

FOR THE PUBLIC RECORD

In the Matter of: Wainscott Commercial Center, *30 Montauk Highway, Wainscott. (SCTM#300-192-02-066.2, 6.3,6.4, 6.5, 6.6, 6.7)*

Public Hearing, February 8, 2023

Comments Serving as the Basis For Timed Spoken Remarks

From: Jaine Mehring, Ocean Lane, Amagansett

Good Afternoon Chairman Kramer and Members of the East Hampton Town Planning Board:

As I understand the SEQRA process, once the Public Portion concludes on March 13, the Planning Board will be required to make several decisions:

- Is the accepted DEIS sufficient to lead to the FEIS?
- Has the applicant proven true need for the proposed action?
- Has the applicant demonstrated that the action will generate meaningful benefits not only to himself, but also to the town, residents, and community?
- Has the applicant established a legitimate reasonable basis to support their assertions that *no* significant adverse impacts are anticipated related to their proposed action, short or long term?
- Has applicant proven that the action is the alternative that minimizes/avoids environmental impacts to the maximum extent practicable?
- Has the applicant demonstrated fully and legitimately that the action is compatible with the vision, goals, and objectives of the East Hampton Town Comprehensive Plan as well as that the purposes and standards of Chapter 255 and Chapter 220?

All in, per SEQRA, It would take a “yes” to all of these to get to the FEIS, to get to a “positive findings” statement, and to render an “approval” decision on the subdivision plat. However, if, after consideration of an FEIS, the public need and benefit cannot be shown to outweigh the adverse environmental impacts of a project, then the Board must disapprove the action.

After watching the related Planning Board meetings over the last several years, and based on my in-depth study and analysis of the DEIS, in the days ahead I will submit to the written record a letter identifying a dozen reasons why the DEIS as created by the applicant and deemed “complete” by this board lacks the credible, disciplined, legitimate analysis to support their assertions and conclusions of need, benefits, minimization of adverse environmental impacts, and compatibility with our codified standards.

Here today at the public hearing, the timing constraints imposed limit the public’s ability to speak in the depth commensurate with the voluminous DEIS and the most consequential -- even existential -- nature of the application. Therefore, I will focus only on two DEIS elements: first the “Economic

Market Analysis” in Section 1.1.3 and Appendices B, C, C1 and C2, and second, the “Alternatives” narrative in Section 5 and supplemented with Appendix J.

I will submit my CV to the record to support my credentials. Given my experience and expertise as a top-ranked financial, industry, and investment analyst over three decades, I assert that both of these foundational parts of the DEIS are deeply flawed: they do not provide the requisite analytics to comport with even the most minimum standards of reasonable basis to support their assertions and conclusions. These core sections are so deficient that the Planning Board will not be able to establish positive findings and therefore the action must be disapproved.

The entire crux of Applicant’s justification of needs for and benefits of the action seems to be simply that the absolute number of empty CI parcels in EH is “small,” ergo, there must be a huge demand for their 50-lot/70-acre industrial and commercial development. That is reductive and inappropriately circular reasoning, one that cannot be viewed as sufficient to provide justification for the scope and scale of the proposed action, let alone one with as many potential adverse impacts.

In my view, the “Benefits of the Proposed Project and Need” section (beginning on DEIS page 10), and the “Commercial/Industrial Market Analysis” (Appendices B-C2) contain deficiencies that render them inadequate and inaccurate, and therefore cannot constitute basis for Board “positive findings” or approval decisions. Among the problems I identify:

--The Applicant violates a basic standard of supply/demand analysis – they’ve **mismatched** the market area that they say defines C/I and other business-zoned supply and the market area they claim represents demand. They look only at the number of the C/I and other commercial parcels confined within the borders of East Hampton. However, they define the demand market as the area extending from the Shinnecock Canal to the tip of Montauk and to northern points of the South Fork. This means that the entire supply inventory must be redone to include all available C/I and other commercial parcels across that same larger geographic demand area. And since they use a “reasonable drive time standard” to scope the demand market, it means they need to include Calverton and Riverhead in the C/I supply analysis, including the many dozens of acres and multimillions of square feet of C/I supply planned and in process of being developed there.

--The second major **mismatch** flaw in the supply/demand appendix is the misalignment of time periods. Applicant calculates C/I supply only as it exists today in East Hampton, yet they tell you their project will be developed over years or decades. So, to be legitimate, the calculation of supply must include C/I and other commercial zoned land that is realistically possible to become developable over the next years and decades. And that should include the 100+ acres of sand/gravel mine off of Springs Fireplace Road as well as Sand Land in Noyac and possibly others.

--Looking at the rest of the so-called C/I Market analysis, as written, it appears to be based on qualitative, unsubstantiated anecdotes and mostly hearsay. The DEIS reveals via footnotes that their assertion of severe industrial and commercial land shortage and immense need reflects only one conversation back on Dec 21, 2020 with two real estate brokers who said that there is unmet demand and a “waiting list” for C/I space. Said “waiting list” document does not appear in any of the 2000+ pages of the DEIS.

More importantly, this section is wholly deficient because it does not include any actual quantitative, economic modelling – e.g. numbers and math-- supporting their assertions of needs and benefits. In my letter to follow, I will delineate what a valid economic model must include, such as quantitative analysis of historical trends as well as long range projections. Required are dozens of data items like projected population and demographic statistics, sales and operating margins, property and sales tax revenue generation, ROIs, estimates of “secondary growth effects,” projected consumption of resources such as water, electricity and fossil fuels, employment statistics, additional “burdens” on town infrastructure and resources, creation and cost of secondary growth effects, etc. Importantly, because applicant’s stated goal is to support and fuel the construction industry and related trades – a truly cyclical industry – they also need to produce a thorough expected-value multi-scenario analysis.

Among many, one essential gap I identify in their market/economic analysis relates to the Town’s affordable housing imperative. The application touts the possible benefit of “job creation.” Yet, totally absent from the DEIS is the critical study of if and how this project will impact East Hampton’s already severe 2000-unit affordable housing deficit. Applicant must estimate how many employees will be required for not just the subdivision construction phases, but for the uses on all 50 lots. They must also tell us the expected range of wages related to those uses to be earned by these employees so that Board and the public can understand and assess how many workers will actually be able to afford to live in/around East Hampton paying market rate for housing, in order to derive an assessment of potential adverse impacts relative to community affordable housing.

Turning now to the “Alternatives” section in the DEIS: this is one the most essential elements required under SEQRA. It’s the core to support a finding that “the action chosen is the one that minimizes environmental impacts to the maximum extent practicable” and that it is the alternative where adverse impacts are outweighed by “meaningful and substantial” benefits.

But for each of the five alternatives presented, applicant has failed to provide legitimate analytical support, and their narratives are problematic. Taking them one by one:

1. The “no-action” alternative does not comport with the standard defined by SEQRA. The “no action” provided in the DES is actually an “alternative development” action: it compares the current proposed action against a full build-out on the current 6 parcels. It’s not possible that “no action” creates more adverse effects than the current action. Yet, In Table 5.2, the applicant tries to make us believe that it will generate greater adverse impacts of nearly 70% increase in structures and impervious surfaces, a 41% increase in wastewater effluent and a 50% increase in required parking spaces. This strains credulity.
2. The “Suffolk Cement Relocation Alternative” is not really an instructive standalone alternative --the relocation is just simply a part of the Hamlet alternative or a possible mitigation effort. This alternative provides no relevance to the decision-making process.
3. The “Sewage Treatment Plant” alternative as presented is also flawed and inaccurate. The purpose of this scoped alternative is to compare “apples-to-apples” with the proposed action:

how will a sewage treatment plant reduce nitrogen and phosphorous and treat other potentially dangerous effluent compared to individual I/As **for the same** 17% buildout as currently scoped in the proposed action. Instead, we are given sort of a scare tactic where applicant threatens that if they have to build an STP, then they will double the intensity of the build out—this is not a legitimate, good faith analysis, and Table 5.4 reads as such.

4. The “Open Space” alternative is flawed and inadequate. Open space subdivisions generally provide for between 25% and 50% of the area protected as open space. Instead, what the applicant gives us here is merely taking the 10% buffer area required of any subdivision and consolidates it into one 7-acre parcel. This is simply not a legitimate alternative. And here again, we see in Table 5.5 the applicant asserts that an “open space” alternative intensifies certain adverse conditions/impacts such as degree of development and impervious surfaces, barely changes the water resources statistics, and balloons solid waste/garbage generation by nearly 50%. Again, I ask how can this be viewed as good faith, legitimate, reasonable analysis?
5. And finally, fifth, the “Hamlet Plan” Alternative. I imagine today a lot of other people will likely deal with the deficiencies of the proposed action relative to the Hamlet plan. So, in short, I believe that this is the most inadequate and inaccurate of the five alternative analyses. First, applicant has not included much of anything that is actually in the real Hamlet Plan adopted into the Town Comprehensive Plan. Moreover, they do not provide substantive discussion of the relative community-wide benefits related to the type of uses scoped in the Hamlet Plan.

The Hamlet alternative needs to have done two main things to be legitimate and complete and serve as a basis for decision making. First: accurately reflect and incorporate in depth what is in the Hamlet Plan rather than some reconstituted plat “inspired” by one image in the plan. Second, it should have provided an analysis of their own (not the Town’s) development of the land in this way and how the types of uses envisioned in the Hamlet plan will compare in adverse impacts and benefits to them and to the community compared with the existing proposed action.

Instead, we are given an altered version of the plat and a set of demands for final site plan approval and issued building permits before they will provide the Town an option to buy some of the land. Their take on the Hamlet plan feels more like a cynical hostage taking than a good faith analysis

Finally, beyond these two core sections of the DEIS, I assert that overall the action as currently scoped, or anything even close to it, is **incompatible** with the following EH Town Code sections:

- Chapter 255-1-11 Purposes, especially A. Orderly Growth; B. Protection of Neighborhoods. C. Proper Use of Land; D. Affordable Housing; E. Preservation; F&G. Water Recharge and Clean Water; H. Safety & Health; I. Prevention of Overcrowding; J. Property Values; and L. Aesthetic Attributes. <https://ecode360.com/10413764#10413764>

- Chapter 220 especially:
 - 220-1.05 E: At the time of the initial application, all projected improvements to the site shall be disclosed and considered so that an integrated plan of future improvements is developed.”
 - 220-1.05 F: Health, safety and general welfare. The health, safety and general welfare of the people of the Town of East Hampton shall be assured by considering standards and appropriate specifications which are in accordance with the goals and objectives of the Comprehensive Plan, the Town Code, laws, rules and regulations of coordinating agencies
 - 220-1.03 C: Accumulating scientific evidence has shown the necessity of integrated planning to protect the health, safety and welfare of the people of the Town of East Hampton and to conserve the town's unique environmental features for the enjoyment of future generations
 - <https://ecode360.com/8163399>
- The proposed action as scoped, or anywhere close to it, is incompatible with the “The Vision Statement” and “The Goals and Objectives” of The East Hampton Town Comprehensive Plan, Vision Statement on page 7 and Goals and Objectives on page 8, especially Goals 1, 2, 3, 4, 5, 7, 8, 9 & 11.
<http://ehamptonny.gov/DocumentCenter/View/1319/2005-Town-Comprehensive-Plan-PDF>
- The proposed action as scoped, or anywhere close to it, is incompatible with the Town’s current and forward-looking imperatives, especially those that have been outlined in: the Climate Emergency Declaration and Climate Action Plan, the Wainscott Hamlet Plan, The East Hampton Town Affordable Housing Plan, and even potentially the Coastal Assessment and Resiliency Plan, all of which have been adopted into the Town Comprehensive Plan over the last few years.

All in, based on the current DEIS, I respectfully suggest that the Board cannot establish “positive findings” and ask that you render a “disapproval” decision.

In my view, this is not about denying an owners’ property rights or a profit motive or the development of necessary and beneficial commercial and service businesses. Instead, as the enduring standards of “good planning” guides us, this development should be about a forward-looking, rather than their backward-looking, vision for East Hampton. A vision that protects and regenerates a large portion of that land, and also deploys a part of this 70 acres for a multi-use outcome that better balances ownership rights and stewardship responsibilities in order to benefit and build value for a full range of community stakeholders, including year-round residents that live and work here full time, rather than the narrow and elite slice that is the applicant’s focus: developers, builders, transient tourists and the wealthy “second homeowners.” This is a once-in-a-lifetime opportunity to do something wonderful rather than wasteful.

Thank you for your attention and consideration of my statement.