in contrast even with nearby commercial uses and is a radical departure from the residential developments both by nature and scale of improvements. The facility's proposed layout places principal structures about 90-100ft. from residential property lines with accessory construction as close as 50ft. (30ft. if landbanked parking is completed). The activity and noise of loading docks (possibly after hours) is shown about 90ft. from the residential land to the east and area residents have expressed concern with respect to trespass from the project site.

F. Transportation: Beyond air quality, the project's forecast traffic generation, which includes peak levels of 2,915 trip end/hour, has the potential to significantly impact area roads. Periodic marginal to poor levels of service are part of the current traffic pattern and existing volume leaves little excess capacity to handle additional vehicles. Continued degradation of service is predicted as a result of local and regional growth even independent of this facility's contribution.

G. Public Health: The site's industrial history has left a legacy of contamination; most notably connected to a spill of 13,000lb. of Freon in 1987. That condition and other possible consequences of the abandoned industry could pose a health threat to construction workers and to the general public in the long term from the site's disturbance.

H. Growth and Community Character: In addition to the visual and noise impacts on area character, the density of use proposed here by transferred development rights may conflict with the adopted plan that is the zoning ordinance. Two performance standard limits of the DRC district which are allowed to be exceeded by application of TDR are proposed to be, but only one demonstrates the needed redemption of credits. Additionally, the facility proposes a use that's not provided for by zoning. Departures from adopted plans and goals may set an improper precedent that might be relied on by others and also be the focus of public interest and controversy.

3. Extent of Information Needed to Adequately Address Identified Impacts: The agency Planning Board would at the outset again note that there's good agreement between the significant issues identified by it and those anticipated by the applicant and made part of the voluntary DEIS. To a very great extent, the scope and content is adequate for the question of acceptance but the agency would like some additional materials included in a resubmission.

A. Land and Water: The project documentation makes general references to control of construction impacts by phasing and limiting disturbances, wetting, mulching and covering exposed soils, by good housekeeping practices and by the preparation of a Storm Water Pollution Prevention Plan prior to construction. The project is well enough understood and the consequences of sufficient concern that these methodologies should be fleshed out. Narrative should be provided on silt barrier construction and components, specifically how they and mulching and wet down will be employed, how site preparation and construction would be planned to limit the area and duration of soil exposure and how the public road will be protected from site soils being tracked out. The document should include a SWPPP prepared for the project as currently comprised.

B. Water and Critical Environmental Areas: The DEIS' discussion of compliance with the National Urban Runoff Program, the 208 study and the Special Groundwater Protection Area is adequate and the correspondence from the Water District on public water availability is at least an implied assurance with respect to quantity impact and supply concerns. The above referenced SWPPP would count as evidence of compliance with the SPDES storm water program. It's noted that connection to the public sewer system is cited as part of 208 compliance and there's no reply from the Sewer District to the 2/16/07 inquiry letter or mention of the Sewer District under Community Facilities and Services (Sections 3.8 and 4.8). Availability isn't a critical question but the treatment plant's capacity might be. When the Commercial Sewer District was created, septage from the real properties to be served was calculated based on design flows of uses provided for by the prior zoning and without any consideration for intensified use by TDR. An expression of the plant's ability to accept the project's flow without compromising service to the rest of the district should be provided.

C. Air: The DEIS' discussion seems adequate if somewhat technical. Is there no data after 2005? Where exactly is the Riverhead monitoring station referenced on Table 6 (Page 86)?

D. Plants and Animals: The DEIS notes that the loss of habitat on site would displace its wildlife to the margins and off site alternatives. Page 58 describes the site as an isolated woodland though similar woodlands on an undeveloped site are noted on page 130. The only such example would seem to be SCTM 0600-101-1-8; a 25ac. piece to the east. Concurrent development projects such as Headriver (Wal Mart) and the Browning Hotels are eliminating other vacant lands nearby and even if alternative habitats exist and have any expectation of escaping their own development, there's no rational basis to presume those areas have any excess carrying capacity to support wildlife displaced from this site. It should be clear that habitat loss and fragmentation and the associated impact on flora and fauna are the unavoidable consequences of the site's development to this use and this intensity. The impact can be reduced by less clearing and mitigated somewhat by choice of landscaping for wildlife benefits but the site's current natural resource value is so severely compromised as to be nearly lost. Although farmland is preserved as open space by the project's use of TDR, that land provides little if any of the same biotic benefits. In defense of the project, natural resource and habitat protection would not have an expectation of high importance in the CR58 corridor. The Comprehensive Plan and attendant zoning including the TDR program envisioned and provided for intensive development to locate along this arterial roadway where

public sewer would support it. The potential for a greater retention of forest coverage along the site's margins should be discussed especially as it relates to the next topic. Also provide a more expansive discussion of the wildlife benefit of the site landscaping described in Appendix A. Establish that no invasive species are proposed.

E. Aesthetic Resources, Noise and Security: The DEIS' discussion is adequate with respect to the facility's fit with the CR58 corridor and DRC zoning. The proximity of residential uses needs more attention especially as that was the issue of primacy at the scoping hearing. It's noted that in accordance with Section 108-260 of the DRC district, natural buffers will be retained to the north and east coterminous with the residential developments. Residents of Foxwood to the north were particularly concerned with noise and visual impacts and issues of security. It was also noted that the site plan attendant to the DEIS did not specifically call out the supplemental screening vegetation along the rear and side yards mentioned on page xxiii as contributing to the visual barrier. It was suggested that the buffer be increased by 10ft., that a berm be fashioned and planted with evergreen vegetation, a fence be placed for security and that activity at the loading dock be limited to between 8:00AM and 5:00PM weekdays. A discussion of these mitigations should be offered. Section 108-260 cites opaque fencing as an option to planted buffers to residential uses but there's no reason both features can't be provided for. Increased plantings would augment buffering but the placement of a berm would itself involve clearing of the existing forest cover. The noise analysis monitored existing levels at the Millbrook residential park to the east and at the entry to Glenwood across CR58. A third station would seem appropriate along the northerly border with Foxwood. That location is likely the least influenced by ambient noise from CR58 due to greater distance and the degree of intervening noise attenuating woodland. It's therefore most likely to see a significant change as a result of the project. Page 91 mentions the day and night limits imposed by Chapter 81 of the Town Code on noise transmitted onto residential land from commercial operations. Measured and predicted noise levels (as on page 100) should be compared to those limits.

F. Transportation: The lead agency believes traffic may be the single most troublesome project impact. The Traffic Impact Study done seems thorough enough though possibly inadequate with respect to its range of study. The intersection of Kroemer Ave. and West Main St. (SR25) should be added to the analysis list. The agency also notes the dependence implied in the TIS on roadway improvements other than those proposed by the applicant in its conclusion of adequate future levels of service. Specifically, the applicant proposes the addition of a second eastbound lane on CR58 from Kroemer Ave. to Mill Rd., the placement of a traffic light at the entry and a right turn lane into the site from westbound CR58. Other mitigations mentioned are "Town planned" improvements to the intersection of CR58 and Mill Rd. and rerouting of Pulaski St. The placement of a signal at the intersection of CR58 and Commerce Dr./Glenwood Dr. is said to be required and a potential second site access by connection to Kroemer Ave. extension is cited as a means to reduce delay at the CR58 frontage. The improvements at Mill Rd. result from the construction of the Stop and Shop at the southwest corner and while the Town is taking part in the effort, the Pulaski St. reroute is a County undertaking. A signal is to be installed at the Glenwood intersection by virtue of the nearby PC Richard project. A discussion should be offered on the status of these other mitigation measures and on the intent to create the second access to the site by virtue of the minor subdivision (two way conveyance) with the Riverhead Auto Mall site. It's been suggested there's a difficulty obtaining an easement with LIPA to cross the power lines. If that's the case, discuss the alternative of access to Mill Rd. over SCTM 0600-101-1-8 which was a part of the prior Riverhead Marquee project on the Hazletine site.

G. Public Health: The DEIS is generous in its discussion of the environmental assessment of the site's contamination and other remnants of its past industrial use. A successful remediation has been demonstrated and that appropriate due diligence will be continued. The agency believes however that like the SWPPP mentioned before, the specifics of the Health and Safety Plan and the Material Handling Plan are necessary to the issue's being addressed.

H. Growth and Community Character: The DRC district intent includes increased floor area by transferred development rights where appropriate. The bulk schedule specifies that with the service of public sewerage, the 15% building coverage and 20% floor area ratio limits may be increased to 30% and 60% by TDR and also that the 35ft. height limit may be increased to 50ft. by transfer. The TDR code establishes an exchange rate of 1,500sq.ft. of floor area for each preservation credit redeemed for an increased maximum development yield of up to 30% floor area ratio and goes on to recite the development standards which may be varied. The DEIS identifies the transfer of 139.67 credits to provide for 209,505sq.ft. of additional building coverage and cites contiguous landscaping, interior parking landscaping, impervious coverage and parking stall dimensions as the standards to be varied. As the project also proposes 157,761sq.ft. of excessive FAR, a discussion should be provided as to why an additional 105.174 credits are not called for. The DEIS notes that the proposed restaurants are not provided for by the DRC zone and states that if the Town doesn't permit them as customarily accessory, a use variance would be sought. A discussion should be provided which argues for the consideration of the proposed restaurants as accessory uses. In a previous consideration of a restaurant's accessory status, the Town position was that not only its size but its function would be expected to be subordinate to the primary use. The size and location of the two restaurants at the road frontage suggest they would function at least in part as independent operations; serving clientele beyond the retail shoppers.

4. Initial Identification of Mitigation Measures: As recounted above, the creation of a Storm Water Pollution Prevention Plan, a Health and Safety Plan and a Material Handling Plan are important mitigations to issues of land impact and public health. Placement of a sufficiently fashioned buffer offers some mitigation to plant and animal impacts and to a greater degree, to area character issues. A litany of roadway improvements and access options have been identified as traffic mitigations.

5. Reasonable Alternatives: In addition to the proposed project and the no action, the DEIS offers what it calls a TDR by right alternative which seems a misnomer. While it doesn't need relief on landscaping, impervious coverage and parking stall dimensions, it still depends on 73.056 redeemed credits for its lesser 406,071sq.ft. size. Perhaps it should be referred to as a reduced size alternative. The discussion above on the zoning conformance of restaurants raised the prospect of an interpretation or a use variance; both of which are functions of the Zoning Board of Appeals. The former could be ruled a Type II action in of itself but the latter could not and the award of either before the instant EIS completed its SEQRA analysis of the overarching project would raise serious procedural issues. The DEIS should therefore include another alternative that considers the proposed project and the reduced alternative as being comprised entirely of retail space without restaurants, tabulate their traffic, total water use, sanitary flow, jobs, taxes, etc. in a level of detail sufficient for a comparative analysis. As a result, the agency Planning Board would have evidence of a hard look analysis to support findings for a project with or without restaurants. Whether or not the ZBA ultimately rendered a favorable

interpretation, issued a use variance or if restaurants became a conforming use by other artifice, a site plan could be approved without an involved revisiting of the SEQR process.

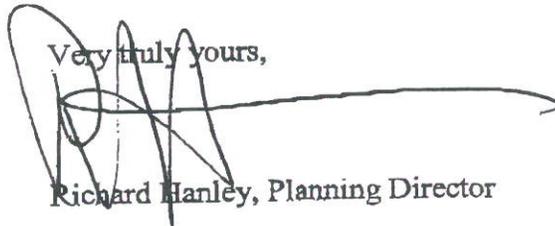
6. Information to be Included as an Appendix: The SWPPP, HASP and MHP should be so treated and summarized in the body of the EIS.

7. Agency Analysis and Scoping Issues Determined Not to be Significant: None.

To facilitate the acceptance of the resubmitted DEIS, you may wish to review it for what may be mistakes or confusing content. For example, the ecological discussion (page vii and page 132) appears to refer to both a 12.2 and 8% area of landscaping (table 1 on page 5 and page 130 both call out 12.15 (12.2)%). Page 15 refers to a (rather ambitious) nine month build-out while the traffic discussion on page xiii implies three years. Page 143 refers to an as of right FAR with sewer of 0.30 while it's actually 0.20. The Kalogeras site plan makes the same claim. The alternative comparison tables (pages xxvii and 214) have the TDR credits of the proposed and as of right reversed. In addition to the mistake on FAR, the Kalogeras plan describes the proposed building (footprint) coverage as both 26.58 and 26.52%. It also states it's based on a survey by Joseph Ingegno, dated 12/18/06 while the survey version included in the DEIS (Appendix D) is last dated 5/4/06. Is there any significance in the difference?

I trust the above will serve to accurately represent the agency Planning Board's concerns and interests on the EIS for this project. Please submit three copies of the revised DEIS for its acceptance consideration and feel free to contact the undersigned with any questions you may have in this matter.

Very truly yours,



Richard Hanley, Planning Director