

STATE ENVIRONMENTAL QUALITY REVIEW ACT

**FOR THE ZONE CHANGE APPLICATION OF “SERENITY ESTATES”
COUNTRY RESIDENCE 40 (CR40) to RESIDENTIAL PLANNED DEVELOPMENT
DISTRICT (RPDD)**

**TOWN OF SOUTHAMPTON
SUFFOLK COUNTY, NEW YORK**

FINDINGS STATEMENT

Date: February 22, 2011

This Findings Statement is issued pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act – SEQRA) and the implementing regulations at 6 NYCRR Part 617.

Name of Action: Zone change petition of “Serenity Estates”- Request from Country Residence 40,000 square feet (CR-40) to Residential Planned Development District (RPDD)

Project Location: Town of Southampton, Suffolk County, New York

Lead Agency: The Town of Southampton Town Board (hereinafter the “Town Board”)

Contact Person: Sundy A. Schermeyer, Town Clerk
Town of Southampton
Town Hall
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Southampton, New York 11968

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SEQRA Status: Type I

Description of Action

The subject property is a vacant parcel situated within a single-family zoning district designated as Country Residence (CR-40) which requires a minimum lot size of 40,000 square feet. The proposed action includes a change of zone for the subject property from CR-40 to a Residential Planned Development District (RPDD) to facilitate the construction of a 60 unit age-restricted (55 years and older) condominium complex. The applicant proposes 48 market-rate condominium units and as provided for in New York State Town Law §261-b, offers twenty percent (20%) of the total number of proposed units to be restricted for affordable housing, so that there will be 12 Community Benefit (affordable) Units. The details of the proposed site development as extracted from the DEIS are as follows:

There will be 52 residential buildings constructed on the site, 46 of the buildings will be in a ‘duplex’ style and six of the buildings will have 4 units each. Each of the 46 market rate units will contain approximately 3,000 square feet. There will be two

bedrooms and two bathrooms in each unit market rate unit. There will be two bedrooms and one bathroom in each affordable unit. The units were preliminarily designed with the master bedroom and master bathroom on the ground floor to accommodate aging seniors.

The proposed development will also include a 10,000 square foot two-story recreation building with a fitness center, locker rooms, lounge/entertainment center, billiards room and card room, indoor and outdoor heated swimming pools, indoor and outdoor hot tubs, two tennis courts, a putting green and walking paths.

The total building coverage is 128,656 square feet or 19.4%. A gatehouse is proposed at the entrance of the property to provide security for the residents. Access to the interior roadways of the development will be from North Phillips Avenue.

Note that there are approximately 20 parking spaces associated with the recreation building and tennis courts. All other parking is presumably within the driveways of the proposed units. Guest parking for the units is not provided on the proposed plan.

After extensive public hearings and testimony, on November 9, 2010 at the close of the DEIS hearing, the applicant submitted an amendment of the proposed change of zone to Mixed Use Planned Development District (MUPDD). This amendment addresses a modified alternative that was discussed at public hearing, in the community, and was briefly described as an alternative in the DEIS. The details of this alternative action from the November 9, 2010 submission are as follows:

The proposed alternative will have three (3) separate single-story medical and professional offices (3,000 sq. ft., 4,000 sq. ft. and 3,000 sq. ft.) fronting on North Phillips Avenue. In addition to the medical offices, the applicant has indicated that there will be emergency care, elder care, rehabilitation facilities and a small pharmacy within these buildings as well as a separate 3,000 sq. ft. single-story restaurant (4 commercial buildings total). There are approximately 58 parking spaces associated with the commercial portion of the development plan. The applicant proposes 36 non-age restricted residential condominiums within eighteen buildings (two units in each building along with a two car garage for each unit).

This proposed alternative development will also include a 5,000 square foot recreation building with a fitness center, locker rooms, lounge/entertainment center, billiards room and card room, indoor and outdoor heated swimming pools, indoor and outdoor hot tubs, two tennis courts, a putting green and walking paths.

To satisfy the public benefit requirement, the applicant has proposed a cash contribution in the amount of Two Hundred Fifty Thousand Dollars (\$250,000), which is based upon almost \$7,000 per condominium unit, to be used by the Town for the benefit of the residents of the local community.

Summary of SEQRA Process

On May 8, 2005, the Town Board of the Town of Southampton received a Petition for a Change of Zone from CR-40,000 zoning classification to a 'Residential Planned Development District (PDD)' for the Serenity Estates development proposal, with additional required information received on March 17, 2006. The proposed action is a Type I Action pursuant to SEQRA and §330-244 (G) of the Southampton Town Code.

On April 25, 2006, the Town Board determined that the applicant had submitted the necessary materials to fulfill the application submission requirements for the purposes of commencing the review process of the subject application pursuant to §330-244 (B) of the Southampton Town Code and Commenced the SEQRA process to coordinate lead agency.

On June 13, 2006, the Town Board assumed Lead Agency and, upon review of an EAF, issued a Positive Declaration requiring the preparation of a Draft Environmental Impact Statement (“DEIS”), finding that the proposed development may result in a significant adverse impact on the environment and that the preparation of an Environmental Impact Statement (EIS) would aid in the decision-making process that requires balancing of the competing factors and is the best avenue to evaluate cumulative impacts and alternatives pursuant to SEQRA guidelines. The Positive Declaration identified the following as impacts warranting evaluation in the DEIS:

- Watershed and groundwater resources
- The impairment of the character or quality of aesthetic resources or of existing community or neighborhood character by the increase in permitted density
- Significant adverse impacts on existing traffic patterns and carrying capacity of the road system
- The removal or destruction of large quantities of vegetation, with installation of impervious paved surfaces- impacting soils

The Town Board as Lead Agency found that the preparation of an EIS would aid in the decision-making process that requires balancing of the competing factors and is the best avenue to evaluate cumulative impacts and alternatives pursuant to SEQRA guidelines.

On July 25, 2006, the Town Board of the Town of Southampton as lead agency elected to have a Public Scoping Session in connection with the preparation of a DEIS for the Zone Change application of Serenity Estates.

On November 14, 2006, the Town Board adopted the Final Scope of Work for Preparation of a DEIS, requesting further information on the following:

- Geology and Soils
- Water Resources
- Ecology
- Land Use and Zoning
- Traffic and Transportation
- Community Facilities and Services
- Historic, Archaeological and Cultural Resources
- Visual Resources (Aesthetics)
- Noise
- Air Quality
- Growth Inducing Impacts
- Reasonable Alternatives

On December 28, 2009, the DEIS submitted by the applicant was deemed adequate with respect to its scope and content for purposes of commencing public review.

The applicant submitted an updated Phase II Environmental Site Assessment in July 2010 to address environmental concerns at the subject property associated with the historic use of the subject property as a duck feather processing facility and with a solvent-contaminated groundwater plume originated from an off-site location upgradient of the subject property.

Public Hearings were held on the DEIS at six public hearing sessions held on the following dates: February 9, 2010, March 23, 2010, May 11, 2010, July 13, 2010, August 10, 2010, and November 9, 2010. The hearing was closed on November 9, 2010 and the period for submitting written comments on the DEIS was held open until November 24, 2010. An alternative of Mixed Use Development with medical professional offices and 54 condominiums (six to be Community Benefit Units) was addressed in the DEIS and reviewed with the community.

Subsequent to several public hearings on the Draft EIS, and as a result of comments from the involved agencies and the public, on November 9, 2010, the date that the hearing on the DEIS was closed, the applicant submitted an amended document for a zone change to a Mixed Use Planned Development District (MUPDD, with medical center with medical/professional offices and 36 non-age restricted residential condominiums. Each proposed condominium will be 3,000 square feet, with two bedrooms and two bathrooms. There will be eighteen buildings with two units in each building along with a two car a garage for each unit. The proposed project will result in coverage of approximately 121,656 square feet for the condominium units. In addition, there will be the recreation building of approximately 10,000 square feet (2 stories; 5,000 sq. ft. per floor), paved areas of approximately 104,920 square feet (15.8%), walkways of approximately 24,144 square feet (3.66%), two tennis courts of approximately 14,400 square feet (2.17%) and a swimming pool of approximately 1,000 square feet (0.15%).

On January 25, 2011, the Town Board accepted the FEIS as complete and adequate

for public review and filed a notice of completion and set a public consideration period for 30 days. This November 9, 2010 amendment was reviewed in the FEIS based on a copy that was handed out to the Town Board on November 9, 2010. However, although required by §330-244 (B), the applicant did not make this amendment available electronically for wider distribution until January 19, 2011. Receipt of this electronic document was only in time to be distributed as part of the draft FEIS to the Town Board for the January 25, 2011 Town Board meeting, when the Town Board accepted the FEIS. This electronic document has now been posted on the Town's website, made available as a hard copy in the Town Clerk's Office and at the Westhampton Free ibrary, as part of the accepted FEIS. Additionally, all involved and interested parties were mailed copies of this document on January 26, 2011.

Findings and Mitigation Measures

The following is a synopsis of the conclusions of the Lead Agency with regard to the environmental impacts associated with the subject action. These conclusions are based upon a review of the DEIS, the FEIS and public and involved agency commentary, as well as all other relevant planning, zoning and environmental information.

Geological Resources (Soils and Topography)

Potential Soil Impacts

1. The Phase (II) Environmental Site Assessment Report, prepared by Cashin Associates, P.C. in 2003, and submitted as part of the DEIS for the proposed Residential Planned Development District for the Serenity Estates site revealed the presence of some metals (e.g. chromium, lead and mercury) and detections of toluene in the soil. **Also, detections of lead, and 1800 ppb of chromium were discovered in groundwater samples collected at the site (drinking water MCL for chromium is 50 ppb).** The Suffolk County Department of Health Services ("SCDHS") recommended that the soil sample results contained in the report be clarified to distinguish between samples collected from surface soils or those obtained from on-site sludge. Remediation would be required if surface soil samples revealed contamination as discussed in the report.
2. Updated soil analyses conducted by Cashin and reported in July 2010 Phase II Site Assessment indicate that asbestos is not present in the surface soils in the vicinity of the former, demolished buildings. However, small remnant pieces of asbestos-containing materials (ACM) from construction/demolition debris are scattered in some areas within the fenced area in the eastern portion of the subject property. The 2010 Cashin report found no visible olfactory evidence of residue sludge, discolored soils or other indications of possible contamination were found. Test holes dug to a depth of approximately 15 feet indicated sandy soils at all test hole locations.
3. On-Site Soil Vapors: As reported in the Phase II Environmental Site Assessment prepared by Cashin Associates in July, 2010, "Acetone, chloroform and toluene were detected in soil vapor sample SV-1. Acetone was also detected in soil vapor

samples SV-2 and SV-3. The soil vapor detections reported were all detected at concentrations well below New York State Department of Environmental Conservation's (NYSDEC) Division of Air Resources indoor air quality AGC screening values and the federal guidelines (OSHA and NIOSH)."

4. Topography: The information provided by the applicant in the November 2009 DEIS and the amendment submitted on November 9, 2010, the day the hearing on the DEIS was closed, are identical. It is noted that the applicant did not change or update this information to consider the proposed MUPDD, which is significantly different than the original proposed Residential Planned Development application for 60 senior condominiums.
5. The Town Board finds that in addition to the elements related to item 4, topography, (above) the following elements contained in the Final Scope for preparation of the DEIS, were not addressed sufficiently to mitigate anticipated adverse impacts:
 - a. Construction activities impacting areas of disturbance and depth of disturbance shall be assessed to include impacts to soils.
 - b. Corrective measures necessary to overcome any soil limitations shall be identified.
 - c. Discussion of known plume contamination in vicinity and any impacts associated with soils (summary of subsurface features, suspected contamination and any Suffolk County Health Department, NYSDEC/USEPA documentation on plume included); include information for plans regarding soil reclamation.
 - d. Topography and Slope information to describe existing topography, variation in elevation and relationship to surrounding topography. Include a thorough analysis of cut and fill activities. Detailed data regarding the potential impact this action may have on the soil substrate, groundwater flow velocities and natural drainage should be submitted. Analysis to include:
 - i. Cross-sections of the proposed grading changes in relation to the existing elevations as well as any proposed retaining walls on the site should be submitted.
 - e. A thorough narrative description of potential adverse impacts to soils and topography and strategies to minimize impacts.

Water Resources/Surface Water Runoff

1. The DEIS contained outdated studies and analyses from 2003 of the potential for impacts to water resources on and beneath the site from operation of the proposed project, as well as for impacts to resources downslope and downgradient. The applicant was asked to update this material that was gathered in 2003. The applicant submitted an updated Phase II Environmental Statement in July 2010, prepared by Cashin Associates.

2. Hydrogeological Conditions: Development of the site will result in the installation of impervious surfaces consisting of buildings and paved parking areas, which will increase the volume of stormwater generated. Stormwater generated on these surfaces would need to be retained on-site through drainage systems designed in accordance with Town standards.
3. Groundwater Quality: The findings of the Phase II investigation completed by Cashin Associates in July 2010 to update findings of the 2003 report and to address issues raised by community members at public meetings indicates that mitigation measures should be considered to address environmental conditions pertaining to the following: the presence of small scattered pieces of remnant construction/demolition debris tested positive for Asbestos Containing Materials. Recommend measures regarding the potential mitigation of the Speonk Solvent Plume are also discussed. Cashin states, "*Mitigation measures are recommended based on the proposed future commercial/residential use of the site.*"(Phase II Environmental Site Assessment, July 1, 2010, page 13)
 - a. Sanitary Design Flow:
 - i. The Suffolk County Department of Health Services has reviewed the DEIS for Serenity Estates Change of Zone Petition for a 60 unit Senior Citizen Condominium Complex in the Hamlet of Speonk. The applicants propose to construct 48 market rate condominium units at approximately 3,000 square feet each, and 12 affordable housing units at 1,000 square feet each on approximately 15.2 acres of land.
 - ii. The applicants have not made application to the SCDHS for this proposal. The SCDHS notes that the site plan contained in the DEIS uses sanitary flow rates that are no longer valid, which resulted in an under estimation of the sanitary sewage flow (SCDHS letter to Town of Southampton February 3, 2010). As per current SCDHS standards, the correct sanitary flow is 19,200 gallons per day. The current application does not comply with this standard. The applicant would need to decrease the number of units in order to comply with SCDHS standards.
 - b. Proposed Chromaglass System:
 - i. As mitigation, the applicant proposes to construct a Chromaglass Modular Sequencing Batch Reactor (SBR) Treatment System. The allowable Suffolk County Sanitary Code limit of the treatment capacity for a Chromaglass system is 15,000 gpd. The applicant does not meet this standard. Therefore this system fails to mitigate potential impacts from sanitary flow. **Several units would need to be eliminated from this project to achieve this flow limit.** In addition, the Chromaglass system does not show area for expansion or replacement as required by code. A buffer of one hundred feet must be provided for a STP and a fifty foot buffer must be established for a Chromaglass system, surrounding the area of the facilities including the expansion area. The buffer area can not be used for parking lots,

mailboxes or other building amenities as proposed in the applicant's plans.

- ii. An application to the SCDHS Board of Review for a variance from Appendix B, section B-3 of the "Standards for Approval and Construction of Sewage Collection Systems and Treatment Works" is required, based on the information provided on the conceptual site plan. Suffolk County Standards require the conventional sewage collection system or STP must be located a minimum of 200 feet from buildings and 150 feet from the property lines. The current application does not meet this standard. As proposed the STP is situate 150 feet from the proposed buildings and 85 and 100 feet from the property line. The DEIS refers several times to installation of a Chromaglass or a modified subsurface sewage disposal system. As noted above the Suffolk County Standards only permits installation of a modified system if the total flow is less than 15,000 gpd. If the applicants reduce the flow from 19,200 to 15,000 gpd then Appendix A of the Standards allows for reduced separation distances from property lines and buildings provided additional odor control and aerosol emissions devices are installed. However, the applicant did not make this change and the present application, as proposed, does not meet this standard.

4. On-Site Groundwater: No elevated levels of dissolved metals were detected in any of the filtered groundwater samples. One metal (chromium) was present in unfiltered groundwater samples at concentrations above Ambient Water Quality Standard at upgradient and downgradient groundwater sample locations. Concentrations were highest in the upgradient sample, located near the northern boundary of the subject property. "Cashin recommends that any future development of the site be serviced by the municipal water supply and that the groundwater on-site not be utilized." The applicant proposes to use public water.
 - a. In addition, information shown on a 2009 groundwater contour and flood map, prepared by the USGS in conjunction with the SCDHS, estimates the depth to groundwater in the vicinity of the subject site to be in the range of 25 to 30 feet from grade. This map included groundwater measurements taken during the March-April 2006 period. Given this information and the proximity of the proposed sewage treatment facility to adjacent property lines, SCDHS suggested the project sponsor consider potential impacts to neighboring properties from mounding of effluent recharged from the proposed STP. The updated environmental information supplied by the applicant did not propose this as mitigation.
 - b. Due to the potential for the migration or intrusion of soil vapors from an existing groundwater VOC plume that is currently under investigation in the vicinity of this site, SCDHS believes it would be prudent that, as part of this project, the developer install acceptable sub-slab vapor depressurization systems (SSVDS) for all units or habitable buildings. This was previously communicated to the Town of Southampton in a letter from this office dated

August 25, 2009. SCDHS has reported to the Town that the statement on page 10 of the DEIS states in part "*Since the plume is located appreciably below the water table, the SCDHS has informed the applicant that soil vapor intrusion to on-site residences is not of concern.*" **This statement is not accurate and should be revised accordingly, in that SCDHS is recommending the installation of sub-slab vapor systems (“SSVDS”) because of concerns for potential vapor intrusion.**

- c. The updated Phase II report prepared by Cashin Associates in July 2010 recommended that in order to mitigate possible exposures from the migration or intrusion of soil vapors from the plume to the subject property, recommend that any future buildings developed on the subject property be equipped with a system to prevent potential vapor intrusion into the subject buildings.
 - d. Suffolk County Department of Health Services issued a letter to the Town of Southampton on February 3, 2010 specifically recommending that sub-slab depressurization systems (SSDS) be required for all habitable buildings to be constructed at Serenity Estates. SSDS are typically installed directly below a vapor barrier placed immediately below the foundation/slab therefore this recommendation should result in both a vapor barrier and SSDS for each building. Typically the SSDS systems need to run 24/7 as they do not protect the buildings otherwise. They are also checked once a year to confirm that they are providing the necessary vacuum beneath the building. If there is new construction (additions) to any of these buildings, then the vapor barriers and SSDS need to be extended to cover these areas, or if there is work done that compromises the vapor barrier (extending a utility penetration through a basement wall) then the barrier needs to be repaired. Typically, these issues are addressed through some type of restrictive covenants that are enforced by a homeowners association. However, for single-family homes without an overseeing organization, this may be more difficult. **At this time there is no inspection/approval system or regulations established at SCDHS; therefore this potential impact cannot be adequately mitigated without an actual implementation and inspection/approval process. Regardless, the applicant does not propose any SSDS as mitigation in his plan submissions.**
5. Public Water Supply and Wells: Public water appears to be available to properties around the subject site and immediately to the south. However, a private well survey conducted by SCDHS staff revealed several private wells within the vicinity of this project. Therefore, SCDHS recommends the developer offer to connect any down gradient private drinking water wells to the public water supply. The applicant has not shown that proposed plans comply with this recommendation.
 6. The following issues raised in the Final Scope were not addressed sufficiently to mitigate potential adverse impacts to water resources:
 - a. Analyses of groundwater recharge areas and hydrological regime to include a watershed analysis (groundwater flow, quality, velocity and water budget).

The existing solvent plume and any impacts on water resources for the project area shall be described.

- b. Suffolk County Department of Health Septic flow comparisons (as-of-right density vs. proposed) shall be analyzed to assess groundwater impacts and impacts to surrounding water bodies.
- c. Surface Water Resources/Stormwater Drainage- The DEIS should address pre and post- development stormwater management conditions and demonstrate compliance/consistency with all applicable rules, regulations and policy guidelines found within the LI Comprehensive Waste Treatment Management Plan (2008 Study), Special Groundwater Protection Area (SGPA) plan, Suffolk County Sanitary Code, Long Island Groundwater Management Program, USEPA Phase II Rule, NURP Study and Nonpoint Source Management Handbook, NYSDEC SPDES regulations and local objectives to include Southampton Town Code requirements.
- d. Analyze potential for use of biofiltration or other alternatives to catch basins and leaching pools to handle Stormwater runoff.
- e. Indicate what arrangements will be made to ensure that Stormwater management facilities and infrastructure within the development are properly maintained.

Ecological Resources

1. Vegetation

The information on vegetation provided by the applicant in the DEIS of November 2009 and the amendment submitted on November 9, 2010, the date the hearing on the November 2009 DEIS was closed, are exactly the same. The applicant did not modify this portion of the DEIS to address the amendment for an MUPDD. The DEIS states, “The proposed project will result in coverage of approximately 121,656 square feet for the condominium units. In addition, there will be the recreation building of approximately 5,000 square feet (first floor), paved areas of approximately 104,920 square feet (15.8%), walkways of approximately 24,144 square feet (3.66%), two tennis courts of approximately 14,400 square feet (2.17%) and a swimming pool of approximately 1,000 square feet (0.15%). The remaining areas will consist of landscaping of approximately 203,111 square feet (30.6%) and the retained natural vegetation of approximately 186,616 square feet (28.15%). Therefore, the project will require the removal of some vegetation currently found on the site. However, the cleared vegetation will be partially replaced by native landscaping species. The DEIS goes on to state that, “The site will be disturbed due to site development activities, but will be supplemented extensively with native landscaping species, particularly around the structures and internal improvements.”

- a. The proposed RPDD proposes lot coverage of 128,716 square feet or 19.4% of the maximum allowable lot coverage of 20%. The Planning Board approved as-of-right 13-lot subdivision, approved November 18, 2004, allows

a maximum lot coverage of 13.7%. This as-of-right alternative also provides 3.804 acres (25%) of dedicated Open Space.

- b. The applicant did not modify or update the amended DEIS for the proposed MUPDD amendment which is significantly different than the 60 unit senior condominium project; therefore it is not possible to assess the environmental impact of that amendment. No further details on this were provided so the proposed mitigation is not measurable.

2. Wildlife

- a. Both the November 2009 DEIS and the November 9, 2010 amendment, that was submitted the date the hearing on the DEIS was closed, addressed “wildlife” in an identical manner. The applicant did not modify or update this portion of the DEIS for the proposed MUPDD amendment which is significantly different than the 60 senior condominium project so it is not possible to assess the environmental impact of the alternative.

- b. Significant adverse impacts are expected as a result of the proposed action in that there will be no chance for any portion of the parcel to support ecological communities by providing habitat; note that the as-of-right option that retains 25% of the parcel as open space will allow for natural communities to emerge on the property, in addition the large (1 acre) lots of the subdivision are anticipated to have landscaping and trees that will also provide habitat.

Land Use

1. Transportation Resources:

- a. The DEIS for the proposed RPDD contained a traffic impact study dated March 2007. The amendment for an MUPDD, submitted on November 9, 2010, the date the hearing on the DEIS was closed, cited the identical traffic study done in March 2007. There was no amendment for the MUPDD.

- b. The expected total site-generated trips put forward in the study addressed the 60 condominium alternative and only the 36 condominium units of the MUPDD proposal, without the impact of the medical professional offices that were proposed as part of that amendment. Without further data, there is no way to assess the impact of the amendment for an MUPDD.

2. Land Use:

The following issues raised in the final scope were not addressed sufficiently in the DEIS:

- a. A detailed analysis of the potential for impacts to the patterns of land use and zoning in the vicinity.
- b. The impacts to land use, zoning and community character resulting from the proposed action were not assessed in terms of Smart Growth principles (Suffolk County Planning Federation guidelines).
- c. “Community Benefits” were not described as a quantitative comparison for

the proposed increase in density (See below).

- d. Proposed mitigation measures to minimize potential impacts to surrounding land use were not described.

3. Prior Industrial Use:

In a letter dated February 3, 2010 from SCHDS (Appendix X, FEIS), the SCDHS indicated that “the subject property was previously used for industrial purposes (e.g. duck feather processing) and SCDHS is not certain that all issues in connection with the prior use have been fully evaluated.” The Updated Environmental Assessment (Cashin) did not include specific protocols that would evaluate or translate what kinds of issues the residual levels of contaminants in the soils might have on the future users of the site (e.g. cancer rates or other health-related impacts?) Therefore the Town Board cannot find that the potential impacts of the prior industrial use have been fully assessed and therefore properly mitigated.

4. Zoning: Southampton Town Code requirements for RPDD and MUPDD

- a. The proposed action does not conform to RPDD requirements in § 330-246 (A) or MUPDD requirements in §330-246 (B), as follows:

- i. Town Code §330-13 General Site Criteria Senior Citizen Zone requires that senior housing be within walkable distance, less than one half a mile, of the hamlet center. Criteria for waivers to this requirement are clearly defined in this section. Town Code §330-246A.(7) (a) [2] “Short and safe walking distance” shall be construed as meaning convenient and having adequate sidewalks, street lights, and other pedestrian-friendly, traffic-calming amenities presently available or shall be established as a condition or approval for the RPDD designation. The proposed project is within one quarter mile of the hamlet center but conditions of approval would have to be established to make the distance safe and walkable. The applicant has not proposed mitigation for this impact.

- ii. Town Code §330-246 Development Standards for specific PDD classifications states:

Residential Planned Development District (RPDD):

The RPDD is predominantly intended to encourage flexible residential development with provisions for recreational, agricultural, community uses, services and activities normally accessory to residential use, while maximizing the preservation of natural vegetation and resources. Clustering, open-space preservation, and the most efficient use of transportation systems, utilities and public services are intended to be achieved by the RPDD. The intent is to support creative, desirable and affordable private residential development by providing incentives and flexibility which encourage the use of innovative planning and design techniques.

Requirements: *the RPDD shall be beneficial, compatible and harmonious with the surrounding land uses, and the goals and*

objectives set forth in this article and the Comprehensive Plan must be maintained and furthered.

- iii. The applicant proposes 60 units for senior citizens and a recreation building with fitness center, locker rooms, lounge/entertainment center, billiards room and card room, indoor and outdoor heated swimming pools, indoor and outdoor hot tubs, two tennis courts, a putting green and walking paths. The proposed building coverage is 19.4% of the allowable 20%. Innovative planning and design techniques have not been used to accommodate the increased density. Town Code §330-246 (a) 5 states that building prototypes and design shall reflect indigenous architecture and shall be built with consideration to the special character of Southampton as a rural and resort community.
- b. The following are listed as possible community benefits to allow an increase in yield for a residential PDD §330-246 A. (2) (c): *Notwithstanding the provisions of the aforementioned subsections, the yield may be increased, at the discretion of the Town Board, to achieve any of the goal set forth in this chapter, or to provide for community benefits or public facility that satisfies an identified public need as recommended by the Comprehensive Plan or as established by the Town Board, excluding common and/or requisite public improvements. New York State Law permits the Town to utilize incentive zoning for the purpose of obtaining community benefits. New York State Town Law §261-b of the State of New York defines “community benefits or amenities” as “open space, housing for persons of low or moderate income, parks, elder care, day care, or other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community authorized by the Town Board.*
- c. The Town’s Master Plan recommends that the use of planned development district (PDD) zoning for large senior housing or multifamily housing developments, whereby additional density can be achieved through the transfer of development rights (TDRs) or Pine Barren Credits (PBCs), such that there is no substantial increase in the number of dwelling units or population within the Town because development has been redirected in order to channel growth and preserve ecologically sensitive lands.”
- d. **Community Benefits of the RPDD Proposed by the Applicant in the November 2009 DEIS**
 1. Redevelop pre-existing environmentally sensitive use as a feather factory. (Please note that the feather factory buildings were removed prior to the environmental investigations of 2003.)
 2. Add substantial real estate revenues from condominiums, without many school-age children. (Discussion of taxes in Comment 23 of the FEIS, page 19)

3. Twenty percent of the total units (12 units) are proposed as affordable housing (Community Benefit Units). This proposed benefit by the applicant is actually the minimum required affordable component prescribed by Chapter 216 of Town Code and therefore does not constitute a substantial community benefit.
4. Increase local employment due to construction. **While this is a temporary and positive economic benefit of the project, it is not considered a substantial community benefit.**
5. Address the need for quality residential construction in the area. (As detailed below, the need has not been substantiated)

The following are built SENIOR HOUSING PROJECTS within the area:

- a. Westhampton Pines (originally developed by Pulte Homes, Inc) 189 units, of which 19 are affordable, located one mile from the proposed Serenity Estates site in Westhampton.
- b. Encore Atlantic Shores, 240 units with a club house, located in Eastport approximately three miles from the proposed Serenity Estates site.

Note: The applicant states that by the time Serenity Estates is developed, the units at both Westhampton Pines and Encore Atlantic Shores “will probably be primarily sold out.”

- a. Eagles Walk, 67 Senior units, located in East Quogue.
 - b. Eastport Meadows, 50 condominiums, with 5 as affordable, located in Brookhaven portion of Eastport.
 - c. RTW, Arborview at Tiana, 50 Senior units, with 15 affordable, Hampton Bays.
 - d. Jessup’s Landing, 32 units, Quogue Village.
 - e. Heritage Square Retirement Community, 415 units, Eastport, Brookhaven
 - f. Bristol Estates, 240 units, East Moriches.
 - g. Woodfield Gables, 57 home subdivision located in Speonk (non-age restricted)
 - h. Sophia Place, 18 houses, in Westhampton (non-age restricted)
6. The need for a discretionary change of zone to increase density at this site to provide a senior housing complex has not been adequately substantiated since there are many senior living options available nearby and some of those are not near capacity. In fact, by Resolution 2010-439, on April 27, 2010, the Town Board lowered the age occupancy requirements in the SC-44 zone in part to address vacancies in these facilities.

e. **Community Benefits Proposed in the November 2010 Medical/Professional Offices and 36 Condo Modified Alternative**

1. Contribute \$250,000 to the Town for local projects. (This does not meet the intent of the existing PDD legislation.)
2. Provide medical and elder care for residents of the community in an appropriate location. (The need for this service has not been shown.)
3. Increase open space. (The applicant has not proposed any dedicated open space in this alternative.)
4. Increase real estate tax revenues (This would be an increase over the present taxes but condominiums are taxed differently than single-family houses. See discussion under Comment 23 in the FEIS.)
5. Provide appropriately located, well-designed and needed residential units (This statement has been challenged. See Comments 19 and 2 in the FEIS and the discussion on senior housing projects above.)
6. Improve aesthetics of the site. (The site is presently open space.)
7. Retain a good portion of the remaining natural vegetation. (The applicant has not presented a detailed plan to substantiate this.)
8. Protect cultural resources of the community. (The applicant has not identified or defined the cultural resources the application proposes to protect..)

f. Yield. The applicant has failed to quantify the yield of the receiving site as requested in §330-246(A)(2)(b), has not quantified the proposed community benefits, and has not offered Transfer of Development Rights. Therefore it is not possible to determine if the proposed community benefits are equal to the additional yield requested and if they appropriately mitigate the proposed impact. The applicant does not propose to reuse the site for a low-impact tax ratable as suggested in the Area Plan.

g. Land Use Plans.

Pursuant to the analysis presented in the DEIS, and the questions addressed in the FEIS, the proposed actions only partially conform to the recommendations of the Town Comprehensive Plan Update as outlined in the Eastport/Speonk/Remsenburg/Westhampton Area Study, adopted September 28, 2004. The study recommended that the sight could be rezoned to either a light industrial park designation or a PDD. As stated above, the uses proposed by the applicant do not conform to the Southampton Town code requirements for RPDD or MUPDD.

Impact on Open Space & Recreation

1. The conceptual site plan for the proposal does not include any open space, while the preliminary subdivision plat sets aside 25% open space (approximately 3.8 acres) as well as a 25 ft. landscape buffer along North Phillips Road. In addition, the subdivision would contribute monies for a park fee to be used in the respective park district; because the condominium development includes a

recreation area and tennis courts for the residents, it does not include the payment of park fees. The loss of potential parkland was not assessed.

2. The potential impacts of developing within the open space area (that links other open space areas created through adjacent subdivision plats to form a greenway) as well as trail linkages and opportunities was not comprehensively assessed as indicated in the Positive Declaration. The Lead Agency finds that the as-of-right option which provides 25% of open space and greenway connection is the best environmental alternative.

Growth and Character of the Community and Neighborhood

1. The location of the subject parcel is within what is considered as “the secondary industrial area of Speonk” (Eastport/Speonk/Remsenburg/Westhampton Area Study pg. VI-3). North Phillips Avenue is a north/south connector road to Old Country Road, which has many scenic attributes. The site is bordered by a welding shop (“AR Fechtmann Welding”) with a residence to the south, horse stables (“Flying R Stables”) with a residence to the north, the Long Tree Pond residential subdivision to the west and the Windemere Court Light Industrial Park to the east across N. Phillips Avenue.
2. The Draft EIS did not provide an analysis of the potential for primary or long-term effects on community growth patterns. The existing patterns of population concentration, distribution or growth and the existing community or neighborhood are physical conditions included in the SEQRA’s definition of environment. The site is currently vacant and represented by successional growth as the buildings from the former feather-processing factory for a rural duck-farming community have been removed. It is recognized that the Eastport/Speonk/Remsenburg/Westhampton Area Study Detailed Area Concept Plan (page VII-2) indicates a potential for zoning change from CR40 to RPDD or Mixed Use, however at that time this notion was intended as an incentive to remove the dilapidated feather factory buildings and restore the contamination on the property. Note that the building demolition and restoration occurred without the need for incentives; the CR40 zoning and related property rights were intact at the time of purchase.
3. The size and scale of the conceptual zoning in the report was not vetted at the time of the Eastport/Speonk/Remsenburg/Westhampton Area Study report’s adoption in 2004; the scale and intensity of the subject project and the mixed use alternative will have an impact on community character in this location. The plan is to create a gated private development for senior citizens in the midst of light industrial, agricultural and single family uses or in the alternative have half as much senior housing and add a mix of medical, retail and restaurant establishments. The character of the area has established multi-family housing closer to the core Hamlet Center of Speonk as well as restaurants and retail- this represents Smart Growth principles and should be continued and expanded upon. The subject location represents a segmented extension of the Hamlet Center and does not follow Comprehensive Planning objectives.

Impacts on Aesthetics

1. Natural vegetation presently partially screens the site from North Phillips Avenue. This vegetation would be removed during construction and replaced with formal landscaping and a berm. A substantial amount of interior landscaping will be removed but also replaced as formalized lawns and buffer areas.
2. The scale and density of the proposed condominiums caused the Lead Agency to determine that the project would have a potentially large impact on aesthetic resources (EAF). The DEIS has not sufficiently utilized recommended processes (e.g. SEQRA Handbook inventory of visual resources, etc.) to determine how aesthetic resources are impacted and how the project can be properly mitigated.

Impacts on Community Facilities and Services

1. Public Services. The DEIS contained limited analyses of the potential for impacts to the various public services on and in the vicinity of the site.
 - a. Taxes and Economic Impacts Schools/ Educational Facilities
During Public Hearings concerning the Serenity Estates PDD application, several comments were received by the Town Board concerning potential impacts of this project on the Eastport South Manor School District. Concerns were raised about tax ratable on a condominium complex, as condominiums enjoy tax benefits that single family houses do not enjoy. A townhouse-ownership structure may mitigate this issue. Such an alternative was not identified in the DEIS.
 - b. After the amendment was submitted to the DEIS on November 9, 2010, the day the hearing on the DEIS was closed, concern was raised about the potential of new students from the now non-age restricted, two bedroom condominiums. There was no mitigation offered for the potential increase in school-age children.

Impacts on Historic, Archaeological and Cultural Resources

1. Based upon proximity to an Indian foot trail, prehistoric sites situated nearby, and a possible intermittent creek traversing through the parcel, the property was seen as having a higher than average potential for the recovery of prehistoric archaeological artifacts. For similar reasons, the property was assessed as having a moderate potential for historic Native American sites and an eighteenth century wigwam.
2. The Phase IB archaeological field survey by Tracker Archaeology Services, Inc., dated March 2003 indicated that no historic or prehistoric features or artifacts were encountered. The accuracy of the report and its conclusions were not commented on by the Town's Cultural Resource Subcommittee of the Landmarks and Historic Districts Board and recommendations were not received.

3. The Phase 1B Study was not commented on by the NYS Office of Parks, Recreation and Historic Preservation to ascertain if further studies are warranted and to determine if the new construction would adversely impact the recovery of prehistoric artifacts.
4. Although no artifacts were recovered from test pits, any development of the subject site should have monitoring protocols associated with the potential for uncovering prehistoric or historic artifacts; these would have to be identified as mitigation strategies.

Impacts on Energy

1. Development associated with the proposed action would proportionately increase the level of electrical, oil and natural gas consumption in the area; more so than the as-of-right yield of 13 units. The Condominiums would be required to be constructed to Energy Star specifications and any other applicable Code related to energy efficiency.
2. As sustainability is a major goal of the Town of Southampton, the proposal does not incorporate the use of renewable energy, passive solar, solar panels or other alternatives that would be considered beneficial in exchange for increased density and consumption.

Impacts on Noise

1. Based on the types of land uses proposed, it is anticipated that the majority of noise impacts would occur during construction of the project. The Noise section of the DEIS is encyclopedic and not germane to the noise levels that will be produced by the project's construction or ambient noises surrounding the project site that may impact the future residents.
2. Noise associated with the proposed Sewage Treatment Plant was not assessed.
3. Due to items 1 and 2, the Lead Agency cannot make a determination related to potential noise impacts and mitigation of same.

Impacts on Air Quality

1. The entire Air Quality Section (3.10, page 99) of the DEIS states the following:
“The subject property is currently a vacant parcel which has not been used in many years. Accordingly, there are no existing air quality issues at the subject site and the general air quality of the property is substantially similar to other vacant parcels in the vicinity”
2. Information related to the discharge of air and compliance with New York State's most recent Implementation Plan (SIP), as approved by EPA was not provided. The DEIS does not address the particulate monitoring of construction activities that may generate fugitive dust from exposed contaminated soil and protocols

related to mitigation. In addition, odors from the proposed sewage treatment plant (STP) were not assessed in terms of impact on air quality.

3. Due to the omissions outlined in item 2, local impacts related to increased ambient concentrations of criteria pollutants, whether temporal (related to construction activities) or long-term (related to increased car use because of increased density or the STP) cannot be assessed or appropriately mitigated by the Lead Agency.

CERTIFICATION OF FINDINGS TO DISAPPROVE AND NOT UNDERTAKE PROPOSED PLANNED DEVELOPMENT DISTRICT CHANGE OF ZONE APPLICATIONS

Based upon the information contained in the FEIS, as outlined in these Findings and the supporting documentation provided, the Southampton Town Board hereby finds that the proposed action does not minimize potential environmental impacts and would not provide the necessary balance between the protection of the environment and the need to accommodate social and economic considerations. Therefore, having considered the DEIS, the FEIS, the record before the Board, and having further considered the foregoing written facts and conclusions relied upon to meet the requirements of 6 NYCRR Part 617.11, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met.
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives thereto, the proposed action does not minimize or avoid adverse environmental impacts to the maximum extent practicable, including the effects disclosed in the Final Environmental Impact Statement.
3. Consistent with social, economic, and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the Final Environmental Impact Statement process would **not** be minimized or avoided by adoption of the proposed zoning change, including the mixed use alternative.

The Town Board, pursuant to 6 NYCRR Part 617.11 has prepared the Findings stated herein and shall cause it to be filed in accordance with 6 NYCRR Part 617.12(b).

Southampton Town Board, Lead Agency

Signature of Responsible Official

Name of Responsible Official

Title of Responsible Official

Date

116 Hampton Road
Southampton, NY 11968

A copy of this Findings Statement has been sent to:

Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-1750

Town Clerk, Town of Southampton
Planning Board, Town of Southampton
Chief Building Inspector, Town of Southampton
Town Engineer, Town of Southampton
Fire Marshal, Town of Southampton
Highway Department, Town of Southampton
Conservation Board, Town of Southampton
Architectural Review Board, Town of Southampton
Public Transportation and Traffic Safety Director, Town of Southampton
Eastport Fire District
Westhampton Ambulance

Involved/Interested Agencies:

Southampton Town Department of Public Works
20 Jackson Avenue
Hampton Bays, NY 11946

Southampton Town Division of Engineering
Town Hall
116 Hampton Road
Southampton, NY 11968

Suffolk County Department of Health Services
Suffolk County Center
P.O. Box 6100
Riverhead, NY 11901

Suffolk County Department of Public Works
335 Yaphank Avenue
Yaphank, New York 11980

Suffolk County Planning Commission
H. Lee Dennison Building - 4th Fl
100 Veterans Memorial Highway
PO BOX 6100
Hauppauge, New York 11788-0099

New York State Department of Environmental Conservation
SUNY Stony Brook, Building 40
Stony Brook, NY 11790

Suffolk County Water Authority
4060 Sunrise Highway
Oakdale, NY 11796

Speonk-Rensenburg Citizens Advisory Committee & CAC West-
c/o Hank Beck, Chairman
90 Jagger Lane
Westhampton, NY 11977

Speonk-Rensenburg Civic Association
Suzanne T. Collins
P.O. Box 735
Rensenburg, NY 11960

Speonk-Rensenburg Citizens Advisory Committee & CAC West
c/o Robert Mozer, Co-Chair
P.O. Box 282-29 Dock Road
Rensenburg, NY 11960

Any person who has requested a copy of the Final EIS

This Findings Statement is also on file at the Town Clerk's Office and online at <http://www.southamptownny.gov>