

**FINAL
ENVIRONMENTAL IMPACT STATEMENT**

**FIVE TOWNS COLLEGE
LIVING/LEARNING CENTER**
Special Use Permit Application #17318

**305 North Service Road
Dix Hills, Town of Huntington
Suffolk County, New York
SCTM # 400-261-3-1.2**

NP&V Project No. 91170

March 2004

NELSON, POPE & VOORHIS, LLC
ENVIRONMENTAL • PLANNING • CONSULTING



**Final
Environmental Impact Statement**

**FIVE TOWNS COLLEGE
LIVING/LEARNING CENTER
Special Use Permit Application #17318**

**305 North Service Road, Dix Hills
Town of Huntington, New York
SCTM # 400-261-3-1.2**

Prepared for:

Five Towns College
305 North Service Road/LIE Exit 50
Dix Hills, NY 11746
(631) 424-7000
Contact: David Cohen, Dean of Administration

Lead Agency:

Town of Huntington, Zoning Board of Appeals
c/o Department of Planning and Environment
Town Hall, 100 Main Street
Huntington, NY 11743
(631) 351-3196
Contact: Richard Machtay, Acting Director of
Planning

Prepared by:

Archaeological Services, Inc.
10 Woodthrus Court, Executive Circle
Miller Place, NY 11764
(631) 331-5665
Contact: Robert Kalin

Nelson, Pope & Voorhis, LLC
Nelson and Pope, LLP
572 Walt Whitman Road
Melville, NY 11747
(631) 427-5665
Contact: Charles J. Voorhis, CEP, AICP

RMS Engineering (Traffic)
355 New York Avenue
Huntington, NY 11743
(631) 271-0576
Contact: Wayne Muller, PE

Goldstein, Rubinton, Goldstein & DiFazio PC
18 West Carver Street
Huntington, NY 11743
(631) 421-9051
Contact: Arthur Goldstein, Esq.

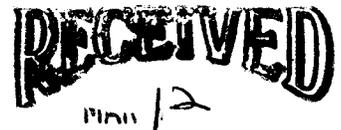
This document, together with the Draft Environmental Impact Statement concerning this proposal, represents a Final Environmental Impact Statement (FEIS). Copies are available for public review and comment at the office of the Lead Agency. Comments on the FEIS should be submitted to the Lead Agency listed above by _____ to be included in the public record and considered in the Findings Statement.

Date FEIS Accepted: _____

Copyright © 2004 by Nelson, Pope & Voorhis, LLC



NELSON, POPE & VOORHIS, LLC
ENVIRONMENTAL • PLANNING • CONSULTING



TOWN OF HUNTINGTON
DEPARTMENT OF PLANNING
AND ENVIRONMENT

TABLE OF CONTENTS

	<u>Page</u>
COVER SHEET	i
TABLE OF CONTENTS	ii
1.0 OVERVIEW OF THIS DOCUMENT	1-1
1.1 Introduction	1-1
1.2 Organization of this Document	1-1
2.0 COMMENTS AND RESPONSES	2-1
2.1 Contents of DEIS Inadequate and Biased	2-1
2.2 Issue of As-of-Right vs. Proposed	2-1
2.3 Documentation of Jobs/Students Lacking	2-3
2.4 History of Litigation Unnecessary and Biased	2-3
2.5 Advocacy Statements	2-4
2.6 Future Site Populations, Sanitary Flows and Groundwater Impacts	2-4
2.7 Traffic Comments	2-7
2.8 Cultural Resources	2-10
2.9 Segmentation and Potential Future Library	2-11
2.10 Supplemental Information for ZBA	2-12
2.11 Alternatives	2-14
2.12 Occupants in Rooms and in Buildings	2-14
2.13 Intensity of Use Change	2-15
2.14 Proximity of Houses and Uses to Neighbors	2-16
2.15 Five Towns College Listed as a Convention Center or Hotel	2-16
2.16 Absence of Disclosure of Five Towns College Growth Plans	2-17
2.17 Use of Five Towns College for Outside Events	2-17
2.18 Building Height, Elevators and ADA Accessibility	2-18
2.19 STP Use and Design	2-18
2.20 LIE North Service Road Access	2-19
2.21 Visual Impact of Buildings	2-20
2.22 Parking	2-21
2.23 Amphitheater	2-21
2.24 Future Buildings on Campus as Accessory Structures	2-23
2.25 Crime and Five Towns College Students	2-23
2.26 Crime Reports	2-24
2.27 Support for Application	2-24
2.28 Five Towns College Students and SUNY/Farmingdale	2-24



APPENDICES:

- A TRANSCRIPT OF HEARING, ZBA, July 24, 2003**
- B WRITTEN COMMENTS, Ethan C. Eldon, July 24, 2003**
- C TRANSCRIPT OF HEARING, ZBA, September 17, 2003**
- D CORRESPONDENCE**
- E RESPONSE TO STAFF COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT, Five Towns College, NP&V, LLC, July 2003**



SECTION 1.0
OVERVIEW OF THIS DOCUMENT



1.0 OVERVIEW OF THIS DOCUMENT

This document is a Final Environmental Impact Statement (FEIS) for the Five Towns College Special Use Permit application. This FEIS is one of the final steps in the environmental review process, as described in general terms below.

1.1 Introduction

This document is part of the official record under the State Environmental Quality Review Act (SEQRA) process, as outlined in Title 6 of the New York State Code of Rules and Regulations Part 617, with statutory authority and enabling legislation under Article 8 of the NYS Environmental Conservation Law. The DEIS was submitted to the lead agency (the Huntington Board of Zoning Appeals, ZBA), in January 2003 and was accepted by that agency as complete for public review and comment on March 14, 2003. This FEIS addresses the written agency and public comments on the DEIS received by the ZBA, and the verbal comments provided during the July 24, 2003 hearing (continued to September 17, 2003). After acceptance of the FEIS and at least a final 10-day comment period, the ZBA will be responsible for the preparation of a Findings Statement. Following this process, the ZBA will render a decision on the proposed project, utilizing the information contained in the Findings Statement.

Therefore, this document addresses comments made during the public hearings, as well as the written comments received by the ZBA from the public. This FEIS is a part of the EIS record; the DEIS is incorporated by reference such that the combination of the DEIS and this document constitutes the complete EIS.

1.2 Organization of this Document

Transcripts of the July 24th and September 17th hearings are presented in **Appendices A and C**, respectively. **Appendix B** contains all written comments received. In the appendices, substantive comments have been indicated and numbered sequentially, along with the section where the response can be found. There were a total of 66 separate comments; **Appendix A** contains comments A-1 to A-21, **Appendix B** contains comments B-1 to B-15, and **Appendix C** contains comments C-1 to C-30. **Appendices D and E** contain materials in support of various responses.

Because a significant proportion of the comments are similar to, closely related to and/or duplicate other comments, it was decided to group these related comments together, so that only one response would be necessary for each grouping. As a result, only 28 different groups of comments were made; each subsection of **Section 2.0** addresses one group of comments. The comment numbers to which the response refers are listed in each subsection so that the reader may refer back to **Appendices A, B or C** to review the comments in their original form.

Each response provides information necessary for the Lead Agency and other involved agencies to make informed decisions on the specific impacts of the proposed project. This document fulfills the obligation of the Huntington ZBA in completing an FEIS based upon 6NYCRR Part 617.9 (b)(8).

SECTION 2.0
COMMENTS AND RESPONSES



2.0 COMMENTS AND RESPONSES

2.1 Contents of DEIS Inadequate and Biased

Comments A-1 and B-1:

In reference to the DEIS, this comment states: *“It is confusing. It leaves out much that is required of an EIS and in my opinion it never should have been issued for public review before the many deficiencies were corrected.*

Even worse, however, than the information that is incorrect or just plain lacking from the document is that the entire DEIS reads like an attorney’s presentation to the board. This DEIS, instead of being an independent third-party unbiased disclosure document of potential environmental impacts as required by the State Environmental Quality Review Act, reads throughout like an advocacy document straining to try to convince the reader of the merits of the project provides little, if anything, by way of arms-length analysis of the potential environmental impact of the proposed project.”

Response:

This is a vague and subjective comment that represents the opinion of commentator and contains no specific instances of *“incorrect”* or missing information. It should be noted that the DEIS was prepared by professional consultants on behalf of the Applicant, was submitted to the lead agency and, based upon the review conducted by experienced, qualified personnel of the Town Department of Planning and Environment over a period of approximately six (6) months and their positive recommendation, the lead agency determined that to accept the DEIS as acceptable for public review and comment. This lead agency action would also indicate that the information presented in the DEIS adequately addressed the necessary contents specified in the Scoping document.

The comment that the DEIS *“...reads throughout like an advocacy document...”* reflects the commentator’s opinion, in that the document was accepted by the lead agency, after first passing the scrutiny of the Town Department of Planning and Environment’s review. The document was prepared to accurately portray the regulatory status of the project, and to describe and analyze site conditions and project impacts as required by SEQRA.

2.2 Issue of As-of-Right vs. Proposed

Comments A-2 and B-2:

“Early in the document the claims made that the proposed dormitories will reduce impact to waste water because of quote, as of right the college is allowed to add one thousand five hundred eighty-two additional commuter students.

The issue is not what the college can do as of right versus the proposed dormitories. What they can do as of right would not be surrendered if the dormitories were approved.

The issue for the EIS is the impact of the proposed dormitories.”

Response:

The SEQRA methodology has grafted upon it the general concept of law that the proposed use should be compared to the as-of-right use. The Court in 7 Eleven, Inc. v. Board of Trustees of the Village of Mineola, 289 A.D.2d 250, 733 N.Y.S.2d 729.730 (2nd Dept. 2001) specifically stated that it was appropriate to compare the as-of-right uses to a proposed use.

The buildings are located in an R-40 District. A college use is an absolutely as-of-right permitted use in this district. The buildings as they stand without any modification can be utilized without any application to the Zoning Board of Appeals (ZBA). The Planning Board has already approved the Site Plan for the buildings in their present configuration. If the same buildings were evacuated by the resident students and occupied by commuter students, then the buildings would remain as they are and the college would be entitled to have 3,071 additional commuter students. The limitation on the number of resident students is brought about by reason of the Suffolk County Department of Health Services (SCDHS) requirement for population density under which Five Towns College (FTC) would be allowed to have: either 208 resident students or an additional 3,071 commuter students.

This as-of-right use of the additional students was analyzed in the hearing in terms of the effect of the traffic generation from the site. The first observation in this respect is that the students who live on the site generate far less traffic than those students who are commuting. The students who live on the site have their meals on the site and generate less vehicle trips than commuter students. The trip generation characteristics of the site were the result of on-site traffic counts, and the traffic analysis contained in the Traffic Impact Study (TIS) was based on thorough and approved methodologies. In regard to trip generation, the TIS stated:

As part of this investigation, an estimate of the quantity of traffic generated by the development of the subject property was prepared. There are no corresponding Land Use Codes contained within the **Institute of Transportation Engineers (ITE) Trip Generation Manual, 6th Edition, 1997** and the **ITE Trip Generation Handbook, October 1998** that would properly estimate the trips generated by the four (4) residential halls, or 208 beds. In EAF Parts II and III, prepared by Nelson & Pope, LLP, it was assumed that 52 trips would be generated by the proposed facility at full capacity. *The Director of Engineering Services for the Town of Huntington deemed this assumption reasonable [emphasis added].*

However, at the present time, there are two residence halls occupied. As per discussions with FTC, it was discovered that 40 students out of 104 resident students have vehicles parked on campus. These vehicles are already included in the traffic generated by the college. Therefore, it is assumed that the total number of students to have vehicles parked on campus at full occupancy is 80, an increase of 40 from the current number.

In order to be conservative, for the purposes of this report, RMS assumed that 26 vehicles of the possible 40 vehicles (65%) would enter and exit the college during each peak hour. However, it is known and understood that this estimate is conservative [i.e., higher than actually expected] because students will be walking to and from their classes, not driving. In fact, the vehicles from the student living in the dormitories will already be parked in the parking lot for Five Towns College.

In addition, the Dean of Administration has indicated that the student enrollment of Five Towns College is not expected to increase after the completion of the third dormitory, and only minimally after the fourth. Enrollment will stabilize with an additional 104 people living on campus. Therefore, there will be 104 fewer students driving to and from Five Towns College during the week for classes and during nights and weekends for social and educational activities. *Therefore, the trips generated by the college will decrease upon completion of the project [emphasis added].* In order to be conservative, the decrease in trips generated was not credited to the existing volumes.

In consideration of the above, it may be concluded that the addition of 3,071 students commuting and using the roadways would have a far greater impact on the site and vicinity than that from the 208 students ultimately residing at the college.

2.3 Documentation of Jobs/Students Lacking

Comments A-3 and B-3:

“On the same page a statement is made that one job is created for every eleven students, but absolutely no verifiable documentation is provided to support that claim.

The same unsubstantiated claim is made again on page I-7. A DEIS is a disclosure document and substantiation of this kind of statement is a basic requirement.”

Response:

Table 1-1 of the DEIS, in the “Existing Conditions” column, indicates that there are at present a total of 963 students, and there are 82 faculty and staff positions. This would indicate that there are approximately 11 students per employee, as indicated on pages S-2 and I-7. The values for students (including resident and commuter) and employees (both faculty and staff) were deduced from actual enrollment and staff figures.

2.4 History of Litigation Unnecessary and Biased

Comments A-4 and B-4:

“The entire section II.3 that goes on for three pages is a highly biased discussion of the history of litigations of the proposed project. That has no relevancy for documenting potential environmental impact. But would seem to lecture the ZBA on the appropriateness of the action, of the applicant’s action. This is totally inappropriate.”

Response:

The history of the litigation is relevant and was objectively stated. The fact that the Site Plan had previously been approved by the Planning Board and the legality of the Site Plan which was verified by the determination of Mr. Justice Gowan, Supreme Court is pertinent to the regulatory status of the project and is important to understand in the context of this SEQRA review. The previously approved Site Plan and the SEQRA process for that approval were challenged in the Supreme Court and sustained by Mr. Justice Gowan. This affirmation of the SEQRA determination is binding upon the Town in this matter. It was also relevant for the ZBA to consider in the environmental context, the fact that the Supreme Court granted FTC the right to construct the two building and the buildings were constructed without any stay being in effect by the Town.

2.5 Advocacy Statements

Comments A-5 and B-5:

“The section entitled community opposition, instead of objectively stating the concerns raised by the community, the document again chastises the ZBA with advocacy statements like, and I quote, the record should reflect that the first application was made to the ZBA in 1998 but the ZBA declined to involve itself, end quote.

And quote, if the ZBA considered this matter at that time, this entire controversy might have been voted, close quote. This kind of statement shows how biased the authors of what purports to be a DEIS, the material fails any test of objectivity.”

Response:

The statements concerning the declination of the ZBA to assume jurisdiction in 1998 is not an advocacy statement but an objective fact. This is relevant to the SEQRA process because the ZBA had the opportunity to review the environmental considerations and had the opportunity to assume jurisdiction. The record and facts show that the ZBA acquiesced in the jurisdiction of the Planning Board. The fact that the matter was declined by the ZBA and the hearing was held before the Planning Board is a statement of fact and has nothing to do with advocacy.

2.6 Future Site Populations, Sanitary Flows and Groundwater Impacts

Comments A-6, A-14, B-6, C-1 and C-3:

These comments indicate concerns that future site populations (e.g., commuter students, resident students, faculty and staff, as well as perceived temporary populations including attendees of performances and conferences) will exceed the capacity of the on-site wastewater system, which would also exceed the permissible flow, with attendant adverse impacts on groundwater quality.

Response:

The DEIS states that the projected 808 commuter and 208 resident students, and 102 projected faculty/staff will generate, in conformance with the applicable SCDHS requirements, a total of 20,150 gpd of sanitary wastewater (see **Appendix D** for confirmation of this volume from the SCDHS). If an on-site septic system were proposed, Article 6 of the Suffolk County Sanitary Code (SCSC) would allow up to 20,160 gpd of sanitary wastewater to be generated on this site; thus, as the proposed project does indeed include such a system, the proposal would and does conform to this requirement. It should also be noted that review of the Dix Hills Water District records (the public water supplier to the site; see **Appendix D**) finds that, based on its records for the period February through July, 2003, average daily water use was 7,064 gpd, which is 56% of the projected rate for the current site occupancy.

If FTC were to remain as presently configured (with 859 commuter and 104 resident students, and 82 faculty/staff), it would have the capacity to add 1,511 new commuter students and 20 additional faculty/staff, raising its total commuter student population to 2,370, its total enrollment to 2,474 students, and total on-site population to 2,576 persons (see below). Under the proposed project, FTC would almost completely eliminate this potential increase in site occupancy. Specifically, when the current construction program is completed, FTC will still have capacity for only an additional 2 commuter students.

POTENTIAL SITE OCCUPANCY
(based on sanitary wastewater generation)

	Existing Conditions	Potential Under Existing Conditions	Potential Under Proposed Project
Commuter Students	859	2,370	808
Resident Students	104	104	208
Faculty/Staff	82	102	102
Total Occupants	1,045	2,576	1,118
Sanitary Wastewater *	12,505 gpd	20,160 gpd	20,150 gpd

* Maximum volume of sanitary wastewater allowed by SCSC for on-site septic system: 20,160 gpd.

It must be emphasized that, inasmuch as resident students generate significantly more sanitary wastewater than commuter students, FTC's decision to institute on-campus housing means that the maximum allowable sanitary wastewater generation rate (20,160 gpd) determines how many and what type of students can be accommodated at the College. Thus, the proposed project represents a significant reduction in potential impacts to the character of the community and its roadways, by significantly reducing the potential increase in the number of commuter students.

Conformance to Article 6 of the SCSC ensures that adverse impacts to groundwater quality and quantity would not occur. It should be noted that the SCDHS reviewed the project's sanitary system design and capacity, and issued its approval; it is this approved system which has been operating on the site since the two now-occupied dormitory buildings were opened.

In regard to comments that the volume of wastewater generated on the site will exceed SCDHS standards, it should be remembered that there are two components of wastewater: “sanitary” (i.e., toilet) wastewater and kitchen wastewater. While the wastewater system has been designed to accommodate both components, the SCDHS calculation of population density is based on only the sanitary portion, as this is the portion that contains nitrogen from human waste, which can impact groundwater quality. Thus, SCSC Article 6 (and the SCDHS design standard which implements it) distinguishes between sanitary and kitchen wastewater, in that 5 gpd/capita of sanitary wastewater are assumed for each commuter student and faculty/staff member, and 75 gpd/capita of sanitary wastewater are assumed for each resident student; an additional 2.5 gpd/capita of kitchen (here, cafeteria) wastewater are assumed for all occupants equally. Kitchen wastewater is only included in calculations used to determine the required minimum capacity of the wastewater system (see table below and **Appendix D**).

WASTEWATER GENERATION AND POTENTIAL SITE OCCUPANCY

	Existing Conditions		Potential Under Existing Conditions		Potential Under Proposed Project	
	Sanitary	Kitchen	Sanitary	Kitchen	Sanitary	Kitchen
Commuter Students (1)	4,295gpd	2,148 gpd	11,850 gpd	5,925 gpd	4,040 gpd	2,020 gpd
Resident Students (2)	7,800 gpd	260 gpd	7,800 gpd	260 gpd	15,600 gpd	520 gpd
Faculty/Staff (1)	410 gpd	205 gpd	510 gpd	255 gpd	510 gpd	255 gpd
Totals	12,505 gpd	2,613 gpd	20,160 gpd	6,440 gpd	20,150 gpd	2,795 gpd
TOTAL WASTEWATER GENERATED (3)	15,118 gpd		23,600 gpd		22,945 gpd	

- (1) Total wastewater generation of 7.5 gpd/capita, as: 5 gpd/capita sanitary and 2.5 gpd/capita kitchen.
- (2) Total wastewater generation of 77.5 gpd/capita, as: 75 gpd/capita sanitary and 2.5 gpd/capita kitchen.
- (3) Indicates minimum capacity of wastewater system.

Based on the allowed occupancies for FTC’s auditorium (658 capita), gymnasium (1,190 capita) and classrooms (850± capita, total), 2,698 people may occupy the campus at any one time (no Town-imposed limits for occupancy have been discerned by FTC). This estimate does not include capacities for the library and lunchroom, which would tend to increase this estimate even further. Thus, the total number of people allowed on-campus is well in excess of the number anticipated as a result of the proposed project. Finally, it should be noted that, as all students are not on-campus at any one time, the actual number of people on the site would not approach, much less exceed, the maximum number allowed.

Concerns were expressed that use of FTC for performances or conferences simultaneous with occupancy by students would exceed the ability of the sanitary system to operate properly (and would result in impacts to groundwater quality). The site has two facilities that could be used for conferences, performances or other events: the auditorium and the gymnasium. It should be noted that only one event (whether during the school year or the summer) would be held at a time, so that the auditorium and the gymnasium would not be occupied simultaneously. In addition, FTC’s experience is that events are few in number; non-school related conferences are

rare and when held, are small in attendance and conducted in the summer. Student and outside performances are held in the evenings, when commuter students are not present. For these events, even full occupancy of the auditorium (658) plus the 208 dormitory residents would generate less wastewater than that of the campus on a typical day during the school year (808 commuters plus 208 residents plus 102 staff/faculty).

In the unlikely event that an educational conference would require all attendees to occupy the site, attendance would be limited to the occupancy limitations of the dormitories. Furthermore, such an event would have to be held in the summer, when fewer students (whether resident or commuter) are present. In such a case, there would be a significant reduction in overall wastewater generation from normal operating conditions, as there would be at most 208 dormitory occupants, and the site is occupied by fewer commuter students and staff/faculty in the summer.

The proposed project does not include outside events, conferences, performances or the like; where applicable, such events would continue to be subject to Town review and permitting authority, so that the potential for adverse impacts to the community would continue to be subject to Town scrutiny and approval.

In summary, FTC's experience and policy regarding outside events and evening performances is such that its sanitary wastewater allotment would continue to be satisfied after completion of the proposed project.

2.7 Traffic Comments

2.7.1 Comments A-7 and B-7:

"As to traffic impacts, the traffic impact report does not provide the complete peak hour study. Only a section of the Petit Drive analysis mentioned that the A.M. peak hours are eight to nine A.M. and not nine to ten A.M. for the commuters at college the peak hour is respectively.

The Saturday and P.M. peak hours were not provided. How the peak hours were determined and what time periods were studied should have been provided in the report and were not."

Response:

As indicated on pages 23 through 25 of Volume 2 of 2 of the DEIS referred to here in as the Traffic Impact Study or TIS, it was clearly indicated that data was collected between the hours of 7:00 AM to 12:00 PM on two weekdays during the Petit Drive Analysis. These hours were chosen since they represent the hours during which the traffic enters the site.

The Saturday AM and PM hours were not chosen since the quantity of vehicles that enter the college during these peak hours is relatively minor.

Additionally, as stated in the DEIS and at the public hearing, the occupation of the dormitories will tend to reduce vehicular traffic to the school.

2.7.2 Comments A-8 and B-9:

“Figures 2 to 6 in the Traffic Impact Study provide the existing traffic volumes. According to Figure 1 – Road map in the Traffic Impact Study, the traffic volumes should be balanced (equal) on Bagatelle Road between the Long Island Expressway Northbound and Southbound Service Roads and on Burr’s Lane between the North Site Access and South Site Access. However, the traffic volumes for those intersections have not been balanced. Conversely, Figure 1 in the Traffic Impact Study shows the off-ramp onto the LIE North Service Road between Bagatelle Road and Burr’s Lane. The traffic volumes at the westbound approach at the intersection of the LIE North Service Road and Bagatelle Road should be greater than those from the intersection of the LIE North Service Road and Burr’s Lane because of the off-ramp that exits between them from which some trips are coming from the westbound LIE main lanes. However, the Traffic Impact Study indicates that the traffic is in balance between Bagatelle Road and Burr’s Lane (see Figures 2 to 6 in the Traffic Impact Study). This means that the traffic exiting from the westbound LIE main lanes is missing from the analysis.”

Response:

As indicated on page 10 of the TIS, the peak hour during each period at each individual intersection was compiled to represent the most conservative depiction of the traffic volumes at each location. The TIS incorrectly fails to identify that traffic volumes were collected between 9:00 and 11:00 AM which would be during the morning college peak period. Essentially, many students enter the school after the morning rush hour. The individual peak hour during each of the time periods in which data was collected was compiled. The peak hour during the morning commuter hour could be 8:00 – 9:00 AM at one study intersection, while at another location the peak hour could have been 7:45 – 8:45 AM. This is the reason for the discrepancy. We believe in this fashion, we provided the most conservative depiction of the potential traffic generated by the project. We utilized the peak hour observed at each individual location.

The traffic exiting the westbound LIE is not missing from the analysis. To provide a conservative analysis of the traffic operating conditions at the intersection of the LIE North Service Road at Burr’s Lane, the traffic associated with the ramp was not subtracted from the traffic stream passing by Burr’s Lane. The traffic volumes at this location were inflated.

It is important to realize that, as was stated at the Public Hearing, the dormitories will tend to reduce vehicular traffic during school hours since the students will already be on the property and will not have to travel on the adjacent roadway network to access the property.

2.7.3 Comments A-9 and B-11:

“As indicated in the Traffic Impact Study (page 17), approximately 50% of the students at Five Towns College are Suffolk County residents, approximately 30% are Nassau County residents, approximately 10% are from New York City and approximately 10% from outside of Long Island/New York Metropolitan region. This indicates that approximately 50% of the students arrive at the College from the west side of the campus and the majority of them would use the LIE to drive to the College. The traffic condition for the LIE South Service Road at Bagatelle Road is currently at level of service (LOS) of F (severe congestion) with delay time of 136.5 seconds (155.5 seconds of delay under the No-Build Condition) during the PM peak hour. The trip assignments in the Traffic Impact Study indicate that 6 vehicular trips from the project were assigned to the LIE South Service Road left-turn movement at Bagatelle Road during the AM Commuter peak hour. However, in the PM Commuter peak hour only one vehicular trip of the 13 inbound trips to the project was assigned to the LIE South Service Road left-turn movement at Bagatelle Road. This is an unreasonably low traffic volume assigned to the LIE South Service Road left-turn movement (inbound) at Bagatelle Road for the PM commuter peak hour based on the existing roadway network since the LIE South Service Road carries students coming from Nassau County and New York City. This unreasonably low trip assignment avoids showing a significant traffic impact that would most certainly result from a realistic analysis.”

Response:

It is important to realize, that as was stated at the Public Hearing and in the **Reponses, Sections 2.7.1 and 2.7.2** above, the dormitories will tend to reduce vehicular traffic during school hours since the students will already be on the property and will not have to travel on the adjacent roadway network to access the property. It can be assumed that during the PM commuter peak hour, students associated with the dormitories are finishing classes and returning to the dormitories or possibly eating dinner. As indicated in Table 4 of the TIS, the predominant movement during the PM commuter peak hour relates to exiting traffic, that is students exiting the school at the end of classes. Therefore, it would be reasonable that the number of vehicles associated with the school at the entering left-turn movement at the LIE South Service Road/Bagatelle Road intersection would be less than that experienced during the AM commuter peak hour when the students are entering the school.

2.7.4 Comment B-8:

“As indicated in the Traffic Impact Study, the traffic volume survey was conducted during the weekday during 7:00-9:00 AM, 11:00 AM-3:00 PM and 4:00-6:00 PM and during the Saturday 11:00 AM-3:00 PM and 4:00-6:00 PM periods. These peak hour periods correspond to Commuter peak hours and are different from the College peak hours. As shown in Page 24 of the Traffic Impact Study, the College peak hour is 9:00-10:00 AM. The Traffic Impact Study does not provide information as to how and when the background traffic volumes for the 9:00-10:00 AM as well as the PM and Saturday College peak hours were collected.”

Response:
See **Response, Section 2.7.2.**

2.7.5 Comment B-10:

“The Traffic Impact Study calculated the No-Build condition traffic volumes for the Dix Hills Soccer Club and states (Page 14): ‘On Saturday and Sunday, there will be games played on the Five Towns College soccer fields. As per Ted Freedman, the games will be scheduled hourly, beginning hourly at 10:00 am and lasting until 4:00 pm on some days. Using the number of vehicles per team listed above, there will be 40 vehicles entering and exiting the college each hour, for the soccer fields only.’ This estimate (total 80 vehicular trips) only includes the trips for the players. There should be some vehicular trips from audience for the games within the same time. Therefore, the total trips would be more than 80 vehicular trips.”

Response:

Regarding the quantity of traffic generated by the soccer facility during the Saturday peak hour we consulted the ITE Trip Generation Manual, 7th Edition, 2003 (a recognized industry standard). Using the information presented in Land Use Code 488, we have determined that the two (2) soccer fields would generate 58 total trips (28 entering/30 exiting trips) during the Saturday peak hour. Based on this information, we believe that the 80 total trips (40 entering/40 exiting trips) represented in the TIS are adequate to represent the quantity of traffic generated by the soccer facility. In fact, the 80 trips essentially represent a conservative depiction of the traffic generated by the soccer facility.

2.8 Cultural Resources

Comments A-10 and B-12:

“In the cultural resource section two point six point one, a phase one B archeological study is referred to and is included in the appendix. However there’s no documentation from the New York State Office of Parks, Recreation and Historic Preservation indicating whether this documentation or study was ever received, reviewed or approved.

The original environmental assessment form for this project was deficient for not notifying the New York State Office of Parks, Recreation and Historic Preservation and the pattern continues with this DEIS.

This document is not approvable without verification on this point because the Office of Parks, Recreation and Historic Preservation notified the applicant after we contacted them regarding the failure of the applicant to notify them of the original EIS process and the state notified them that this site is located within an area designated by the state to be archeologically sensitive.

The DEIS does not contain the necessary documentation from the state, that they have reviewed the one archeological analysis and that they accept it and approved it. And that the project would not have a negative impact on an archeologically sensitive area. It's just not there."

Response:

The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) conducted its review of the proposed project in early 2000 as part of the prior Town Planning Board review of the Site Plan application. **Appendix D** contains a copy of the letter the Town Planning Board received in April of 2000 regarding the OPRHP review of the materials submitted to that agency. The letter notes that it requires a bound copy of the Phase IB Addendum report (contained in the DEIS as Appendix D-3) in order for it to conclude its review. However, with respect to the potential for impact to cultural resources, the letter states as follows:

It is the opinion of the OPRHP that the project will have No Impact on historic properties in or eligible for inclusion in the State and National Registers of Historic Places with the condition that we receive the bound copy of the report.

The applicant has prepared a bound copy of the Phase IB CRA Addendum, and submitted same to the OPRHP (see **Appendix D**).

2.9 Segmentation and Potential Future Library

Comments A-11, B-13, C-2, C-10 and C-12:

These comments question why the approved site plans indicate a library, yet the DEIS does not include or analyze this structure. If such is accurate, the current SEQRA procedure would result in an impermissible segmentation of the project, under SEQRA.

Response:

As set forth in the DEIS, the notation of a "Library" on an early version of the Site Plan was done solely in the process of master planning for the College. Since the College has perpetual life, consideration of all land use possibilities, even those that have a remote possibility, is appropriate. The College did consider the possibility of a new library, but did not adopt that proposal, and has made no plans to do so. Indeed, the College has agreed to a five-year building moratorium in response to this concern (see below). Since the Site Plan application was first filed with the Planning Board of the Town of Huntington in 1998, this five-year additional moratorium represents a continuous period of more than ten (10) years. Clearly there is no segmentation.

In Village of Tarrytown v. Planning Board of the Village of Sleepy Hollow, 032502 NYAPP2, 00-09932, the Second Department found that plans to develop properties that are speculative and hypothetical cannot be said to be part of a larger, unified project and were not subject to a claim of wrongful segmentation. In Matter of Long Island Pine Barrens Society v. Planning Board of the Town of Brookhaven, (204 A.D.2d 548), 1v dismissed in part and denied in part 85 NY2d

854, the court found that a project was not improperly segmented when there was uncertainty as to when, if ever, one of the three lots would be developed. See also, Matter of Forman v. Trustees of the State University of New York, 032103 NYAPP4 12309 (2003).

As stated during the public hearing and as reflected in the record, the applicant has voluntarily consented to not submit applications for new buildings for a period of five years.

2.10 Supplemental Information for ZBA

Comments A-12 and B-14:

"The DEIS was distributed to the public and to this board, that was distributed to the public and this board did not have the correct plans included and was adopted by the applicant in an effort to cover the mistake by issuing approximately two weeks ago a document entitled, Response to Staff Comments on the Draft Environmental Impact Statement dated July 2003. No specific date was provided.

Anyone that read the DEIS prior to the issuance of the supplementary material would have been completely misled to believe that what they saw was complete and correct. Responses to staff comments should have been incorporated into the DEIS before it was made public or sent to the board. That is the way that it is done in jurisdictions throughout the state.

I will tell you that our firm has served as SEQRA review consultants for state agencies for a long period of time reviewing all of the DEIS and EAF that were submitted for projects all over the state and that has also been the standard. No one could properly evaluate what this reported DEIS says.

Because it was too thoroughly confused and confusing in this presentation and material. I have never in my thirty years of experience with SEQRA seen such a strange process that has taken place with this alleged DEIS."

Response:

The correct maps have all been submitted. The comment is merely an observation that has no relevance to the ability of the ZBA to render its determination of significance.

In regard to the Town planning staff comment memo, it should be noted that the DEIS was properly reviewed for content and completeness by the lead agency. The DEIS was accepted as adequate for public and agency review and comment over two months after preparation of the memo, indicating that the lead agency did not consider these comments to be sufficient to forestall acceptance. Following is the pertinent chronology of the DEIS review/processing:

DEIS submitted to the lead agency	January 21, 2003
Town planning staff comment memo prepared	January 30, 2003
DEIS accepted; public hearing scheduled	March 14, 2003

FTC submits response to Town comment memo

July 10, 2003

It was not until April 14, 2003 that the Applicant's consultants received the memo. At that time, it was decided that in lieu of the typical course of addressing the comments in the FEIS and in accordance with FTC's continuing policy of cooperation and full disclosure with the Town, FTC would immediately respond to these minor information requests/explanations, in the form of a short, bound response document to the lead agency (see **Appendix E**). It was meant to and did provide additional information to the lead agency, for its use and consideration in its review of the document and application. The response document is Exhibit 24 in the public hearing of July 10, 2003, indicating that the information it contains was available for the use and review of the lead agency and public. The SEQRA process was in no way compromised by this action, as the information was provided in a public forum as responses to Town questions on the text of the document, neither the questions nor the responses were of material significance to the project or to the lead agency's review process, and the responses do not contain information which had not been provided in the DEIS. Nevertheless, the Applicant's response is contained in this document in order to incorporate the information in that document into this FEIS.

This act does not constitute any material change in the application, or any violation in the letter or spirit of SEQRA regulations or the Environmental Conservation Law. The standards for requirement of a supplemental EIS contained in 6 NYCRR Part 617.9(a)(7) were not exceeded by this action. These standards are as follows:

- (i) The lead agency may require a supplemental EIS, limited to the specific significant adverse environmental impacts not addressed or inadequately address in the EIS that arise from:
 - ('a') changes proposed for the project; or
 - ('b') newly discovered information; or
 - ('c') a change in circumstances related to the project.

- (ii) The decision to require preparation of a supplemental EIS, in the case of newly discovered information, must be based on the following criteria:
 - ('a') the importance and relevance of the information; and
 - ('b') the present state of the information in the EIS.

As the responses are not based on any changes in the proposed project, do not include any newly discovered information and do not reflect any changes in the circumstances related to the project, a supplemental EIS was not called for, necessary, appropriate or required. The short document submitted to the lead agency in response to a few minor Town planning staff comments was appropriate.

2.11 Alternatives

Comments A-13 and B-15:

“In the alternative section no clear evaluation of potential environmental impact is provided. A DEIS is required to show all of the potential environmental impacts for each category of study for each alternative for the purpose of comparison by the reader.”

Response:

In regard to the extent of detail appropriate for a discussion of alternatives in a DEIS, 6 NYCRR Part 617.9(b)(5)(v) states as follows:

A description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed...

The Scoping document specified the alternatives to be discussed and analyzed in the DEIS, implicitly acknowledging the needs and capabilities of the project sponsor. The Alternatives section of the DEIS presented a comparative discussion of the potential impacts, and DEIS Table 4-1 was a quantified compilation of impacts, for those characteristics of each alternative which could be quantified.

The adequacy of this approach in terms of conformance to SEQRA regulations was confirmed by the lead agency’s acceptance of the DEIS as adequate for public review.

2.12 Occupants in Rooms and in Buildings

Comments A-15, C-14 and C-15:

These comments indicate a concern that the number of resident students currently and will in the future exceed the number indicated and analyzed in the DEIS.

Response:

The number of individuals residing on the Five Towns College campus has never exceeded that permitted by any governmental permit or other regulation. Furthermore, even if the ZBA conditions its special use permit on an occupancy limitation, heretofore no such condition has existed, despite the fact that the College has never exceeded any governmental permit or other regulation (see also **Response, Section 2.6**).

2.13 Intensity of Use Change

Comments A-16, C-17 and C-29:

These comments indicate concerns that the proposed project will adversely impact the character of the community.

Response:

The DEIS contained extensive and thorough discussions and analyses of the potential for impact to those aspects of a community which collectively constitute its “character”. Section 2.3.1 of that document states the following in regard to land use:

Potential Significant Impacts

As the project site is already in use as a college campus, and the project represents an incremental increase in this use (that is, there will be no change in the use of the site, only in the level of intensity of that use), there will be no change in the level of conformity of this use to the predominant residential use pattern (with interspersed institutional uses) in the vicinity. More specifically, it is noted that three institutional uses are already present in the vicinity, which match that of the proposed project. The proposed expansion of the FTC campus will continue the compatibility of this use with that of the surrounding community, in that this incremental increase, coupled with the absence of any change in the land use of the subject site or the pattern in the vicinity, does not present any factor which could lead to a change in the existing compatibility of these uses. In addition, ...institutional uses, and specifically school uses, are allowable within residential zoning districts.

...the distance between the new buildings and the nearest residence (opposite the northern portion of the project site, at the northwestern corner of FTC) is approximately 250 feet. It should be noted that there are only 5 residences within approximately 400 feet of the project area. This minimizes the potential for adverse impacts to these potential receptors. In addition, these setbacks are occupied by vegetation on the FTC property, as well as by Half Hollow Road and Burrs Lane, which contribute to the level of land use impact.

As there are no commercial sites in the immediate vicinity, impacts to or from such a land use will not occur either from the proposed project or to these uses. It is not anticipated that the incremental increase in the intensity of FTC operations will materially increase the potential for commercial uses to locate into the area, particularly as appropriate zoning is not in place for such a use, and the residential nature of the area (in combination with the relatively low level of traffic in the roads in the area) would not be attractive to potential tenants.

Mitigation Measures

As the use of the proposed project will not impact the land use pattern of the vicinity, no mitigation measures in this regard are necessary or proposed, other than conformance with all applicable standards of the Town Code and the design measures already approved by the Town Planning Board in its Site Plan approval.

In addition to the above, analysis of potential impacts to property values provided by a qualified professional during the public hearing (see **Appendix A, pages 114 to 146**) indicated that there would be no adverse impact to such values as a result of completion of the proposed project.

2.14 Proximity of Houses and Uses to Neighbors

Comment A-17:

This comment indicates a concern that the proximity of the proposed buildings is unacceptably close to Half Hollow Road and the residences to the east, with associated adverse visual impacts.

Response:

As noted above in **Response, Section 2.14**, the DEIS discussed and analyzed the potential for adverse impacts to the residences in proximity to the FTC campus, particularly those near the site's northwestern corner. The DEIS stated, "...the distance between the new buildings and the nearest residence (opposite the northern portion of the project site, at the northwestern corner of FTC) is approximately 250 feet. It should be noted that there are only 5 residences within approximately 400 feet of the project area. This minimizes the potential for adverse impacts to these potential receptors. In addition, these setbacks are occupied by vegetation on the FTC property, as well as by Half Hollow Road and Burrs Lane, which contribute to the level of land use impact."

Thus, the proposed project incorporates a substantial vegetated buffer for the nearest residences, thereby minimizing the potential for adverse visual impacts for these neighbors. It should also be noted that this site layout had been reviewed by the appropriate Town Planning staff and Board, and had been issued a Site Plan approval, indicating that the Town approving board had determined that the layout was acceptable.

2.15 Five Towns College Listed as a Convention Center or Hotel

Comment A-18:

This comment indicates a concern that the Applicant has not revealed plans to utilize the site for conventions and other similar hotel uses.

Response:

The DEIS clearly states that the College will only use the Living/Learning Center for educational programs connected with its mission, goals and objectives, as authorized by the Absolute Charter issued by the New York State Board of Regents. By way of example, this would include the obvious – housing for matriculated students at the College, and educational conferences and retreats offered at the College in furtherance of its objectives (such as the three-day Leadership Huntington retreat held in June, 2002). Examples of events that would not be offered by FTC include summer camp sleep-away programs for children and innkeeper or boardinghouse operations for the general public.

This position was reiterated during the public hearing. Opposition testimony was given solely for the purpose of unlawfully attempting to limit the College's ability to conduct itself as an institution of higher education, and has no relationship to the current application to add a

residential component to the campus, particularly in view of the fact that the College has agreed to a condition the special use permit as set forth above (see, Town of Islip v. Dowling College, 712 N.Y.S.2d 160 (A.D. 2 Dept. 2000), where the Second Department opined that, “*The activities at issue in this case are permitted educational uses of the subject property and the restrictions which the plaintiff seeks to place on these activities would be impermissible (see generally, Matter of Diocese of Rochester v Planning Bd. of Town of Brighton, 1 NY2d 508; Matter of New York Inst. of Technology v LeBoutillier, 33 NY2d 125; Matter of Summit School v Neugent, 82 AD2d 463)*”).

It must also be stressed that heretofore there have been no governmental permits or conditions that would have limited the ability of the College on this issue, and none have been violated.

2.16 Absence of Disclosure of Five Towns College Growth Plans

Comment A-19:

This comment indicates a concern that the Applicant has not fully disclosed plans for expansions of the site, including a library, an amphitheater, an STP, etc.

Response:

See also **Response, Section 2.9**. FTC has fully disclosed its plans. It has disclosed what was originally a two-phase building plan to add a residential component to its campus consisting of four small residence halls. There are no other plans.

2.17 Use of Five Towns College for Outside Events

Comments A-20 and C-9:

These comments indicate concerns that the Applicant will utilize the site for outside events and meetings, conferences, etc., with associated adverse impacts to the community and its character.

Response:

See **Response, Section 2.15** in regard to legal aspects of this comment. In addition, **Response, Section 2.6** indicates that events such as conferences and performances, if held at the campus, would be conducted in the evenings and would not occur simultaneously.

FTC’s experience is that non-school related conferences are rare and when held, are small in attendance and conducted in the summer. Student and outside performances are held in the evenings, when commuter students are not present. For these events, even full occupancy of the auditorium (658) plus the 208 dormitory residents would generate fewer occupants than that of the campus on a typical day during the school year (808 commuters plus 208 residents plus 102 staff/faculty).

system, which was installed and has been in use since February, 2001) indicates the septic system as designed is appropriate for the proposed project.

Concerns were expressed that use of FTC for performances or conferences simultaneous with occupancy by students would exceed the ability of the sanitary system to operate properly. **Response, Section 2.6** also addresses this issue.

FTC's experience is that events are few in number; non-school related conferences are rare and when held, are small in attendance and conducted in the summer. Student and outside performances (for example, evening cultural events, recitals, plays, concerts, etc) are held in the evenings, when commuter students are not present. For these events, even full occupancy of the auditorium (658 capita) plus the 208 dormitory residents would generate less wastewater than that of the campus on a typical day during the school year (808 commuters plus 208 residents plus 102 staff/faculty). The sanitary system would at such times be capable of handling this volume.

In short, FTC's experience and scheduling policy regarding outside events and evening performances is such that its sanitary wastewater allotment would continue to be satisfied by the existing sanitary system even after completion of the proposed project.

2.20 LIE North Service Road Access

Comment C-5:

This comment requests that the LIE North Service Road be used for vehicle access to the site, in lieu of Half Hollow Road.

Response:

This access scenario was analyzed as Alternative 2 in Section 4.2 of the January, 2003 DEIS. That analysis concluded as follows:

In consideration of the following, there is no compelling reason to implement this alternative in preference to the proposed project:

- the high cost of constructing a new roadway,
- the loss of open space,
- the dangerous conditions created by placing a roadway where neighborhood children play,
- the additional traffic that would be forced travel along routes previously not used,
- the increase in travel times to the college,
- the impact upon adjoining properties and
- the fact that intersections studied would not be impacted in a positive manner by the relocation of the driveway.

In addition, subsequent correspondence indicates that the NYSDOT (the agency which has jurisdiction over the LIE) has determined that it will not approve an access off the LIE North Service Road into the FTC site (see **Appendix D**).

2.21 Visual Impact of Buildings

Comments C-6 and C-8:

These comments indicate a concern that the proposed buildings are too close to Half Hollow Road, and that they are unattractive and unsightly.

Response:

The four dormitory buildings were sited on the campus in the area where the totality of potential adverse impacts (in regard to internal safety and layout efficiency, visual impacts to neighbors, retention of important and useful campus open space, and student security), were minimized. As a result, the new buildings were located in the northwesterly corner where the Applicant believed was the optimum choice and this was confirmed through the Town Planning Board review and approval. Reasons which lead to this siting decision are noted as follows:

- The buildings would be in excess of 300 feet from the nearest adjacent residence;
- The buildings would be located conveniently close to the campus security office;
- The buildings would not require students to walk the length of the campus through parking areas; and
- The buildings would enable the valuable ballfields (used by students and children's soccer leagues) to be retained.

It is acknowledged that development in the northwestern corner would be more visible for observers on Half Hollow Road and the residences in this area than if the buildings were placed elsewhere on-site. However, it is also acknowledged that locating the buildings here would reduce the potential for impacts to the fewest number of residences possible. In addition, the project has also mitigated these potential impacts by:

- retaining as much of the natural vegetation as possible in this area for buffering purposes;
- providing a professionally-designed landscape plan to buffer views of the buildings;
- use of architectural design and building materials having colors and textures similar to or complementary to the general architectural theme of the area;
- providing retaining walls to enable the buildings to be built into the slopes as much as practicable; and
- reducing the building height by building them into the slopes.

In summary, while these buildings would be visible through the combination of natural and landscaped vegetation for observers to the northwest, the applicant has taken appropriate measures to minimize the potential for such visual impacts.

2.22 Parking

Comments C-7, C-27 and C-28:

These comments indicate concerns that there is insufficient parking space available on-site, with students' off-site parking on Burrs Lane having adverse traffic flow and safety impacts on that roadway.

Response:

The DEIS established that sufficient parking is available on-site for all students and faculty/staff, in conformance with the Town Code. In addition, the Applicant has indicated that FTC will ensure that all such autos are parked on-site, and not on Burrs Lane; such a restriction may require assistance from the Town in the form of appropriate "No Parking" signage on Burrs Lane.

Parking on the FTC campus is available primarily in one parking lot, located south of the classroom building. This lot is accessed through the two driveways off of Burrs Lane. Prior to the onset of construction, this lot was divided into paved and unpaved sections, and provided 198 paved spaces and 166 unpaved spaces (364 total). When construction began and in conformance with the Approved Plans, a small 9-space parking strip was installed adjacent to the dormitory structures, and the gravel section was paved. However, at that time a new gravel parking area was installed abutting the southerly edge of the recently paved section, resulting in a capacity of 528 spaces (374 paved and 154 unpaved). The southerly portion of the lot (the new gravel surface) was added by the applicant as an emergency overflow lot and was not submitted to the Town for approval. In total, therefore, there are presently 537 parking spaces on the FTC campus. As two of the dormitories are incomplete and unoccupied, the minimum number of parking spaces required by the Town is 260; when construction is complete and these two buildings are occupied, the parking requirement will be increased to 330 spaces. The site currently contains sufficient spaces to satisfy both parking requirements.

2.23 Amphitheater

Comment C-11:

"At one time the Five Towns College had on its website the plans for building an amphitheater. Why would the college want to build an amphitheater? Is it because it currently has an auditorium built many years ago for a junior high school and only has seating capacity for 600 people?"

Response:

The College auditorium is more than sufficient for the student population now existing and projected by the College. There are no plans to expand that facility, which is currently underutilized. There are no plans for building an amphitheater.

“In comparison, the Manhattan School of Music has two auditoriums. One with a seating of 240 and the other seating 1,160.”

Response:

The Manhattan School of Music is a specialized institution of higher education located in New York City. The Applicant is not privy to the needs and requirements of that institution, and comparison of the current application which seeks to add a small residential component to a small suburban college is wholly irrelevant. More importantly, inasmuch as there is no application concerning the College’s auditorium pending, this argument clearly demonstrates that the opposition is unlawfully seeking to regulate the College’s “as of right” activities as an institution of higher education through this special use permit process.

“In order to compete as a first-class college, the Five Towns College will need a state-of-the-art auditorium. It seems clear that the Five Towns College would have to address these issues in the DEIS. It concerns me, and it should concern you that the college has not disclosed the five or ten-year plan for the growth.”

Response:

This conclusory assertion is speculative and is not supported by the record. The College has disclosed its plans. There are no plans to expand its auditorium, which is currently underutilized.

“The tour of the dormitories was an eye-opener for me. The dormitories are presently situated on the college property, off Half Hollow Road, not as the DEIS states in the middle, on Page S-4. This leaves plenty of room for the building of an additional library, dormitories, classrooms and amphitheater, and whatever else they need in the future.”

Response:

The dormitories are appropriately situated, and take into consideration proximity to classrooms, public safety, food service, parking and ancillary activities. The building site, bounded on two sides by roadways, is well-removed from adjoining property owners. The Applicant notes that not one single property owner from Lone Hill Place, which directly abuts the College campus, voiced any objection to locating the dormitories in the northwest quadrant of the campus. The only opposition to this location that the Applicant has noticed is from individuals who do not own or reside upon any property adjoining the campus.

The fact that the College’s physical plant sits on less than 25% of the campus is relevant only inasmuch as it demonstrates that its space utilization conforms with the Code of the Town of Huntington requirements for granting the application. The opposition’s attempt to create the illusory impression that some speculative and hypothetical plan for growth exists merely because sufficient space is available, is nothing more than a ruse. The record to date clearly demonstrates that the applicant has met the legal requirements of SEQRA and for the special use permit.

2.24 Future Buildings on Campus as Accessory Structures

Comment C-13:

"We cannot forget that any future building will not require the Board's approval because they will be considered accessory structures."

Response:

The Applicant has stated the position that Five Towns College would have a right to proceed to construct future buildings by site plan amendment alone and building permit without any action required by the Zoning Board of Appeals. As a demonstration of Five Town's representation to the Zoning Board regarding future plans, the Applicant consented and agreed to give the Zoning Board the opportunity to review any future buildings. This representation and commitment on the part of Five Towns College is a manifestation of its sincerity that it has no plans at this time to construct future buildings.

2.25 Crime and Five Towns College Students

Comments C-18 and C-26:

These comments indicate a concern that Five Towns College students (both resident and commuter) engage in criminal activity, with adverse impacts on the safety and welfare of the community's residents.

Response:

The commentator testified that, as a probation officer for 28 years, he had a specific recollection of ten Five Towns College students being on probation for burglary. This comment is not related to a specific period of time, though the period 1993 through 1995 seems to be the time span to which the commentator refers. However, the Living/Learning Center had not been built at this time. Additionally, the commentator's remarks are speculative and/or unsubstantiated, all unrelated to the Living/Learning Center; the commentator does not establish a relationship between his unsupported statements regarding burglary and the presence of commuter students at the College, and the impact or appropriateness with regard to the application before the ZBA. The commentator's remarks about the purported criminality of former Five Towns College commuter students has no relevance to the impact of the dormitories.

In contrast to the speculation and inherently incredible testimony of the commentator, a witness's testimony factually rebuts this unsupported testimony. Dr. Sonia Bradley consulted with the Inspector of the Suffolk County Police Department 2nd Precinct with specific reference to the issue of crime in the Five Towns College area (see **Comment, Section 2.26**). The Inspector of this particular precinct, Dominick Verrone, refuted with specificity this generalization by the commentator. Also during the September 17, 2003 public hearing, the Dean of Administration of Five Towns College testified that there has never been any occasion when the police were called to the dormitories in connection with criminal activity.

The record clearly indicates that there have been no incidents of crime associated with the College or the residence halls. The record in Huntington Town Hall clearly indicates that no notices of violation of any Town ordinance have been issued by the Department of Code Enforcement, and no complaints have been filed. Even if there were instances, which are not evidenced anywhere in the record, of individuals on probation attending the College, the presence of such students on campus is not illegal, and in no way connected with the current application.

2.26 Crime Reports

Comment C-19:

"I wanted to check with the police department about the claim that Five Towns College was generating incidents that – should I say – that prevented seven people that live in the neighborhood from feeling safe. And then, when the investigation took place it was found that all of these people, with the exception of one, lived in Dix Hills. And so, when someone calls the precinct and says that there is suspicious people, the men and women standing around doing nothing, and the police car comes and finds out that they are waiting for a taxi. There is a difference between the perception that Five Towns College is generating criminal activity in the community, and reality.

I haven't seen or heard anything so far that specifically named any criminal action on the behalf of the students of this school."

Response:

Comment acknowledged.

2.27 Support for Application

Comments C-20, C-21, C-22, C-23, C-24 and C-25:

These comments indicate support for the proposed project.

Response:

Comments acknowledged.

2.28 Five Towns College Students and SUNY/Farmingdale

Comment C-30:

"Also, in the statement that you have and I think it was the application for IDA funding, and I'm not sure if it was on the draft environmental impact statement, but it might be. There was a statement that Farmingdale University – that the 100 rooms that are used there will no longer be up for usage. I personally called the office of the president at Farmingdale University. They

have not told Five Towns College to leave. It's a false statement given in your documents. They are welcomed there. There is no hurry for them to leave. Over a ten-year period of time, they will be redoing the dorms, but they don't anticipate less space if anything, more.

So, there was no – in the statement that 100 students or 100 rooms have to be vacated by Five Towns College is a falsehood, according to what I was told when I spoke to Farmingdale University directly.”

Response:

Whether or not Five Towns College students may continue to reside at SUNY Farmingdale in perpetuity is irrelevant to the current application. All studies indicate that Five Towns College students would benefit by the Living/Learning Center. The Applicant believes that evidence regarding education and housing indicates that Five Towns College students who reside at SUNY Farmingdale must overcome difficult obstacles in the educational process that would not be present if they resided on the campus where they are matriculated students.

SUNY Farmingdale has not provided Five Towns College with a long-term commitment to provide housing to Five Towns College students, and the College has a responsibility to respond to this concern.

APPENDICES



APPENDIX A
TRANSCRIPT OF HEARING

ZBA

July 24, 2003



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TOWN OF HUNTINGTON
BOARD OF ZONING & APPEALS

----- X
In the Matter of the Application

of

FIVE TOWNS COLLEGE REAL PROPERTY TRUST
Appeal #17318

----- X

100 Main Street
Huntington, New York

July 24, 2003
7:00 P.M.

B E F O R E:

CHRISTOPHER MODELEWSKI, CHAIRMAN

IRA B. KURTZBERG

PAUL W. ROUSSILLON

ROBERT SLINGO

CAROL GAUGHRAN

ALICIA LAWRENCE (NOT PRESENT)

JAMES F. MATTHEWS, SPECIAL COUNSEL

Applicant: Five Towns College Real Property Trust. 305 N. Service Road, Dix Hills, NY 11746.

Owner: Suffolk County Industrial Development Agency, H. Lee Dennison Building, Vet's Highway, Hauppauge, NY 11788.

Location of property: N/e/c (#305) North Service Road and Burrs Lane, Dix Hills, 11746.

Zone History: R-40 since 1934.

Subject: Request Special Use Permit for CO's for building permits #P011621 and P011622 and to construct two addition dormitories and to legalize two completed dormitories. Hearing will determine whether the Draft Environmental Impact Statement is accepted.

SCTM# 0400-261.00-03.00-001.002.

MR. MODELEWSKI: We will mark into evidence, Exhibit 1 is a survey. Exhibit 2 is a site plan. Exhibit 3 is a Certificate of Occupancy. Exhibit 4 is a Certificate of Occupancy. Exhibit 5 is a Certificate of Occupancy. Exhibit 6 is a lease agreement. Exhibit 7 is a series of twenty-four photographs. Exhibit 8 is an assessment card. Exhibit 9 is a letter from Department of Engineering dated

1
2 4/25/02. Exhibit 10 is a memo from Superintendent
3 of Highways dated 6/3/02.

4 Exhibit 11 is a letter from Laurence S.
5 Jurman, Esq., dated 5/9/02. Exhibit 12 is a
6 letter from Arthur Goldstein, Esq., dated 5/14/02.
7 Exhibit number 13 is a letter from Chairman
8 Modelewski to Laurence S. Jurman, Esq., dated
9 5/20/02. Exhibit 14 is a letter from Laurence S.
10 Jurman dated 6/6/02. Exhibit 15 is a transcript
11 from ZBA meeting of 6/6/02. Exhibit 16 is a SEQRA
12 Resolution/Positive Declaration. Exhibit 17 is a
13 memo from Director of Planning dated 8/8/02 with
14 scoping. Exhibit 18 is a memo from Department of
15 Public Works dated 7/11/02. Exhibit 19 is a memo
16 from Director of Planning dated 1/30/03. Exhibit
17 20 is Adopted Final Scope.

18 Exhibit 21 is a memo from Director of
19 Planning dated 1/23/03. Exhibit 22 is a memo from
20 Peter Wolpensinger, P.E. Exhibit 23 is a letter
21 from Conservation Board dated 3/12/03. Exhibit 24
22 is Response to Staff Comments on DEIS. Exhibit 25
23 is 480 postcards in opposition. Exhibit 26 is 45
24 letters in support. Exhibit 27 is 26 letters in
25 opposition. Exhibit 28 is a letter in support

1
2 from David Cohen, Five Towns College, Dean of
3 Academic Affairs. Exhibit 29 is a memo from
4 Director of Planning dated 7/16/03. Exhibit 30 is
5 a memo from Gerard Haff, Building Permit
6 Coordinator dated 7/22/03.

7 Our jurisdiction is with respect to a
8 request for a Special Use Permit under Huntington
9 town codes and also to consider the sufficiency of
10 the Draft Environmental Impact Statement.

11 So what we have here tonight is a
12 hearing that has a dual purpose. That is, we are
13 called upon to hear and decide proofs that are put
14 forth in support of our grant or denial concerning
15 an application for a Special Use Permit.

16 A Special Use Permit by definition is
17 different than a variance. A Special Use Permit
18 connotes the legislature's intention that whatever
19 it is that is the subject of the permit is a
20 permitted use after the satisfaction to the extent
21 that this board must be satisfied of the proof on
22 conditions. Now those proofs are enumerated. The
23 required proofs are enumerated in the statute.

24 What the Court of Appeals in the State
25 of New York has told us, notwithstanding some

1
2 contrary authority from the second department, is
3 that we must, if we find that the conditions have
4 been meet, grant the permit. That is, we do not
5 have any choice but to grant the permit if the
6 conditions have been proven and satisfied by the
7 applicant.

8 But we have other jurisdictions as well
9 and we are exercising that jurisdiction tonight
10 that is with respect to the State Environmental
11 Quality Review Act and that action, as many of you
12 know, requires that we determine and look at the
13 environmental significance of the proposed action
14 under the law and make our findings accordingly.

15 Now previously this matter has been
16 subjected to the scrutiny of this board with
17 respect to a threshold determination and that has
18 led to the preparation of an Environmental Impact
19 Statement. We're going to be hearing testimony
20 with respect to environmental issues, in addition
21 to the Special Use Permit, proof which must be
22 made out in order for us to make a proper
23 determination on the EIS or Environmental Impact
24 Statement.

25 But let me say some more things which

1
2 are commonly said at the opening of any meeting of
3 the Zoning Board of Appeals in the Town of
4 Huntington. This is a public meeting and citizens
5 have a right to be heard once and only once with
6 respect to the legal and factual materials that
7 come before the board with one exception, that is
8 that the applicant is entitled to put into our
9 procedures of longstanding a rebuttal. The
10 applicant is entitled to, at the conclusion of his
11 or her case, make a closing or summation.

12 Having said that, I wish to remind the
13 public at large that we decide our cases here
14 based on the rules of law, not the rules of
15 numbers. We'll be talking a little more about
16 that in a moment. But it simply means that we
17 cannot and do not take into consideration the
18 number of supporting or opposing positions with
19 respect to any matter that comes before the board.

20 Now, anyone who wishes to be heard
21 should have signed in in the rear of the
22 auditorium. Anyone that wants a written copy of
23 the decision of this board, please print. Do not
24 write anything, print your names on the address
25 labels in the back that correspond to the hearing.

1
2 This is the only hearing that will be coming
3 before the board tonight.

4 What I'm going to do now is, I'm just
5 going to ask Mr. Goldstein to step forward and Mr.
6 Jurman, are you here? Why don't you step forward?
7 Are there any other attorneys present in the
8 auditorium who are going to represent individuals
9 or groups, associations, anything else? Any other
10 counsel here that are going to act as counsel in a
11 representative capacity for any individuals or any
12 group? Any one at all?

13 (No response.)

14 MR. MODELEWSKI: why don't you give
15 your appearance, both of you, on the record?

16 MR. GOLDSTEIN: Arthur Goldstein,
17 Goldstein, Rubinton, Goldstein and DeFazio, 18
18 West Carver Street, Huntington, New York.

19 MR. JURMAN: Laurence S. Jurman, 560
20 Broad Hollow Road, suite 106, Melville, New York
21 11747, for House Beautiful at Dix Hills Homeowners
22 Association.

23 MR. MODELEWSKI: I want to address both
24 of you gentlemen with respect to, both of you are
25 experienced advocates. You have both been here

1
2 many times and you enjoy appropriately the respect
3 of this board. But I wish to expound a little bit
4 upon one of our rules of procedure which I just
5 uttered and for which you gentlemen just listened
6 to and abided by at least in my humble estimations
7 for the years that you have practiced before this
8 board and that is that we go by the rule of law,
9 not the rule of number.

10 I say that especially because about a
11 week and a half ago it came to my attention that a
12 letter was circulated by Mr. Cohen, the dean of
13 academic affairs ex-sorting member of the five
14 towns community to come out to the hearing
15 tonight. And while I will not address any
16 individual statements that were made and this is,
17 actually you should know, Mr. Goldstein, it's
18 number twenty-eight. It's made part of the
19 record. I don't know if you have seen it, but I
20 will be happy to give you a copy if you have not
21 seen this letter before.

22 MR. GOLDSTEIN: I hate to see, it's
23 probably the only piece of evidence that I haven't
24 seen.

25 MR. MODELEWSKI: Why don't you come up

1
2 and let me just, this is a courtesy copy, the
3 original is already in the record. But just so I
4 don't get the jump on you in an unfair way, I'm
5 not going to comment on the substance of it, but
6 I'm just going to make special note of it to
7 remind the public as well as distinguish counsel
8 that while we appreciate and expect to hear cogent
9 comments and analysis by those who support the
10 project and likewise from those who may be opposed
11 to the project, that simply if our jurisdiction
12 was limited to taking a head count or balancing
13 the scales in terms of who took up more seats in
14 the auditorium, quite frankly Mr. Goldstein, that
15 is the thrust of Exhibit number 28, then we could
16 all go home and simply let everybody register
17 their support or opposition and our analysis and
18 evaluation of the evidence would not be at all
19 necessary to this process.

20 But that is not the fact, as both of
21 you gentlemen as counsel for your respective
22 clients know and understand. But I just want to
23 make it clear that I wish and I insist for the
24 focus of this hearing to remain on the legal and
25 factual issues which are necessary for our

1
2 determination and I should have to do no more than
3 remind you gentlemen of that because you are both
4 capable advocates and experienced practitioners
5 before this board.

6 I will tell you this as well. That
7 many of the folks in support of the application
8 against the application and those that may be
9 testifying here tonight as experts or as lay
10 witnesses, the members of the Zoning Board of
11 Appeals rise pretty early in the morning. So I'm
12 going to stop the testimony tonight at eleven P.M.
13 and if it is necessary, because we have not gotten
14 through all that needs to be gotten through in
15 order to have a full and fair hearing, then we
16 will adjourn this matter, as well as carry it over
17 to another night.

18 We will give it a short date and it
19 does not of necessity have to be on a Thursday
20 night. We may pick another night during the week.
21 But this is a matter of crucial concern obviously
22 to the applicant that has a lot of money, time and
23 effort invested in it, to the surrounding
24 community which is extremely interested in the
25 subject of this application and the outcome of

1 this hearing and the town at large.

2 So what I will not permit is, I will
3 not permit any of us to be in any condition other
4 than extremely interested and very wide awake
5 while we hear so that we can decide.

6 Do both of you gentlemen have any
7 questions, procedural or other questions before we
8 begin the application?
9

10 MR. JURMAN: Yes, I do.

11 MR. MODELEWSKI: Anything?

12 MR. GOLDSTEIN: Mr. Chairman and
13 members of the board, Mr. Jurman and I worked out
14 a process if acceptable to the board, you know our
15 method of presentation may be a little different
16 and we have experts, it varies. But Mr. Jurman
17 told me he's going to make a brief introduction
18 and then he parceled out the presentation of his
19 people, so if you allow him the liberty of calling
20 on a certain number of people, seven, eight, I
21 don't know how many people, that they would then
22 compliment his case. I think he would like to do
23 that before the public, the whole public speaks,
24 otherwise he would be saying all these things.

25 I have no objection to that.

1
2 MR. MODELEWSKI: I understand. But you
3 are not proposing that Mr. Jurman take his
4 opposition case out of order, Mr. Goldstein, he
5 only wants to be heard after you put in your
6 proof?

7 MR. GOLDSTEIN: Yes.

8 MR. MODELEWSKI: I recognize the nature
9 of the concern and I understand. We're not
10 interested in cutting anyone off. We don't want
11 to discourage anyone. This is a public hearing,
12 it's an open hearing. Everyone has access to the
13 record but based upon the constraints of relevance
14 and materiality and I think both of you gentlemen
15 understand that full well.

16 Mr. Goldstein, I'm certainly not
17 picking on you by making reference to Exhibit
18 number 28, but I did consider some of what was in
19 there to be unusual. Let's just put it that way
20 and that's why I raised it.

21 MR. GOLDSTEIN: Reading this letter
22 reminds me of the story of the judge asks the
23 question and the attorney said, Your Honor, if you
24 are asking that question on my behalf, I withdraw
25 it and if you are asking it on behalf of my

1
2 opposition, I object to it.

3 So with respect to this letter, be
4 assured this is not the kind of letter that I had
5 any part in and I will tell you in all candor that
6 this client and other clients ask me the question,
7 they think I'm somewhat of a political, have some
8 knowledge of politics, which I don't. And I tell
9 you as true as I'm standing here, I said I have
10 the utmost confidence that this board will decide
11 ~~this on the~~ merits and I told them specifically
12 that I have been the beneficiary of the chairman
13 finding the law in my favor and I have been on the
14 other end of the stick where the town is against
15 me.

16 But that's just what I told the people
17 from the colleges, that I'm confident that they
18 will find the case on the basis of the law and
19 that's why I prepared it for the record for you in
20 my estimation to come to the one conclusion that I
21 would like you to come to and that's my position
22 on it.

23 So I apologize. I will put the case in
24 as legally and craftsman as I'm capable of doing.

25 MR. MODELEWSKI: Anything else, Mr.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Jurman?

MR. JURMAN: Not at this time.

MR. MODELEWSKI: Mr. Goldstein, why don't you get on with your case.

Maybe we can qualify one issue. I'm going to call Mr. Haff from the Building Department. I'm going to call him as neither in opposition or as a witness in support of the application, but simply with respect to the request to clarify one issue for the board.

Mr. Haff, could you come up? I think this is essential to both the applicant and the opposition.

Do you swear the testimony you are about to give is the truth, the whole truth and nothing but the truth?

MR. HAFF: I do.

MR. MODELEWSKI: Would you give us your name and occupation and business address?

MR. HAFF: Gerard Haff. I'm the building permit coordinator for the Town of Huntington in this office, 100 Main Street, Huntington, New York.

MR. MODELEWSKI: Mr. Haff, did you

1
2 undertake an evaluation of the structure heights
3 with respect to the application that is currently
4 pending before the board with a view toward making
5 a determination as to whether or not the heights
6 are within the legal limit as prescribed in our
7 town code and also with respect to any uses that
8 are proposed with respect to the lower level or
9 basement area of the structures?

10 MR. HAFF: Yes, sir, I did.

11 MR. MODELEWSKI: Would you report your
12 findings to the board?

13 MR. HAFF: Yes, sir. I was asked to
14 look into the overall height of the building, both
15 for feet and number of stories. Our local code,
16 chapter 8746 defines how the height of a building
17 is to be determined.

18 The height of the building is
19 determined by the average established grade. That
20 is, you take the grade on all four sides of the
21 building. You average them out and that is the
22 mean or starting point in which the height of the
23 building is to be measured from. Likewise, our
24 code also indicates for the overall height of the
25 building you take a point midway between the facia

1
2 board and ridge board, halfway between the two
3 creates the up most point to be measured.

4 In taking the architect's plans on
5 buildings four and five, I average the grade
6 around them which the architect had previously
7 done and found that his determination of the
8 average grade was correct. The measurement of the
9 building comes out to be thirty-three and a half
10 feet tall. Our local zoning code permits the
11 building to be thirty-five foot tall maximum.
12 Likewise it allows for a maximum of two stories in
13 height. The rear portions, the portion behind the
14 main elevation, the main entrances of the building
15 are fully exposed at grade. That is averaged into
16 the overall established grade to determine the
17 height.

18 Looking at the building from the rear
19 elevation you do see what appears to be three
20 stories. Our code indicates that when the lower
21 portion averages more than fifty percent below
22 grade, that the lowest level is considered a
23 cellar. It also determines that a cellar is not a
24 story, so these buildings are two stories over a
25 cellar. A cellar has certain definitions

1
2 depending on whether it is a one or two-family
3 dwelling or multiple dwelling.

4 These are multiple dwelling buildings.
5 They are allowed to have habitable space, non-
6 habitable space and occupied space, all within a
7 cellar. Habitable space, places for living,
8 sleeping, bathing. Not habitable spaces, kitchen,
9 bathroom, mechanical rooms. Occupied spaces that
10 could be used for recreation area. Lecture area,
11 meetings, those type of uses.

12 The plan when first submitted to the
13 town was an unfinished cellar area with some
14 mechanical and storage spaces. The building,
15 permits were later amended to include a separate
16 dwelling space in the cellar for the RA of the
17 building.

18 MR. MODELEWSKI: Okay, any members of
19 the board have any questions for Mr. Haff?

20 (No response.)

21 MR. MODELEWSKI: Okay Mr. Haff, we have
22 taken your memorandum and we made it Exhibit
23 number 30 in the record.

24 No questions for Mr. Haff. Thank you
25 very much for your testimony.

1
2 MR. GOLDSTEIN: Before you leave, I
3 think he referred to buildings four and five, but
4 I think it's three and four.

5 MR. MODELEWSKI: Mr. Goldstein, he's
6 our witness. Do you have a copy of this? I only
7 have one extra. You have to be nice and share
8 with Mr. Jurman.

9 MR. MATTHEWS: I have a question. Mr.
10 Haff, how many building were there? Are there two
11 completed buildings and two under construction?

12 MR. HAFF: I have not been to the site.
13 I'm not sure. There is four buildings in total
14 proposed.

15 MR. MATTHEWS: Do all four of them
16 meet, as far as the plans are concerned, the code
17 requirements?

18 MR. HAFF: Yes.

19 MR. MODELEWSKI: All right. Why don't
20 we get on with it, Mr. Goldstein? You have
21 already put your appearance on the record. Get on
22 with your case.

23 MR. GOLDSTEIN: Thank you. I just want
24 to capsulize some of the salient facts. So I
25 don't have to go through them with all of the

1 witnesses.

2
3 There is no dispute about the fact that
4 this grounds of the college consists of
5 thirty-three point six acres. You will find that
6 the existing building, classrooms are a hundred
7 twenty thousand square feet. That each of these
8 other buildings are eighteen thousand square feet,
9 nine thousand square feet on each floor. And
10 there are two of them, as Mr. Matthews asked the
11 question. Two of them are buildings one and two
12 already constructed and three and four are the
13 ones under construction. Building three is
14 seventy percent constructed and building four is,
15 I think the foundation is there.

16 A very, very, brief history of what
17 happened here because it is relevant to creating a
18 record and I hope you will bear with me because we
19 have to make a record, both Mr. Jurman and I, as
20 to what occurred. And what happened is way back
21 when in 1998 or some time the college had this
22 thought of constructing living, a living/learning
23 center and Mr. Cohen will go into detail with the
24 concept of a living/learning center and the
25 attributes of that and so forth. You will have

1 the opportunity to question him.

2 So we looked, I looked at the code. It
3 really was my conclusion that we could do it by
4 way of an accessory building. As a matter of fact
5 there was recently an Appellant Division case that
6 held that you could do it as an accessory
7 structure in Long Beach. They said clearly a
8 dormitory is an accessory structure.
9

10 You did have the additional elements
11 that in this town we had another special exception
12 provision and frankly no lesser authority than Mr.
13 Macktay agreed with my interpretation and we all
14 thought that you could go to the Planning Board
15 without going to the zoning board and it wasn't a
16 question of ducking a hearing, but we didn't think
17 it was necessary so we elected to do that and we
18 had the site plan approval in May of 2000 from the
19 Planning Board.

20 So the Planning Board fully approved
21 all of the considerations to the site and actually
22 all of the considerations regarding the building
23 and the legality of the building. The use really
24 was never determined by the Planning Board, but
25 every other facet of the environmental

1 consideration was really considered at that time

2 in connection with the building themselves.

3 Because, as I will reiterate in my summation,

4 these buildings wouldn't have to be here if

5 tomorrow morning we decided to forget about the

6 dormitory. So we then went and had our site plan

7 approval and as I started to say, if tomorrow

8 morning we were to use these buildings as

9 classrooms instead of dormitories, it's a use

10 permitted as of right exactly precisely the way

11 they are, the site plan approval, the

12 environmental, everything is clear.

13 So it's the use of these facilities for

14 the dormitory that we're here for and then what

15 happens is permits were issued. We obtained

16 building permits actually for all of the buildings

17 so they were never ever constructed without a

18 permit. There was a period of six hours where

19 there was a stop work order and I thought it was

20 illegal so for that period of time there may have

21 been some disagreement as to what our obligation

22 was, but other than that it was completely built

23 pursuant to permit.

24 And then what happened is, we went to

1
2 the Supreme Court and Justice Floyd also agreed
3 with Mr. Macktay's interpretation and my
4 interpretation and unfortunately the higher court
5 felt that we were wrong.

6 MR. MODELEWSKI: Justice Floyd didn't
7 often agree with the zoning board of the Town of
8 Huntington, if you recall.

9 MR. GOLDSTEIN: He had a couple of
10 issues with that. But in any case, we then went
11 to the Appellant Division and the Appellant
12 Division said sorry, you are not persuading us and
13 they sent us back.

14 So hence, we're back here now and we're
15 back here now to prove to you that this use, you
16 all know it by this time and you had every lawyer
17 before you tell you what special exception means,
18 for those a little newer on the board. We use the
19 expression, it's special exception, conditional
20 use, conditionally permitted use. So we get a
21 little sloppy, both Mr. Jurman and myself have,
22 because some codes refer and some of the text
23 books refer to it not a special special use, but
24 conditionally permitted use.

25 But the bottom line of the

1
2 conditionally permit use is its presumptively in
3 harmony with that particular zoning district. So
4 they said residential zoning district you can have
5 a dormitory providing you meet certain conditions
6 and as the proof will show in this case the
7 requirement is ten acres for the acreage and this
8 facility is thirty-three point six acres. The
9 coverage you are allowed, twenty-five percent
10 coverage, building coverage. I think our coverage
11 is about six percent or something, ten percent.
12 Ten percent.

13 So we're far beneath any of those
14 things, and in addition to that, we will prove to
15 you the real estate values and all of the other
16 proof that you hear. So with your permission I
17 will cut to the chase and start putting some
18 exhibits in and some testimony.

19 MR. MODELEWSKI: Go ahead.

20 MR. GOLDSTEIN: And I will call the
21 author of the letter, David Cohen.

22 MR. MODELEWSKI: Do you swear the
23 testimony you are about to give is the truth, the
24 whole truth and nothing but the truth?

25 DR. COHEN: I do.



1
2 MR. MODELEWSKI: Please state your name
3 and address.

4 DR. COHEN: David Cohen. I live at 89
5 Half Hollow Road, Melville, New York 11747.

6 MR. MODELEWSKI: All right.

7 MR. GOLDSTEIN: Mr. Chairman, I must
8 say I haven't had a chance to discuss that letter
9 with Mr. Cohen, but I'm sure you understand that
10 the client or the person that lived through this
11 kind of a saga cannot be quite as dispassionate as
12 the lawyer sitting in his office presenting a
13 case. So if he did over react or over state or
14 whatever, I just ask you that the board consider
15 that in the context of all that went on in having
16 invested in these unoccupied buildings for this
17 period of time and having the building nearly
18 collapse and with all that background you write a
19 different letter than if you are totally objective
20 about it and say be confident that they will rely
21 upon the law.

22 MR. MODELEWSKI: We understand that, no
23 harm, no foil so long as everyone understands we
24 are not the carnival and we're not the cupie dolls
25 at the softball toss.

1
2 MR. GOLDSTEIN: I'm going to advocate
3 that. This is not decided by the mob, it's
4 decided by the law and I'm the one that is really
5 most in favor of that position. So ironically
6 enough, the table got turned on me. I'm not
7 defending that position.

8 MR. MODELEWSKI: Let's get to the
9 proofs.

10 MR. GOLDSTEIN: Dr. Cohen, can you
11 please tell us, is it accurate to state Five Towns
12 College was originally established in one of the
13 original five towns in Nassau County?

14 DR. COHEN: In Nassau County, correct,
15 in 1972.

16 MR. GOLDSTEIN: And then there came a
17 time when you moved to our community; is that
18 right?

19 DR. COHEN: That's correct. We moved
20 to Dix Hills in 1992, we're beginning our twelfth
21 year in Dix Hills.

22 MR. GOLDSTEIN: When you initially
23 began were you a four-year academic institution?
24 What degrees did you offer in Five Towns?

25 DR. COHEN: The college was started in

1
2 1972 and it initially awarded all of the associate
3 degrees authorized by the New York State Board
4 Regents and that would include the A.A., A.S.,
5 A.A.S. and A.O.S. degrees.

6 MR. GOLDSTEIN: And there came a time
7 that you applied for authority to offer other
8 degrees?

9 DR. COHEN: Yes, that's correct. In
10 1988 the college was elevated to a four-year
11 degree granting institution by the New York State
12 Boards of Regents when it authorized the college
13 to award the Bachelor of Music degree and the
14 Board of Regents of the State of New York has
15 amended the college's charter so that today we
16 award the Bachelor of Science degree, Bachelor of
17 Fine Arts degree, Bachelor of Music degree,
18 Bachelor of Professional Studies degree and
19 various master degrees.

20 MR. GOLDSTEIN: With your permission
21 this is the only exhibit that I have one copy of
22 this. This is a copy of the charter of the
23 school.

24 MR. MODELEWSKI: We will mark that in
25 the record as number 31.

1
2 MR. GOLDSTEIN: Now Dr. Cohen, is it
3 accurate to state that the college always had some
4 sort of focus or area of concentration?

5 DR. COHEN: The college is known
6 generically on Long Island. Many people refer to
7 Five Towns College as a music college. In
8 actuality we focus on several areas in music,
9 media and performing arts and childhood education.

10 MR. GOLDSTEIN: In terms of the
11 childhood education, is that education degree
12 aimed at teaching the music and the arts; is that
13 correct?

14 DR. COHEN: That's correct. We offer
15 the Bachelor of Music in music education and
16 Bachelor in Science Childhood Education with
17 electives in music and theater.

18 MR. GOLDSTEIN: Did there come a time
19 -- and the school is a school up until the
20 dormitories and living/learning center was
21 constructed. Is it accurate to say at that time
22 that no students lived on the campus; is that
23 correct?

24 DR. COHEN: That's correct.

25 MR. GOLDSTEIN: The students live in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the area; is that correct?

DR. COHEN: Yes, that's correct.

MR. GOLDSTEIN: Various homes or dormitories in Farmingdale?

DR. COHEN: We have students that have been living at SUNY Farmingdale, State University of New York and various apartments throughout the town.

MR. GOLDSTEIN: Did there come a time when you had, you determined that this living/learning center concept would be beneficial to the community, to the college and to the students?

DR. COHEN: Yes, there was a growing trend in higher education which is taking place across the United States which talks about living/learning centers and the full emerging program for the purpose of education of students in the performing arts that spend a great deal of time practicing, rehearsing late into the evening.

There were studies that colleges are coming up with that, if they live together, they would become better students.

MR. GOLDSTEIN: So it's on a daily basis or all day long and at night they can

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

participate in music?

DR. COHEN: That's correct.

MR. GOLDSTEIN: And they could do this right in the place where they live; is that correct?

DR. COHEN: That is correct.

MR. GOLDSTEIN: And when you decided to construct this living/learning center did you make a careful analysis of where on the campus you were going to put this?

DR. COHEN: Yes, we looked at the entire campus to determine the most appropriate location for the living/learning center. We looked at the southerly portion of the campus closer to the Long Island Expressway and that part of the campus was rejected because we didn't want the students to have to walk behind the neighbors on Lone Hill Place and Broad Oak Court.

MR. GOLDSTEIN: If you located the facilities for the sleeping, living/learning to the south, you would have to necessarily put it to the southeast; is that correct?

DR. COHEN: That's correct. In that area you know the neighbors directly about the

1
2 college's property and/or the students would be
3 walking that way every day. We also rejected that
4 area of the campus because of the parking lot. We
5 didn't want students to have to walk across the
6 parking lot for the classes and for the meals. We
7 felt that that was dangerous. There were other
8 reasons for it too.

9 MR. GOLDSTEIN: Where it's presently
10 located, where these buildings are located is
11 advantageously located with respect to your public
12 safety force?

13 DR. COHEN: Yes. The buildings are
14 located immediately adjacent to our public safety
15 offices. We maintain a full-time twenty-four/
16 seven public safety on campus, whenever students
17 are in residence. It's closer to the dining hall
18 so students don't have to cross traffic to get to
19 the dining hall.

20 By the way, if we built the building in
21 the southern portion of the campus we felt we
22 would have had to build a dining hall for the
23 students and in order to justify the dining hall
24 financially it would have had to be a larger
25 project and we felt that size project was

1
2 excessive for our needs. So we rejected the south
3 portion for that reason as well.

4 MR. GOLDSTEIN: The present location,
5 is there any neighbors immediately contiguous to
6 the north?

7 DR. COHEN: There are no neighbors
8 where we selected in the northeast quadrant of the
9 campus, the area is bounded by Bird Lane on the
10 west and Half Hollow Hills on the north. The west
11 side of Birds Lane is the bus depot and the
12 recharge basin and there's no neighbors over there
13 and then we have Half Hollow Road where there's
14 three houses across the street, but we left a one
15 hundred thirty foot setback in that area.

16 Actually originally we were only going to leave
17 fifty foot of setback, but one of the residents
18 that lived on the court suggested that we try to
19 increase the setback and we did. That's how we
20 came up with the area.

21 MR. GOLDSTEIN: So you have a hundred
22 thirty foot setback on the northern side; is that
23 correct?

24 DR. COHEN: Correct, a hundred thirty
25 foot setback and that was done directly in

1 response to a request by a neighbor.

2 MR. GOLDSTEIN: When you asked me
3 earlier what the requirement was, I told you fifty
4 feet?
5

6 DR. COHEN: That's correct.

7 MR. GOLDSTEIN: Is there any alcohol
8 allowed in the buildings?

9 DR. COHEN: We are a dry campus and we
10 have an alcohol-free campus policy. We do not
11 permit alcohol to be served on campus.

12 MR. SLINGO: Dr. Cohen, what is the
13 school's policy on parties in dormitories,
14 entering and leaving the dormitories, things like
15 that? Do you have a policy?

16 DR. COHEN: Yes, we do. We do not
17 permit large gatherings in any of the residential
18 rooms. The living/learning center is only open to
19 the students that live on campus. We have fully
20 gated the community with electronic access
21 controls at all points, including each building.

22 MR. GOLDSTEIN: When you say community,
23 you mean these four buildings?

24 DR. COHEN: These four buildings.

25 MR. GOLDSTEIN: So they're like a

1
2 MR. SLINGO: There will be no access
3 off Half Hollow?

4 DR. COHEN: When this was built by the
5 Half Hollow Hills School District the service
6 entrance came off of Half Hollow Hills Road. One
7 of the residents asked us to close that entrance
8 and we did. That entrance we were going to
9 eliminate completely if you had seen some earlier
10 plans it showed somewhat was kind of a loop and it
11 was going to be eliminated completely, but Dix
12 Hills fire district requested that, insisted that
13 remain for emergency use only.

14 So that's how it will be. It's gated
15 and it will have geo pavers. It will be
16 landscaped. You probably won't know it was a
17 road, but it will not be used.

18 MR. SLINGO: You stated a few minutes
19 ago that there will be no large groups permitted
20 in each dormitory. What is your definition of
21 large groups?

22 DR. COHEN: We don't permit gatherings
23 in the students rooms of more than five students,
24 including the student that actually live there.
25 If they have gatherings of more than five they

1
2 must have permission from the dean of residential
3 life to do that.

4 MR. MATTHEWS: Are those regulations in
5 writing?

6 DR. COHEN: That is a college policy
7 for our residential life. If it's in writing I
8 would have to check.

9 MR. GOLDSTEIN: But if it's not we will
10 put that in writing. It will be understood.

11 MR. SLINGO: If it's a policy you would
12 assume that it's in writing?

13 DR. COHEN: Because of the tortured
14 history of this whole matter our living/learning
15 center program is a little stalled out so some of
16 the things we're working on may not be fully
17 complete.

18 MR. SLINGO: Okay. I understand.

19 FROM THE AUDIENCE: It's in the
20 residential life handbook stated clearly.

21 MR. MODELEWSKI: We don't do that.
22 Everybody will have an opportunity if they wish to
23 be heard, but there's no calling out and we ask
24 the questions, nobody else.

25 Mr. Goldstein, continue with your

1 presentation.

2
3 MR. GOLDSTEIN: I will furnish whatever
4 documentation there is to support Dr. Cohen's
5 statement with respect to the nature of the
6 occupants of the living/learning center. Tell us
7 something about the population that benefits the
8 students and the demographics of the student
9 population that is beneficial to the college and
10 students?

11 DR. COHEN: By allowing students to
12 reside on campus our applicant pool of students
13 applying to the campus has increased dramatically.
14 That has not translated into a larger school but a
15 more selective school and we have been able to
16 attract some of the most talented men and woman on
17 any college campus in America because of the
18 residential life program. It allows us to really
19 accentuate the entering class of students.
20 They're talented musicians. They're talented
21 actors and actresses. They're talented audio
22 engineers. This really has helped us improve our
23 overall student profile.

24 MR. GOLDSTEIN: Now with respect to the
25 disabled student, does this facilitate the

1 attendance of disabled students?

2 DR. COHEN: Yes, it does. Prior to the
3 living/learning center being constructed we were
4 unfortunate that we had very few disabled students
5 on campus. Students who could not travel or
6 commute to the campus every day were denied the
7 opportunity to attend Five Towns College. These
8 buildings exceed the requirements of the ADA by at
9 least thirty percent.
10

11 There's three handicap accessible rooms
12 on the first floor of every building. We have
13 attempted to put elevators in the third and fourth
14 buildings so those buildings would be more
15 accessible for disabled students.

16 MR. GOLDSTEIN: Now with respect to the
17 -- have there been any police incidents in the
18 dormitories?

19 DR. COHEN: I am proud to tell you that
20 in the two years, academic years that building one
21 and two have been open that we have had no police
22 issues on campus at all.

23 MR. GOLDSTEIN: And no police issues
24 that you know of arising out of the campus?

25 DR. COHEN: That's correct.

1
2 MR. GOLDSTEIN: As a matter of fact to
3 the contrary, the police department have been
4 supportive of your presence?

5 DR. COHEN: Yes, that's correct.

6 MR. GOLDSTEIN: Now with respect to the
7 food, Mr. Slingo asked what the hours of operation
8 or whatever of some of the facilities are?

9 DR. COHEN: We understand that college
10 students need to eat and we run a pretty good food
11 service operation and we serve breakfast, lunch
12 and dinner and we run a late night operation so
13 that the students that are residents can get a
14 sandwich or slice of pizza without leaving the
15 campus.

16 The campus was constructed with a
17 rather large cafeteria when it was a public
18 school. That cafeteria was designed to serve
19 eleven hundred and thank God, we don't have that
20 many, but we are able to accommodate their needs.

21 MR. GOLDSTEIN: How many students do
22 you have now?

23 DR. COHEN: We have about nine hundred
24 students on campus.

25 MR. GOLDSTEIN: And with the planning

1
2 and if you added the 208, what is the total
3 student population?

4 DR. COHEN: I would refer to the DEIS
5 for the actual number, but approximately nine
6 hundred. It doesn't change our numbers, we're
7 about nine hundred students, including the
8 residential component and the commuting student
9 component.

10 When the dormitories are complete we
11 expect that our campus characteristics will
12 reflect the numbers that were outlined in the DEIS
13 of approximately one thousand one thousand fifteen
14 total students.

15 MR. GOLDSTEIN: Including the
16 dormitory?

17 DR. COHEN: Yes.

18 MR. GOLDSTEIN: And do you have a
19 facility for the students to do their laundry?

20 DR. COHEN: Yes. Each of the four
21 buildings has a laundry room on the first floor,
22 and they, the students, are able to use their
23 electronic smart cards to access the laundry
24 facilities so it's convenient for them.

25 MR. GOLDSTEIN: Now I will ask you some

1
2 systems, our library collection has actually
3 decreased in size. It is smaller today than it
4 was when we moved into Dix Hills in 1992. We have
5 no plans to build a library.

6 MR. SLINGO: If this board is inclined
7 to grant your request would you agree to a
8 condition that there be no further expansion or
9 building on the grounds of the Five Towns College?

10 MR. GOLDSTEIN: For what period of
11 time? I mean, Mr. Slingo, you can understand why.
12 A thousand years, yes. Five hundred years, yes.
13 We can agree. Certainly I haven't even asked him
14 these questions. Certainly if he were standing
15 here before you telling you know plans for at
16 least five years there will be no other building,
17 but if we did, we have to come back before the
18 board. That's not viewed as segmentation.

19 But if we don't have a plan and you
20 asked me if there's a possibility of adding on to
21 a classroom, it could be in five years and if it
22 is we come back to the board. I can tell you one
23 thing, there's a self-created limitation by the
24 Suffolk County Health Department because you are
25 limited by reason of the groundwater capability so

1
2 you do the whole mathematics of the whole thing, I
3 think you are entitled to twenty thousand gallons
4 of water.

5 So for the dormitory for the two
6 hundred eight students it requires seventy-five
7 gallons per day for each of the two hundred eight
8 students. For the commuting students it only
9 requires five gallons. So for every dormitory
10 student the ratio is fifteen times the number of
11 students that you could actually have. So he's
12 limited whatever he does, he's limited but
13 whatever he can do under the law he's entitled to
14 do.

15 As a matter of fact, he could build a
16 library. I can stand before you and say he wants
17 to build the library. If he had that plan there
18 would be no reason to conceal that. If he thought
19 he was going to do it, I would say yes. He could
20 put the library anyplace. He has a right to put
21 the library there without the use of the
22 dormitory.

23 With all due respect, I hate to
24 characterize something, but the only honest way is
25 this is a bogus issue. It was always a bogus

1
2 issue and it still is bogus today, not on the part
3 of the people questioning now because it was
4 raised by other people.

5 MR. SLINGO: To paraphrase, you said
6 and your clients answer to Chairman Modelewski's
7 question, you have no plans for any additional
8 building at this time, but you are not ruling it
9 out; is that correct?

10 MR. GOLDSTEIN: I'm ruling -- well,
11 it's partially correct. I'm ruling it out for a
12 five year period of time and I'm telling you that
13 we have no, there's nothing at all in the books to
14 do it. No plans to do it and in my view that
15 satisfies the environmental constraints. If you
16 said to me would you think of other things you
17 might want to put up, another student union
18 building? Right now he has no plans to do that.
19 But wouldn't I be a fool to stand here and let him
20 make a commitment not to put that building up?

21 He can only tell you what he -- believe
22 it, that's where it's at.

23 MS. GAUGHRAN: Mr. Goldstein what I
24 here you saying, and I don't know that I agree
25 with it, is if you take a vacant parcel of land

1
2 and you develop it there's an environmental issue.
3 There's an impact. The more things that are put
4 on that parcel of land brings the impact lower and
5 lower because the property is becoming more and
6 more densely built; correct? So if you say to us
7 now --

8 MR. GOLDSTEIN: Your mind is a little
9 faster than mine, I don't know if that is correct.
10 I don't want the record to say it's correct. I'm
11 sure you articulated the question clearly.

12 MS. GAUGHRAN: My concern, Mr.
13 Goldstein, is that you come to us today with the
14 plan and we develop the environmental impact
15 statement based on this plan. Five years from now
16 you add more buildings to it. It does, in fact,
17 change the environmental impact of that property;
18 correct?

19 MR. GOLDSTEIN: It would, but that will
20 be reviewed by an environmental department. When
21 you come back in the next time you will come back
22 for environmental. It's not like you have a right
23 to put buildings up there.

24 As a matter of fact, I will make this
25 commitment to you. Let's assume now that we have

1
2 came in to put a library up, which technically
3 should only go before the -- this is a commitment
4 that I will make to you. If I came before you to
5 put a library up you would normally get a building
6 permit for the library and someone might argue
7 that you do not have to go through a SEQRA
8 process.

9 I will make this commitment to you.
10 Make that a condition that if in fact there are
11 any other buildings he would have to subject
12 himself to a SEQRA review, even if it would not
13 otherwise be required.

14 MS. GAUGHRAN: Thank you. By the
15 Zoning Board of Appeals?

16 MR. MODELEWSKI: By the Zoning Board of
17 Appeals and the Planning Board.

18 MS. GAUGHRAN: Thank you.

19 MR. GOLDSTEIN: I have no other
20 questions of Dr. Cohen?

21 MR. MODELEWSKI: Any other members have
22 any questions for Dr. Cohen?

23 MR. GOLDSTEIN: Oh, yes. He has a
24 couple of public letters in support, so should I just
25 put these in the record?

1
2 MR. MODELEWSKI: Yes. Mr. Goldstein,
3 hand them up, letters in support. We don't ferret
4 out anything out of the record.

5 MR. GOLDSTEIN: No, I'm not going to
6 offer them. Withdraw the offer.

7 MR. MODELEWSKI: All right, anything
8 else?

9 MR. GOLDSTEIN: Nothing further from
10 this witness.

11 DR. COHEN: Thank you.

12 MR. GOLDSTEIN: With your permission I
13 would like to call the environmentalist now.

14 You know, just one more thing.

15 MR. MODELEWSKI: Dr. Cohen, you are
16 still under oath.

17 MR. GOLDSTEIN: I made the commitment
18 to this board, as you just heard, that in the
19 event that you come back for any further building
20 that even if you were to have the right to build
21 those buildings without environmental review, that
22 you would subject that environmental review of the
23 Zoning Board and the Planning Board.

24 So I want you to understand, because we
25 really had not thoroughly discussed that before,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

point six percent; is that correct?

MR. VOORHEES: Yes.

MR. GOLDSTEIN: And parking is three point six percent; is that right?

MR. VOORHEES: Yes. We have the figures on the table

MR. GOLDSTEIN: In addition to that you have a lawn area; is that correct?

MR. VOORHEES: Yes.

MR. GOLDSTEIN: And is that about something in the magnitude of thirty percent; is that right?

MR. VOORHEES: Yes.

MR. GOLDSTEIN: And then you also have open space, in addition to the lawn area you have open space; is that correct?

MR. VOORHEES: Correct, yes.

MR. GOLDSTEIN: Or natural area; is that correct?

MR. VOORHEES: It's comprised of approximately one-third, a little over thirty percent of the property.

MR. GOLDSTEIN: So you have one-third for the lawn area, one-third for the natural area;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

is that correct?

MR. VOORHEES: Yes, thirty-two percent.

MR. SLINGO: Excuse me, Mr. Goldstein, on that particular map or drawing does it show or can you show me where the closest residential dwelling is?

MR. GOLDSTEIN: It's not illustrated on this. The setback is a hundred thirty feet. This is the north side. The setback is a hundred thirty feet.

MR. MODELEWSKI: From Burrs Road?

MR. GOLDSTEIN: No, the perimeter of the property. And then you have an additional fifty feet for the road. But then I don't know what the setback is on the other side.

MR. VOORHEES: Maybe if I could, side yard setback here is fifty feet.

MR. SLINGO: That's the western side?

MR. VOORHEES: Correct, the building is about fifty feet from the property line in that location conforming to the setback requirements. This building is a hundred thirty feet from the property line, there is a fifty foot setback required, but the building is much more than that

1
2 and just the very corner of this building is about
3 one hundred thirty-seven feet from the property
4 line.

5 MR. GOLDSTEIN: Plus the street?

6 MR. VOORHEES: Correct.

7 MR. SLINGO: Can you answer my
8 question? Where is the closest residential
9 dwelling?

10 MR. VOORHEES: If I may, we brought an
11 additional exhibit.

12 MR. MODELEWSKI: Mr. Voorhees, please
13 mark that number 34 in evidence.

14 MR. SLINGO: Closest to the new
15 construction?

16 MR. GOLDSTEIN: It's further than a
17 hundred eighty feet.

18 MR. VOORHEES: This is an aerial
19 photograph of the property. It dates from April
20 2001. We marked this as Exhibit number 34. It's
21 plotted at a scale of one inch equals one hundred
22 feet and it's fairly detailed. It also is the
23 result of planning staff requests for a more
24 current aerial photograph and it depicts the area
25 surrounding the property. This is Burrs Lane,

1
2 this is Half Hollow Road. This is the proposed
3 and partially completed residential complex and
4 the nearest residence would be this residence
5 here, very close to three hundred feet to the
6 actual residence itself.

7 MR. SLINGO: And on the westerly side
8 it's a little more?

9 MR. VOORHEES: That's correct, about
10 three hundred forty feet.

11 MR. MODELEWSKI: Mr. Goldstein just so
12 the record is complete, your assistant also handed
13 up a reduced version of Exhibit number 34. We
14 will mark that part of the record.

15 Please proceed.

16 MR. GOLDSTEIN: Could I also mark into
17 evidence, this is taken out of the DIS actually,
18 but it does state all of the side yards, all of
19 the characteristics that Mr. Voorhees testified
20 to?

21 MR. MODELEWSKI: So you want to call
22 our particular attention to that and put that in?

23 MR. GOLDSTEIN: May I please

24 MR. MODELEWSKI: Mark that number 35 in
25 evidence.

1
2 MS. GAUGHRAN: Mr. Goldstein, you had
3 said that there are nine parking stalls in the
4 dormitory area?

5 MR. GOLDSTEIN: That's correct

6 MS. GAUGHRAN: That is a very limited
7 roadway in that area, correct, driving area? It's
8 primarily a foot path?

9 MR. GOLDSTEIN: Yes, that's correct.

10 MS. GAUGHRAN: Are there large curbs
11 planned in that area to avoid college students
12 parking on the grassy area, or if not, would you
13 agree to a condition that there would be
14 significant curbing to avoid anybody parking on
15 the grassy area?

16 MR. GOLDSTEIN: Absolutely. I mean, if
17 you think it's a good idea we will do it.

18 MS. GAUGHRAN: Thank you.

19 MR. GOLDSTEIN: Now, you made the
20 calculations of the as of right uses vis-a-vis the
21 use of this particular living/learning center and
22 can you tell me, please, would you review that
23 calculation for me, please?

24 MR. VOORHEES: Yes. One of the items
25 discussed in the Draft Environmental Impact

1
2 Statement is the limitations of occupancy and use
3 of the property based on sanitary flow. This
4 property is in an area that allows six hundred
5 gallons per day discharge per acre and when
6 computed that result in twenty thousand one
7 hundred sixty gallons of discharge per day.

8 The usage is based on design flow
9 factors prepared by the Suffolk County Department
10 of Health Services. So utilizing the commuter use
11 factor, which Mr. Goldstein mentioned before, as
12 five gallons per day and utilizing the residence
13 flow factor of seventy-five gallons per day, we
14 can determine the maximum utilization of the
15 property.

16 In this case, based on seven hundred
17 eighty-eight existing commuter students, the flow
18 is approximately three thousand nine hundred forty
19 gallons. Based on the full occupancy of the four
20 dormitory buildings the flow would be about
21 fifteen thousand six hundred gallons. So you can
22 see that fifteen times factor increases the amount
23 of flow substantially.

24 The total of those two is nineteen
25 thousand five hundred forty gallons. And

1
2 therefore, it's less than the twenty thousand one
3 hundred sixty that would be permitted under the
4 Health Department.

5 So what that comes down to is in terms
6 of residency and number of students, we're at the
7 maximum based on the roughly nine hundred
8 ninety-six, close to one thousand students in
9 combination of commuter students and residence
10 students.

11 MR. GOLDSTEIN: If they did ever want
12 to exceed those numbers that you told us they
13 would have to make arrangements for a sewage
14 treatment plant; is that correct?

15 MR. VOORHEES: That's correct.

16 MR. GOLDSTEIN: And that would also
17 necessitate, even without a statement that I made
18 before, an environmental review; is that correct?

19 MR. VOORHEES: Yes.

20 MR. GOLDSTEIN: And does that cost
21 today about a million dollars to put that in?

22 MR. VOORHEES: Very close to it for
23 this size.

24 MR. GOLDSTEIN: That's about what?

25 MR. VOORHEES: About three-quarters of

1 a million.

2
3 MR. GOLDSTEIN: With respect to the
4 parking, would you tell the board what the parking
5 is on this site?

6 MR. VOORHEES: The parking is to the
7 south. There are currently three hundred
8 seventy-four paved parking stalls and I will refer
9 again to Exhibit number 34 which helps to answer
10 one of the questions from before.

11 The parking that is paved, three
12 hundred seventy-four stalls are located in this
13 area. There is an area of gravel, parking unpaved
14 of approximately one hundred fifty-four stalls and
15 the total is about five hundred thirty-seven, when
16 you include the nine stalls that we're adding in
17 the proposed new area.

18 MR. SLINGO: And the soccer field is to
19 the south of that gravel lot?

20 MR. VOORHEES: Yes, sir and they are
21 labeled on this figure, those are the ballfields.

22 MR. GOLDSTEIN: And as part of the DIS
23 you did review the possible alternative uses, is
24 that correct?

25 MR. VOORHEES: Yes.

1
2 MR. GOLDSTEIN: And that included the
3 full analysis of what you could put in as of
4 right; is that correct?

5 MR. VOORHEES: Yes.

6 MR. GOLDSTEIN: And you did with or
7 without expansion?

8 MR. VOORHEES: Yes, we looked at a few
9 different scenarios and I will point out that the
10 Draft Environmental Impact Statement was prepared
11 based on a scope submitted to the town and
12 accepted by the town as complete for the purpose
13 of this hearing and that included three
14 alternatives.

15 Basically, one was access alternative
16 which our traffic expert will speak about. And
17 the two other alternatives had to do with two
18 other forms of occupancy and possible demolition
19 of the incomplete residential dormitory building.

20 MR. GOLDSTEIN: And so you concluded in
21 that report also that they could add an additional
22 fifteen hundred students if they didn't have this
23 dormitory; is that right?

24 MR. VOORHEES: If it were commuter
25 students, that's correct.

1
2 MR. GOLDSTEIN: And as part of your
3 analysis you did incorporate the findings of the
4 traffic expert as to what the traffic significance
5 would be if you had commuter students rather than
6 students living at the dormitory; is that right?

7 MR. VOORHEES: Yes, that's included as
8 a full separate column as part of the full DEIS,
9 as part of the record.

10 MR. GOLDSTEIN: Did you make a study of
11 other institutional uses in the area?

12 MR. VOORHEES: Yes, we did.

13 MR. GOLDSTEIN: And do you have
14 something to reflect that?

15 MR. VOORHEES: Once again we have a
16 figure in the Draft Environmental Impact
17 Statement, specifically referenced in the land use
18 and zoning section when we looked at areas within
19 roughly three thousand feet of the property and we
20 identified the variety of institutional uses in
21 that area. This was one of about six
22 institutional uses.

23 MR. MODELEWSKI: Are you going to refer
24 to another exhibit?

25 MR. VOORHEES: Yes.

1
2 MR. MODELEWSKI: All right, let's mark
3 that number 36 in evidence. What is it, this is
4 another aerial photograph; is that right?

5 MR. VOORHEES: I will describe it in a
6 little more detail. This is an additional aerial
7 photograph. This is plotted at a larger scale of
8 one inch equals three hundred seventy-five feet.
9 This is from earlier flight of 1999. This shows
10 this area is wooded still. That's why we prepared
11 the more updated photograph that is now Exhibit
12 number 34 and it looks at a wider region around
13 the subject property identifying Sagamore
14 Psychiatric Center hospital, several
15 institutional uses. Schools associated with the
16 Half Hollow Hills School District and identifies
17 other uses as well, a bus yard that Mr. Cohen
18 referred to as well as a temple and basically the
19 layout of the surrounding land uses in the
20 vicinity of the property.

21 MR. GOLDSTEIN: Now your DIS was found
22 to be complete?

23 MR. MODELEWSKI: Mr. Goldstein, Mr.
24 Roussillon would like to take a look at that
25 exhibit. Would you hand that up?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Go ahead.

MR. GOLDSTEIN: Do you have a question, Mr. Roussillon?

MR. MODELEWSKI: Go ahead, Mr. Goldstein, he will jump in if he needs to.

MR. GOLDSTEIN: You did review every one of the criteria for evaluating the environmental impact of this and mitigating those impacts?

MR. VOORHEES: Yes, those that were required for the purpose of assessment.

MR. GOLDSTEIN: And you well did have someone researching the archeology; is that correct?

MR. VOORHEES: Yes.

MR. GOLDSTEIN: You dug a number of holes; is that correct?

MR. VOORHEES: We retained an archeological consultant to perform what is known as stage one archeological assessment. Twenty-nine test holes were dug on the property, screened and it was prepared in accordance with archeological standards and found that there were no significant artifacts recovered as a result of

1 the sub surface investigation.

2
3 MR. GOLDSTEIN: Your study also
4 included the community benefits, as Dr. Cohen
5 testified to some of the uses, of the community
6 soccer field, basketball an you heard all of that
7 and that is reflected in your report?

8 MR. VOORHEES: Yes, we identified this
9 as a community resource for the specific reasons
10 that Dr. Cohen mentioned.

11 MR. GOLDSTEIN: I have no other
12 questions of this witness.

13 MR. MODELEWSKI: Any board members have
14 any additional questions of Mr. Voorhees?

15 MR. MATTHEWS: Have you reviewed the
16 January 30, 2003 memo of the Planning Department?

17 MR. VOORHEES: Yes, I have.

18 MR. MATTHEWS: And can you give us your
19 response to their concern about the Direct
20 Environmental Impact Statement?

21 MR. GOLDSTEIN: Is that part of the
22 record or not?

23 MR. MATTHEWS: I believe it was part of
24 the volume marked. I believe this volume has been
25 marked as an exhibit.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. MODELEWSKI: It's in the record.

MR. GOLDSTEIN: Okay. Why don't you specifically respond to Mr. Matthews' question?

MR. VOORHEES: Yes, I reviewed the memo. It identifies eleven points that the staff had requested additional information on. My recollection is that this was prepared at the time of acceptance of the document. So these did not rise to the degree that it required revisions of the document prior to the circulation, but they were points of clarification that the staff felt would help complete the record.

Our intent would be to include those responses as part of the final Environmental Impact Statement that will have to be prepared after tonight's hearing responding to all written and oral comments.

MR. MATTHEWS: So you will make the revision for the final statement?

MR. VOORHEES: Yes.

MR. GOLDSTEIN: I don't like to see a question unanswered. Briefly comment on Mr. Matthews' question. What type of thing did you respond to?

1
2 MR. VOORHEES: One of the comments just
3 had to do with the tax map number which has been
4 clarified. I mentioned before the aerial
5 photography was originally from 1999. We obtained
6 a 2001 aerial photograph that clearly reflects the
7 more current conditions on the property. There
8 were several items just having to do with the area
9 outlined as the living/learning center under
10 comment three and this was taken care of again in
11 the revised figure.

12 There was a comment regarding parking
13 counts in which we clarified the paved and unpaved
14 spaces and also added the nine spaces to that just
15 for clarification purposes. Some of it was more
16 consistency oriented.

17 MR. MATTHEWS: Does the parking comply
18 with the Planning Board site plan approval?

19 MR. GOLDSTEIN: Yes, the original site
20 plan approval, approved by the Planning Board
21 contains three hundred some odd and there's now a
22 hundred fifty-four unpaved stalls. That would
23 have to go back before the Planning Board.

24 MR. VOORHEES: That was one of the
25 differences and one of the purposes of staff

1
2 comment number four that we have clarified that
3 point.

4 MR. GOLDSTEIN: I don't think it would
5 have to go back because of this hearing, but it
6 would have to go back because they would need
7 that. I mean, they were there for the college.
8 So in order to get the permits or whatever I need
9 for that parking I really don't believe it relates
10 the dormitories.

11 MR. MATTHEWS: No, but it's part of the
12 overall environmental review so you are going to
13 somehow comply with the Planning Board site plan.
14 Are you going to seek their relief in order to
15 end the site plan?

16 MR. GOLDSTEIN: Yes, it's beyond the
17 requirements of the code, these one hundred
18 thirty-four unpaved. But they are there and
19 rather than take them away, we left them and we'll
20 solve that problem.

21 MR. VOORHEES: And then there were
22 several others, five related to the parking as
23 well. Number six related to grading and drainage
24 plans and basically ensuring consistency and we
25 have outlined detailed responses.

1
2 Number seven had to do with just a
3 term, semantic term where we used the term matter
4 of right and that was called into question just to
5 clarify exactly how that was determined and I
6 described the sewage flow calculation before that
7 we used in support of that statement. So that has
8 been clarified.

9 Number eight is indicated that a
10 landscape plan was referenced but not submitted.
11 That has been provided.

12 Number nine referenced a summary
13 statement that was placed in the summary section
14 that did not have the backup of a bus route that
15 appeared in the remainder of the text. So just to
16 clarify that was added.

17 Number ten had to do with the amount of
18 units and classrooms and this was clarified in the
19 revision to the table which has been passed out to
20 you this evening as an exhibit.

21 And number eleven had to do with
22 alternatives and the analysis of one additional
23 alternative which has been prepared and will be
24 included in the final Environmental Impact
25 Statement.

1
2 MR. MATTHEWS: Can you explain why
3 there was a plan for grading and drainage that
4 included a future library and future courtyard
5 when we have been told that there's no such plan
6 to do that?

7 MR. GOLDSTEIN: I think what happened
8 is when they originally looked at it they looked
9 at the original, this original plan that Dr. Cohen
10 referred to.

11 MR. MATTHEWS: That is going to be
12 replaced?

13 MR. GOLDSTEIN: That was the same,
14 Murphy's law. Once something gets messed up it
15 perpetuates. That's what happened here. I think
16 I addressed that issue to show my sincerity and
17 commitment and belief as to what's there
18 concerning the library. But that will be
19 clarified. I think the new plan here which
20 eliminates this proposal to the FEIS will
21 certainly exclude this phantom library.

22 MR. MATTHEWS: Was that an old plan
23 that originated back when you were in the Planning
24 Board site plan process?

25 MR. GOLDSTEIN: Well, the ultimate plan

1
2 before the planning -- it was a very, very old
3 plan, a plan approved before the Planning Board
4 ultimately did not include the library. That was
5 in the final plan. It was never included the
6 library because this issue surfaced three years
7 ago, 1999.

8 MR. VOORHEES: It's four years ago.

9 MR. MATTHEWS: But it's resurfaced this
10 time because of what you did?

11 MR. GOLDSTEIN: No. No. I won't say
12 that.

13 MR. MATTHEWS: You put the plan in
14 here; right?

15 MR. GOLDSTEIN: Yes, but that's -- I
16 will plead on -- that would have surfaced and was
17 there a twelfth one?

18 MR. VOORHEES: That was all.

19 MR. MODELEWSKI: Anything else you are
20 curious about, Mr. Matthews?

21 MR. MATTHEWS: No.

22 MR. MODELEWSKI: Any board members have
23 any questions?

24 (No response.)

25 MR. MODELEWSKI: Thank you, Mr.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Voorhees.

MR. SLINGO: I have a question. Mr. Goldstein, the dean, Dr. Cohen, mentioned before that there would be housed fifty-two student per dorm?

MR. GOLDSTEIN: That's correct, about.

MR. SLINGO: I assume that's how many students per dorm room?

MR. GOLDSTEIN: Well, I think it's -- I think they divided it up, it's usually two but can be a three and some singles. But there is no four, but it can be possibly a three. I asked him about that configuration. Possibly a three and then some single rooms where the some of the students may require --

MR. SLINGO: Let's deal with the total number. Fifty-two students per dorm?

MR. GOLDSTEIN: That's it.

MR. SLINGO: Any plans to increase that density?

MR. GOLDSTEIN: No, they can't.

MR. SLINGO: It will remain fifty-two forever and ever?

MR. GOLDSTEIN: Unless they would have

1
2 to go back. They would have to go back. Right
3 now what they would have to do is spend a million
4 bucks for a sewage treatment plant, have a new
5 environmental. Right now there are no plans and
6 again --

7 MR. SLINGO: When you say there are no
8 plans, Mr. Goldstein, is that five years?

9 MR. GOLDSTEIN: Well, as I said before,
10 if they want to do that, first they have to put a
11 million dollars into the facility for a sewage
12 treatment plant and then they have to find a place
13 for the sewage treatment plant. And then they
14 would have to come back for a new environmental --

15 MR. SLINGO: As Mr. Modelewski
16 mentioned at a prior hearing, he recalls that when
17 he was in college that they offered triples and I
18 think there are also quadruples.

19 MR. GOLDSTEIN: No, I will tell you if
20 you wanted to say no quadruples, there may be some
21 threes because for some of the disabled students
22 they may require a single room.

23 MR. SLINGO: To increase the density
24 beyond fifty-two students per dormitory, there are
25 no plans to do that?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. GOLDSTEIN: That's correct.

Absolutely.

MR. SLINGO: Thank you.

MR. MODELEWSKI: Next witness.

MR. GOLDSTEIN: Mr. Muller.

MR. MODELEWSKI: Do you swear the testimony you are about to give is the truth, the whole truth and nothing but the truth?

MR. MULLER: Wayne Muller, RMS, engineer, 355 New York Avenue, Huntington village.

MR. MODELEWSKI: Mr. Goldstein, we're familiar with Mr. Muller's qualifications. We find he's qualified to provide us with opinion testimony. Please proceed.

MR. GOLDSTEIN: Mr. Muller, you attempted to make an analysis of this particular project with respect to the impact of the traffic impact of the dormitories; is that correct?

MR. MULLER: That's correct.

MR. GOLDSTEIN: And the purpose of this application, as you know, is for the dormitory use, not for the college use; is that correct?

MR. MULLER: That's correct.

MR. GOLDSTEIN: And therefore the focus

1
2 of your study was to ascertain the impact, traffic
3 impact of the dormitory use in connection with
4 this application; is that correct?

5 MR. MULLER: That's correct.

6 MR. GOLDSTEIN: And traditionally when
7 you analyze a special exception or conditionally
8 permitted use or whatever you then compare your
9 traffic impacts to the permitted use; is that
10 correct?

11 MR. MULLER: That's correct.

12 MR. GOLDSTEIN: Or other uses allowed
13 in the district; is that right?

14 MR. MULLER: Correct.

15 MR. GOLDSTEIN: And in this particular
16 case did you measure the traffic at the site?

17 MR. MULLER: Yes, we did.

18 MR. GOLDSTEIN: And would you just tell
19 the board what hour did you use and why did you
20 use that hour and so forth?

21 MR. MULLER: As indicated in the volume
22 two of the DEIS dated January 2003 prepared by
23 Nelson, Pope and Voorhees, traffic study that my
24 firm prepared, we studied the quantity of traffic
25 that is generated by the existing college during

1
2 various different peak hours and I would like to
3 point out at the time that we performed the study
4 half of the dormitories were occupied. So a
5 hundred four students occupied the two dormitories
6 in the buildings that were constructed.

7 What we found was that during the
8 morning rush hour or the commuter peak hour, the
9 Five Towns College including the hundred four
10 students generated a hundred forty-five total
11 trips. That's a hundred thirty-one entering and
12 fourteen exiting. During what we call the college
13 peak hour which occurred after the commuter peak.

14 MR. GOLDSTEIN: Excuse me, what is the
15 non-college peak hour?

16 MR. MULLER: The non college is between
17 eight and nine in the morning.

18 MR. GOLDSTEIN: And colleges peak hour?

19 MR. MULLER: The college's peak hour is
20 between nine and 10 in terms of the students and
21 some faculty arriving after the rush hour. During
22 that period we found two hundred sixteen vehicle
23 trips. A hundred sixty entering and fifty-six
24 exiting.

25 Similarly we did an analysis in the

1
2 afternoon during the commuter peak hour which is
3 between five and six. There were a hundred two
4 vehicles that accessed the site, thirty entrance
5 and seventy-six are exiting and during the college
6 peak hour, four to five, we observed two hundred
7 six vehicles, fifty-eight entering and a hundred
8 forty-eight exiting.

9 MR. GOLDSTEIN: Now, did you then make
10 any comparisons or what you think was generated by
11 -- what was your conclusions with respect to the
12 traffic generated by the dormitories?

13 MR. MULLER: Essentially what we did is
14 speak to the applicant. At the time of our study
15 approximately forty students, of the hundred four
16 that were living on campus parked their vehicles
17 on campus. So forty students did have vehicles.
18 Of those forty we assume that approximately
19 sixty-five percent of those vehicles would enter
20 and exit during these peak hours.

21 Essentially the purpose to provide
22 dormitories for a commuter college is to reduce
23 traffic on the roadways. The students would no
24 longer have to drive to school, they would be in
25 the dorms, walk to class and their cars would

1 never leave the parking lot.

2 That's essentially why the college
3 would want to do that from a traffic perspective,
4 whereas the dormitory, the students are on campus
5 going to class. They don't have to come from home
6 or wherever else they're coming from to access the
7 school.
8

9 MR. MODELEWSKI: Did you focus your
10 study at all with the respect to the hundred four
11 on the property? Did you focus your study at all
12 and did you make a study of how many of those
13 students had cars?

14 MR. MULLER: It was forty.

15 MR. MODELEWSKI: Did you also include
16 in your study the notion that for anything other
17 than food and for quiet contemplation and study,
18 attendance in classes that these students do have
19 to leave the premises?

20 In other words, this isn't an urban
21 campus where they would park their cars in the
22 parking garage and have all of the services that
23 they may require available to them as pedestrians?

24 MR. MULLER: I believe there's --
25 sometimes they would leave, but I believe as Mr.

1
2 Cohen said they had a mandatory meal plan that
3 they have to adhere to. So for certain meals they
4 may stay on campus, but they would have to
5 obviously leave the campus.

6 MR. GOLDSTEIN: But your traffic study
7 included, whatever reason they left, to go to a
8 barber shop, you included that?

9 MR. MODELEWSKI: That's reflected in
10 your observation already?

11 MR. MULLER: Yes. Half of the
12 dormitories were included.

13 MR. GOLDSTEIN: And you did study on
14 Saturday as well?

15 MR. MULLER: Yes, we also did Saturday
16 at which point we found that the colleges
17 generated thirty-nine vehicle trips. Twenty-one
18 entering and eighteen exiting.

19 MR. KURTZBERG: What were the dates
20 that you ran the studies?

21 MR. MULLER: They were actually in May.

22 MR. MODELEWSKI: Is that while the
23 school is still in session?

24 MR. MULLER: Yes, obviously.

25 MR. MODELEWSKI: Well, we don't expect

1 any trickery here, but we want to hear.

2 MR. MULLER: The data was collected on
3 Wednesday, May 1st, 2002 and Saturday May 4, 2002.

4 MR. KURTZBERG: When did classes end?

5 MR. MULLER: A week and a half or two
6 weeks later.

7 MR. KURTZBERG: Were they going to
8 finals at that point?

9 MR. MULLER: No standard regular class
10 days.

11 MR. KURTZBERG: How many studies did
12 you run?

13 MR. MULLER: We did turning movement
14 counts on those days and we put machine counts on
15 the driveways for a week in and around those
16 times. We put machines in the driveways and found
17 that the volumes that were generated by the school
18 were representative of the activity of the school
19 during a typical day.

20 MR. KURTZBERG: There were seven
21 consecutive days in that week until the end of the
22 week?

23 MR. MULLER: I don't have the data with
24 me. We can provide that data, but it was in
25

1
2 around that time period for seven days.

3 MR. MODELEWSKI: Did you compare the
4 proposed use with any unconditionally proposed use
5 that is conforming R-40 development that would not
6 require any approval from this board?

7 MR. MULLER: No, I didn't necessarily
8 do that -- yes, in fact I did.

9 MR. MODELEWSKI: Like a subdivision,
10 did you postulate what a subdivision in that area
11 would generate? I don't think a subdivision would
12 be the most intense.

13 MR. MULLER: No, I did not.

14 MR. GOLDSTEIN: There was a school
15 there before. We did -- one of the best examples
16 is what this college itself could have. That's
17 really the primary example. Forget it if you go
18 to the residence you take thirty-three acres and
19 multiply it by eighty-five percent, you know,
20 times eight, two forty, probably less than that.

21 MR. MULLER: I think one of the things
22 that Mr. Goldstein and Mr. Voorhees touched on
23 earlier, that is on table 1-1 of the response from
24 staff comments which I believe Mr. Matthews and
25 Mr. Voorhees discussed earlier is currently the

1
2 population of the site is bound by the sanitary
3 density of the site and as indicated in the table
4 currently there's a total enrollment at the school
5 of nine hundred sixty-three students and
6 eighty-two faculty and staff and that would be
7 including the hundred four residential.

8 We could have a total population of one
9 thousand forty-five persons on the site at any one
10 given time. If we were to include the full build
11 out of the dormitories we would have eleven
12 hundred twenty persons that would be the maximum
13 that the site could handle under the current
14 sanitary conditions without the treatment plant.

15 MR. KURTZBERG: Let me ask you this.
16 We didn't go into it, but are faculty members
17 living at the dorms? Are there professors,
18 teachers where are they housed?

19 MR. GOLDSTEIN: They're included in the
20 sewage calculation and in the maximum number of --

21 MR. MODELEWSKI: Especially at finals
22 time or immediately thereafter.

23 MR. GOLDSTEIN: That came out wrong.

24 MR. MODELEWSKI: Where do they sleep,
25 Mr. Goldstein?

1
2 MR. GOLDSTEIN: It includes the staff,
3 its persons, includes the faculty.

4 MR. KURTZBERG: How many faculty
5 members will be housed at the dormitory?

6 MR. MODELEWSKI: Rise and you are still
7 under oath, Mr. Cohen. You want to have him
8 respond to the question, Mr. Goldstein? Go ahead,
9 Mr. Cohen.

10 DR. COHEN: The fifty-two count is an
11 occupancy count, not student count. The fifty-two
12 count includes the staff, residential staff and
13 the students.

14 MR. KURTZBERG: What is the breakdown?
15 How many staff and how many students?

16 DR. COHEN: There would be fifty-one or
17 fifty students, depending upon whether the
18 residence hall director of the building is married
19 or not. If they're married, it would be two.

20 MR. KURTZBERG: You are saying one or
21 two people will be considered the faculty and the
22 rest will be students?

23 DR. COHEN: They would serve as hall
24 directors and they would be assisted by a team of
25 RA which would be students.

1
2 MR. KURTZBERG: How many teachers or
3 how many are students?

4 DR. COHEN: At build out that's what
5 the characteristics would look like. At build out
6 there would be approximately one thousand student
7 commuters and residents with the faculty staff
8 equivalent of approximately a hundred and two. At
9 present our faculty staff equivalent is about
10 eighty-two.

11 MR. KURTZBERG: Do they live on campus
12 or not?

13 DR. COHEN: Currently because of the
14 situation with the stop work the associate dean of
15 students and director of residential life live on
16 campus, as does the director of student
17 activities. They live on campus and serve as hall
18 directors.

19 MR. KURTZBERG: Is there a plan to have
20 faculty members live on campus?

21 DR. COHEN: In accordance with the
22 plans as developed, yes, and they would be counted
23 in that count.

24 MR. SLINGO: That's only one or two per
25 dorm?

1
2 DR. COHEN: One or two per dorm. In
3 building three and four there are arrangements for
4 dean of residential life and associate dean of
5 residential life that will be added when the
6 fourth building is open. So there would be at
7 least two staff members in those two buildings.
8 If they're a married couple we have to make
9 adjustments in the student count to make
10 adjustments in the fifty-two.

11 MR. KURTZBERG: But it's basically for
12 the students as opposed to the faculty? The
13 housing is basically for students?

14 DR. COHEN: The residents hall is for
15 the students.

16 MR. SLINGO: Mr. Chairman's question
17 regarding Mr. Muller's study prompted another
18 question to me and perhaps you best can answer it.
19 Are there any plans, I hate to phrase it that way.
20 What plans do you have for the use of the dorms in
21 the summertime when, I assume that the students
22 will not be using those dorms?

23 DR. COHEN: That question has come up
24 and sometimes it's difficult to answer it by
25 telling you what we're not going to do. We are

1
2 not going to run it as an innkeeper. It will not
3 be a boarding house for transients. It will only
4 be used for programs that are connected to our
5 educational mission as a college.

6 One question came up that was addressed
7 in the Draft Environmental Impact Statement about
8 something that happened last summer, a weekend
9 retreat where we hosted the Leadership Huntington
10 group for two days. That might be an example.

11 MR. SLINGO: That's the Huntington
12 Chamber of Commerce?

13 DR. COHEN: Yes. They called us
14 because they got booted out of Cold Spring Harbor
15 and they had no place to go, so we accommodated
16 them. If we use this last summer as an example
17 there were maybe six students on campus this whole
18 summer.

19 So our campus characteristics are very
20 traditional in terms of the type of students that
21 come. Ninety-nine percent of our students are
22 full-time day students. They take full-time
23 academic loads. The summer school sessions are
24 historically very small. There was no charge for
25 the Leadership Huntington. We were pleased to

1
2 host it.

3 MR. GOLDSTEIN: I want to make sure I
4 didn't get billed for that request.

5 MR. MULLER: To continue. Essentially
6 the traffic, one of the comparisons we did make,
7 it essentially relates to the sanitary flow to the
8 quantity of people that could be accommodated on
9 the site and therefore the traffic flow is that if
10 we were not to assume that there would be any
11 persons living on the site under current sanitary
12 conditions the college could accommodate
13 approximately twenty-five hundred seventy-six
14 persons and theoretical capacity as indicated in
15 the response to staff comments prepared by Nelson
16 Pope and Voorhees approximately thirty-eight
17 hundred persons could be accommodated on the site
18 under the current conditions.

19 Now if we were to take the volumes that
20 we observed at the driveway and project these
21 various different scenarios, it's quite easy for
22 us to see that under the scenario where we have
23 thirty-eight hundred persons we would generate
24 during the P.M. commuter peak hour for example
25 approximately four times as much traffic.

1
2 Similarly during the A.M. commuter peak hour we
3 would generate about four times as much traffic.

4 So by providing dormitories we're
5 actually reducing the quantity of traffic that
6 could be generated by the site as a whole because
7 of the sanitary ratio and the constraints that
8 that encumbers on the facility.

9 MR. MODELEWSKI: Have you conducted
10 similar studies with respect to similar colleges?

11 MR. MULLER: No, I have not.

12 MR. MODELEWSKI: Have you compared your
13 findings with the institute manual and if so,
14 would you tell me how your findings compare with
15 those works.

16 MR. MULLER: Actually I did do that. I
17 compared what the existing Five Towns College
18 generate to what would be anticipated based on the
19 Institute of Transportation Engineers and for
20 instance during the morning commuter peak hour the
21 ITE indicates there would be a hundred thirty-five
22 vehicle trips and we actually counted a hundred
23 forty-five. And during the P.M. commuter peak
24 hour the ITE would estimate three hundred
25 seventeen and we only counted a hundred two.

1
2 So in the morning we're right about at
3 the same level and in the afternoon we're less.
4 The students actually leave earlier. They leave
5 probably between three and five to beat the
6 traffic on the expressway and the ITE would
7 indicate that those students at the colleges that
8 they surveyed were going with the commuter traffic

9 MR. MODELEWSKI: And the other data
10 used by ITE that you compared with is the number
11 of students.

12 MR. MULLER: Number of students;
13 correct.

14 MR. GOLDSTEIN: Now there was an issue
15 raised somewhere on Petit Drive and I had Mr.
16 Muller make an analysis of that as well.

17 First of all, tell the board where
18 Petit Drive is.

19 MR. MULLER: That's the first street
20 located to the west of the subject, Burrs Lane and
21 Half Hollow Lane, but I would like to get back, if
22 I may, to the other uses that would be permitted
23 on the property as a whole and in the R-80 zone
24 which the R-40 refers to.

25 We could put a park, thirty-three point

1
2 six acre park that would generate a lesser
3 quantity of traffic during the morning and
4 commuter peak hour and a little less on the P.M.
5 and greater on Saturday. And we can put a library
6 on the property and a municipal parking lot that
7 could be construed to be a parking/ride facility.
8 This would be a perfect spot for that which would
9 obviously generate a tremendously larger amount of
10 traffic than what the college as a whole would
11 generate.

12 So by providing dormitories on the
13 property it's fully consistent with other uses
14 permitted within the zone.

15 MR. MATTHEWS: Is there any way to or
16 do you have -- have you done any thought to what
17 impact having these students who are now living on
18 the campus and now have vehicles there and about
19 traffic that might be in different hours like in
20 the evening going out or weekends in particular?
21 Is there an impact on traffic because you have
22 students with vehicles living on the campus
23 itself?

24 MR. MULLER: Correct. We specifically
25 addressed that in the DEIS. And what we looked at

1
2 was based on the volumes that we observed at the
3 driveways. We could see, if you bear with me for
4 one second, in the volume that we included in the
5 maximum that we saw for a fifteen minute period on
6 the weekend was ten vehicles. And in between the
7 hours of say midnight and seven A.M. which would
8 be very early morning we saw no more than five
9 vehicles per one fifteen minute period.

10 So the activity at the college with the
11 hundred four dormitory students is pretty low in
12 what you consider to be off-peak hours on weekend.
13 As you indicated on the charts that we put in the
14 DEIS the major activity occurs when the college
15 itself has performances such as the jazz guitar
16 arrived which performed on Saturday, May 4. And
17 then there was a string quartet on Sunday, opera
18 workshop and that is essentially -- those
19 activities do generate traffic and they will
20 continue to exist whether the dormitories are
21 there or not.

22 MR. KURTZBERG: That's open to the
23 public?

24 MR. MULLER: I believe so, yes.

25 MR. KURTZBERG: How many people does

1 that draw about as far as events?

2 MR. MULLER: The time period that those
3 special events were occurring, there were
4 approximately three hundred people that attended
5 one of the events.
6

7 MR. KURTZBERG: That's at night or
8 during the day?

9 MR. MULLER: At night. Typically eight
10 o'clock and ended around ten-thirty. You can see
11 based on the charts in the DEIS you can see the
12 pick up in volume and it subsided as the people
13 watch the showed and it peaked on the exit traffic
14 but those events will occur whether the
15 dormitories are there or not. It's just part of
16 the college and its environment.

17 MR. MATTHEWS: Did you determine or
18 look at whether there are any locations in the
19 area that there would be more traffic because of
20 students traveling in the community? You know,
21 any location that they would frequent or have been
22 frequenting?

23 MR. MULLER: I mean the roadway network
24 as a whole, the site is extremely close to the
25 Long Island Expressway and Route 110. To answer

1
2 your question, we didn't specifically key on any
3 one location where there would be a congregation
4 of vehicles associated with the college. Traffic
5 to and from the college. It's fairly widely
6 disbursed as relatively good access to and from
7 the facility via the Long Island Expressway,
8 Vanderbilt Parkway, Half Hollow Hills Road and
9 Bagatelle Road.

10 There is a fair amount of roadway
11 network that surrounds the facility to support
12 both the dormitory and existing college population
13 the ability to travel in this area so they won't
14 necessarily converge on any one area.

15 MR. MATTHEWS: So some of the impacts
16 on all of the surrounding areas as a result of
17 these dormitories is?

18 MR. MULLER: In my opinion there would
19 be imperceptible impact. The dormitories
20 especially during peak hours of traffic would tend
21 to reduce volume. Students would no longer be
22 traveling in their vehicles to get to college.
23 They would walk from the dormitory to the
24 classroom and back and having been a college
25 student I can attest to that fact and maybe many

1
2 of the board members could also. When I lived in
3 the dorm and I had my vehicle on-site maybe I used
4 it sporadically during the weekend. Typically I
5 couldn't afford enough money for gas, but I would
6 essentially stay on campus and go to class and
7 come back and not have to drive around.

8 MR. GOLDSTEIN: Could you comment on
9 Petit Drive?

10 MR. MULLER: One of the issues that we
11 came up with was the concern on vehicles that
12 travel on Bagatelle Road and make a right on Petit
13 Drive and make a right on Half Hollow Road and
14 right on Burrs Lane and come up to Five Towns
15 College and essentially what we did is performed
16 on two days in November when school was fully in
17 operation, November 7 and November 8. It's a
18 Thursday and Friday morning between the hours of
19 seven A.M. and noon and performed what is called
20 an origin destination study or license plate
21 survey where we physically watched every vehicle
22 and its license plate that performed the various
23 maneuvers, specifically the northbound right from
24 Petit to Half Hollow and then the eastbound right
25 from Half Hollow to Burrs. And then whether the

1
2 vehicles went into Five Towns College or into the
3 bus facility which is located a little further
4 south on the west side of --

5 MR. MODELEWSKI: What caused you to
6 conduct that particular analysis, Mr. Muller?

7 MR. MULLER: I believe there were
8 concerns raised by some of the residents.

9 MR. MODELEWSKI: Would you have
10 ordinarily conducted that aspect of the study in
11 terms of evaluating the value of impact of this
12 proposed development on the surrounding community
13 had you not been specifically asked to do so?

14 MR. MULLER: No, we would not have.

15 MR. GOLDSTEIN: It may seem like a
16 digress, but in all likelihood it will be raised
17 and I want to address it.

18 MR. MODELEWSKI: I understand that we
19 want to get all of the facts out. I just want to
20 understand what it was that Mr. Muller was doing.

21 MR. MULLER: I think there was a
22 concern that people were cutting through the
23 neighborhood to get to the college and avoiding
24 the traffic study at Bagatelle and North Hollow.

25 So we did these five blocks and the

1
2 results of the analysis are in table of the DEIS
3 in the traffic component volume two. A total of a
4 hundred five vehicles performed that right turn
5 from Petit to Half Hollow Road of which twenty-two
6 vehicles in five hours on Thursday, November 7th
7 performed a right turn from Half Hollow to Burrs,
8 of which twelve went to the college and ten went
9 to the bus facility. Over a five hour block
10 that's a relatively minor quantity of vehicles.

11 So we broke it down into the peak hours
12 of the roadway commuter peak hour and college on
13 that same day and it was two vehicles per hour did
14 that maneuver.

15 MS. GAUGHRAN: This was a full
16 scheduled class day, not examine day?

17 MR. MULLER: No, both were full normal
18 typical class days and Friday the results were
19 very similar. In fact, we saw a hundred four
20 vehicles perform that move which is pretty
21 consistent. Twenty-six vehicles performed the
22 movement from Half hollow to Burrs and equally
23 split thirteen and thirteen to the college and to
24 the bus facility.

25 MR. GOLDSTEIN: And we don't know how

1
2 many of those might have been dormitories, it was
3 college generally?

4 MR. MULLER: College population
5 generally. It's highly unlikely that any of them
6 were dormitories because the dormitory students
7 probably in all likelihood have their cars parked
8 there and are walking to class where commuter
9 students coming from the south along Bagatelle or
10 the west along the expressway would be driving to
11 campus.

12 MR. MODELEWSKI: So you didn't actually
13 follow an integrated drivers --

14 MR. MULLER: No, we didn't do that.

15 MR. GOLDSTEIN: The thing that
16 generated this was a request was made by the
17 community and we endeavored to do whatever we
18 could to try to solve this.

19 MR. MODELEWSKI: It's a common sense
20 approach. I understand that.

21 MR. GOLDSTEIN: What happened is they
22 wanted to have an access off of the expressway
23 service road and the reason that they gave us for
24 this was because of Petit Drive and it would have
25 really knocked the daylight out of the campus if

1 we did it because then you would have the road
2 coming up in back of the residential homes.

3 It would come right through the soccer
4 field, so we wanted to see if that made any sense
5 and that's how that came up. Which leads to the
6 next question: Did you then meet with the
7 Department of Transportation to see if they were
8 amenable to having, assuming that that would be
9 possible, if they would allow a cut into the
10 service road of the expressway?
11

12 MR. MULLER: Yes, I did. To further
13 elaborate, one of the alternatives we looked at
14 was alternate access where all access to the
15 college would be provided via the service road.
16 The access driveway along Burrs would be closed
17 and that is fully explained to the very traffic
18 component of the DIS and what I did do was I went
19 on vacation last week, prior to the vacation I
20 spoke to the state and they were going to have an
21 internal meeting regarding this project and the
22 access scenario.

23 On Monday, July 21 I had an opportunity
24 to sit down with representatives of the DOT
25 regarding a potential access from the college to

1
2 the south service road along the site frontage
3 and at that meeting I met with Mr. Shaksod
4 (phonetics) who is of the traffic engineering
5 group, Karen Taylor of the traffic engineering
6 group and gentleman George Byron of the planning
7 group and what the DOT indicated to me was that at
8 this time the DOT will not allow nor do they want
9 an access to this property from the service road.

10 They believe that the access to the
11 facility should remain as it is on Burrs Lane
12 because essentially it affords the site a greater
13 dispersion of access. By limiting the access to
14 the service road people will be making U-turns on
15 the service road, possibly finding other routes to
16 get to the school.

17 Whereas with the access as it currently
18 exists people who are traveling from the west on
19 the expressway, they get off at Bagatelle Road,
20 travel to Half Hollow, make the right on Half
21 Hollow, go up to Burrs Lane. When they want to
22 leave they make a right out and go to the
23 expressway. Similarly people from the east, from
24 the expressway travel along the service road, make
25 the right on Burrs Lane and enter the site. So at

1
2 this time the DOT indicated to me on Monday that
3 they did not want the access to the service road.

4 MR. GOLDSTEIN: Now when the Planning
5 Board made its study of the traffic and the site
6 plan, was there a consideration of the traffic by
7 the town itself?

8 MR. MULLER: Yes, there was.

9 MR. GOLDSTEIN: And who was the
10 gentleman that performed that study on behalf of
11 the town?

12 MR. MULLER: It was Mr. Thomas Mazzola
13 who at the time, in June of 1999, was the director
14 of engineering services.

15 MR. GOLDSTEIN: And he is also a
16 traffic expert in his own right; is that correct?

17 MR. MULLER: I believe so, yes.

18 MR. GOLDSTEIN: Is that a copy of that
19 report?

20 MR. MULLER: Yes. I would like to
21 submit for the record a copy of Mr. Mazzola's
22 comments which are included in the DIS.

23 MR. GOLDSTEIN: What was his
24 conclusion?

25 MR. MULLER: His conclusion was in any

1
2 event I do not feel there will be any significant
3 negative impact associated with the proposed
4 project. That being the construction of the
5 proposed two hundred four dormitory units. I'm
6 sorry, two hundred eight.

7 MR. SLINGO: That was done in 1999,
8 that study?

9 MR. MULLER: Correct.

10 MR. SLINGO: What was the enrollment at
11 that time?

12 MR. GOLDSTEIN: Same thing. I notice
13 that he took the same thing we're dealing with,
14 the same parameters at the time.

15 MR. SLINGO: Specifically do you know?

16 MR. GOLDSTEIN: It was exactly the same
17 environmental report. The equation didn't change
18 because of the limitation, it was exactly the
19 same.

20 MR. SLINGO: So there were
21 approximately nine hundred sixty-three students in
22 1999?

23 MR. GOLDSTEIN: I don't believe, I
24 think it was exactly the same. It was right about
25 the same amount.

1
2 MR. SLINGO: And today there are
3 approximately nine hundred sixty-three students?

4 MR. GOLDSTEIN: About the same, that's
5 correct.

6 MR. SLINGO: I notice that the college
7 is undergoing or currently advertising very
8 heavily for new students, both in print media and
9 the TV, radio and that type of thing.

10 What is their objective as far as the
11 number of students?

12 MR. MODELEWSKI: It's already in the
13 record. You want to bolster --

14 MR. GOLDSTEIN: Let's make this Exhibit
15 number 37 in evidence.

16 MR. MODELEWSKI: Go ahead in response
17 to Mr. Slingo's question.

18 MR. GOLDSTEIN: Yes. I asked that same
19 question because I happen to see the same ad that
20 you did. I said why are you advertising and it
21 was explained to me in this manner. That the
22 school is becoming much more the standard have
23 been elevated over the years. So it began as an
24 associate thing way back and the more students
25 that you have the better the ability to attract

1
2 the better students and therefore it's kind of
3 enhances the reputation of the college and
4 attracts better students.

5 MR. SLINGO: The answer to my question
6 is?

7 MR. GOLDSTEIN: It's not to increase
8 the number of students, but to increase the
9 caliber and quality of the student level and
10 perhaps to diversify a little bit, that was
11 another thing, adding the other degrees so they
12 would get a broader spectrum of interest and
13 applicants. Which is the same phenomenon in the
14 law schools for example get all of them in periods
15 of constriction and expansion, but the trick is to
16 attract the better caliber of students.

17 MR. SLINGO: Their objective is to keep
18 the student enrollment approximately around one
19 thousand students?

20 MR. GOLDSTEIN: They can't because the
21 groundwater dictates the sanitary.

22 MR. MATTHEWS: Is there any
23 relationship between the dormitories and the
24 curriculum changes?

25 MR. GOLDSTEIN: I don't know the answer

1
2 to that question. I would have to call him back
3 to see what that does affect.

4 With your permission, could we have Mr.
5 Muller summarize and with your permission if I
6 could recall Dr. Cohen to respond to Mr. Matthews'
7 question.

8 MR. MODELEWSKI: Go ahead.

9 MR. MULLER: Just to briefly summarize
10 based on the analysis that we prepared which are
11 fully documented in the DEIS, my opinion that
12 granting of the required relief and the special
13 permit to allow the construction of the
14 dormitories will not create any undue traffic
15 congestion or hazard on the site or in the
16 vicinity of the site.

17 MR. SLINGO: In your expert opinion the
18 residents should not expect any more traffic to or
19 from the school than exists at this present time;
20 is that correct?

21 MR. MULLER: That's correct.

22 MR. SLINGO: During the time when the
23 school is in session?

24 MR. MULLER: Correct.

25 MS. GAUGHRAN: And of the hundred

1
2 twenty something cars that you saw on Petit Drive,
3 only twelve of them were accessing the campus so
4 they're going some place other than Five Towns
5 College?

6 MR. MULLER: Correct. They're going
7 some place other than Burrs Lane. Whether going
8 east up Burrs Lane --

9 MR. GOLDSTEIN: The other twelve --

10 MR. MULLER: The twelve of the hundred
11 four, say twenty-two or whatever, the other eighty
12 cars went east of where we were.

13 MS. GAUGHRAN: Thank you.

14 MR. MULLER: Wherever they went, we
15 don't know. They're probably people that live in
16 the area cutting the traffic signal at Bagatelle
17 Road.

18 MR. GOLDSTEIN: Mr. Chairman, I think,
19 was it Mr. Matthews that asked the question?

20 MR. MODELEWSKI: It was a question that
21 Mr. Matthews raised and I think Mr. Cohen was
22 going to answer it.

23 Mr. Cohen, you are still under oath.

24 MR. GOLDSTEIN: I was going to answer
25 it. Let me just summarize, what he said was it

1
2 increases the applicant's pool and gives them the
3 ability to diversify the kind of students that are
4 applying. So where they may have had one business
5 or one doctorate or educational, it gives them
6 more of an array of students to chose from in
7 different areas.

8 MR. MATTHEWS: I think the question
9 that I asked, and it doesn't have to be a lengthy
10 answer, is there a relationship, do you believe
11 that there is a relationship between the
12 curriculum change going on and the existence of
13 dormitories on the campus?

14 DR. COHEN: The college has, we made a
15 conscious decision many years ago to diversify the
16 offerings of the college and that has been going
17 on for a long period of time. The living/learning
18 center merely responds to the needs of our current
19 curriculum. I don't know if that did answer your
20 question. For instance, many years ago we were
21 primarily a music school. We had a reputation as
22 a music school. If the market for musicians gets
23 tight, it has a profound impact on enrollment.
24 And so in order to make the college stronger we
25 made the decision to diversify, to reduce the

1
2 number of students in certain degree programs and
3 if you look at the DEIS you will see that some
4 programs have been reduced in size and there are
5 even some programs listed in the DEIS that we have
6 discontinued.

7 At one time we had a very large
8 recording program and we still have a large
9 recording program and we're proud to have one of
10 the premiere recording programs in the country.
11 But we know there is an area of technology, there
12 is a conversion going on between sound and visual
13 technologies. So in order to prepare for the
14 future, if we continue to only train audio
15 engineers that only understand audio technology we
16 will leave them ill prepared for the future.

17 So we started to focus on the
18 technologies that go along with multi media so
19 there's a change and decision by the college to
20 diversify the offering so it can withstand changes
21 in the marketplace for students of the future.

22 The living/learning center merely
23 reflects the need to provide our students with the
24 emerging program to provide the best education
25 that we can. And as it relates to the advertising

1
2 by attracting a larger applicant pool, it allows
3 us to attract the best students that we can
4 retain.

5 MR. KURTZBERG: Can you trace for me
6 since 1990 the student population year by year as
7 to the number of students from 1990 to the present
8 time?

9 DR. COHEN: I don't have those numbers
10 on my head, but when Five Towns College opened in
11 Dix Hills in 1992 we had approximately seven
12 hundred or seven hundred four students. I can
13 tell you that as of our last census as just a few
14 days ago we have approximately nine hundred
15 students total, including the residents and
16 dormitory students.

17 MR. KURTZBERG: An increase of
18 twenty-five percent?

19 DR. COHEN: Twenty-three percent, that
20 we indicated on the original EIS form one and two.
21 We projected a twenty-two percent increase and we
22 are exactly what we projected, but by becoming
23 more selective college and by being a more diverse
24 college we have greater control over the type and
25 quality of students and the quantity that we have.

1
2 MR. KURTZBERG: Are there any
3 fraternities or sororities on campus?

4 MR. GOLDSTEIN: There's none except for
5 the Phi Sigma Beta National Honor Society. We
6 don't have any sororities or fraternities that you
7 would commonly think of.

8 MR. MODELEWSKI: Your next witness.

9 MR. GOLDSTEIN: My next witness is Jacqueline
10 Moller.

11 MS. MOLLER: I can't go to the podium
12 because I'm too short.

13 MR. MODELEWSKI: Do you swear the
14 testimony you are about to give is the truth, the
15 whole truth and nothing but the truth?

16 MS. MOLLER: Jacqueline Moller. My
17 address is 18 Marlan Court, Sea Cliff, New York
18 11579.

19 MR. MODELEWSKI: Okay.

20 MR. GOLDSTEIN: Were you an applicant
21 to Five Towns College?

22 MS. MOLLER: Yes.

23 MR. GOLDSTEIN: And for what class?

24 MS. MOLLER: Which program you mean?

25 MR. GOLDSTEIN: Which class, which

1
2 program?

3 MS. MOLLER: For audio technology and
4 business.

5 MR. GOLDSTEIN: And is it for the class
6 to begin in September?

7 MS. MOLLER: It's the one beginning in
8 the fall.

9 MR. GOLDSTEIN: September 2003?

10 MS. MOLLER: Yes.

11 MR. GOLDSTEIN: And can you tell us
12 what this dormitory facility would mean in your
13 personal situation?

14 MS. MOLLER: Well, a lot. And actually
15 pretty much if the dorms are not there, whether
16 they're closed or just didn't exist and this was
17 actually an issue -- if I can first backtrack a
18 little. I first was looking at the college when I
19 was in about tenth grade because we knew, my
20 parents and I, that schools for me would be more
21 difficult as far as everything would have to be
22 accessible in practical usage. The school my
23 sister goes to, there is all hills and all this
24 stuff.

25 So for me that wouldn't be practical at

1
2 all and one of the issues of Five Towns, I went
3 there and I loved it. But back when I first saw
4 it the dorms they were going to be built, but they
5 weren't there. And we had said if there were no
6 dorms, then where was I supposed to go? And
7 pretty much because of the way that public
8 transportation is, especially on the island with
9 buses and trains and my power wheelchair, I would
10 not be able to attend the school unless the dorms
11 were there because I would have no way to get from
12 my home or from say Farmingdale to the school.

13 MR. GOLDSTEIN: I thank you. I have no
14 other questions.

15 MR. MODELEWSKI: Mr. Goldstein, I'm
16 taking it for granted that this young lady's
17 testimony was offered with respect to the
18 requirement of 198-66A5, that is that will not
19 impair the public health and safety and will be
20 reasonably necessary for the public health and
21 welfare and general interest.

22 MR. GOLDSTEIN: Yes, it is.

23 MR. MODELEWSKI: Any board members have
24 any question of this young lady?

25 (No response.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. MODELEWSKI: Thank you.

MR. GOLDSTEIN: I will call Mr. Nelson as the next witness.

MR. MODELEWSKI: Do you swear the testimony you are about to give is the truth, the whole truth and nothing but the truth?

MR. NELSON: Barry Nelson, 407 East Meadow Avenue, East Meadow, New York.

MR. MODELEWSKI: All right, Mr. Goldstein, you are offering this gentleman as an expert; correct?

MR. GOLDSTEIN: Yes.

MR. MODELEWSKI: I believe that he's been here before. Have you, Mr. Nelson?

MR. NELSON: Yes.

MR. MODELEWSKI: And we have previously found you qualify to provide us with opinion testimony?

MR. NELSON: Yes.

MR. MODELEWSKI: You are a real estate expert?

MR. NELSON: Yes.

MR. MODELEWSKI: In accord with my recollection at least, Mr. Goldstein, and with

1
2 what Mr. Nelson has put on the record we will
3 recognize him as an expert. If you want we will
4 put his C.V. in as number 38. So you can examine
5 him thusly.

6 MR. GOLDSTEIN: Mr. Nelson, you
7 prepared a chart showing the college and
8 surrounding areas; is that right?

9 MR. NELSON: Yes, I have two charts,
10 yes.

11 MR. GOLDSTEIN: And would you --

12 MR. MODELEWSKI: We will take chart
13 number one and mark that Exhibit number 39.

14 MR. GOLDSTEIN: Using chart number 39,
15 in light of the --

16 MR. MODELEWSKI: Let's just make the
17 record complete. Chart number 39 appears to be a
18 couple of things rolled into one. It's a series
19 of photographs, in addition it appears to me that
20 there is a facsimile or a copy of a property tax
21 map attached to it. Is that what that is?

22 MR. NELSON: It's an enlarged copy of a
23 Suffolk County Hagstrom map.

24 MR. MODELEWSKI: Now that we have
25 identified the exhibit, why don't you examine the

1 witness with respect to its contents?

2 MR. GOLDSTEIN: Okay. This exhibit
3 number 34 --

4 MR. MODELEWSKI: No, we're up to 39.

5 MR. GOLDSTEIN: Exhibit number 39,
6 would you please, if we can try to do it a little
7 more judiciously, which pictures show the
8 surrounding area, are they numbered?
9

10 MR. NELSON: Yes. The panel includes
11 photographs of the subject property from various
12 locations on Half Hollow Road and Burrs Lane. The
13 photographs include Burrs Lane, Half Hollow Hills
14 bus depot to the west.

15 MR. GOLDSTEIN: Which picture number is
16 that?

17 MR. NELSON: That would be picture
18 number six on the panel. That includes the
19 residents found on Half Hollow Road opposite the
20 subject property, including the residences on
21 Black Oak Court and the five and three, the bottom
22 three photographs will be nearby new developments,
23 the greens and country points on Carman Road.

24 MR. GOLDSTEIN: Which pictures are the
25 greens?

1
2 MR. NELSON: The greens, picture seven,
3 that's the entrance off Old South Path. Country
4 point is off of Carman Road, picture number eight.
5 The top three would be focusing on the subject
6 property as you view looking southerly from Black
7 Oak Court to the southeast corner of Burrs Lane
8 and Half Hollow Road and includes views along Half
9 Hollow Road looking easterly.

10 MR. GOLDSTEIN: Mr. Nelson, you had the
11 benefit of seeing the two dormitories have already
12 been constructed on this site; is that correct?

13 MR. NELSON: Yes.

14 MR. GOLDSTEIN: And those buildings are
15 there; is that correct?

16 MR. NELSON: Yes.

17 MR. GOLDSTEIN: So your testimony
18 really has a greater ability of accuracy?

19 MS. GAUGHRAN: While you are talking
20 could you pass the pictures up here? We can't see
21 them.

22 MR. MODELEWSKI: Everybody wants to see
23 the exhibit that's in.

24 MR. NELSON: For the board's
25 consideration, I have copies not mounted. There

1
2 in envelopes, they're identified on the back with
3 numbers.

4 MR. MODELEWSKI: Now wait a minute.
5 Any time you are talking about and appointed or
6 elected board in any town you don't pass anything
7 up in an envelope.

8 Now you have another exhibit that you
9 are going to offer too. Do you have another
10 exhibit you are going to offer too?

11 We will mark it number 40. tell us
12 what it is.

13 MR. GOLDSTEIN: I'm going to move
14 quickly. Here are the individual photos. I don't
15 think you need those. Those are the individual
16 photos.

17 MR. MODELEWSKI: We don't need that.
18 We have the exhibit here. We understand.

19 MR. GOLDSTEIN: Now you made a study,
20 did you then, Mr. Nelson, as to the impact of the
21 dormitories on the character of this area and on
22 the real property values of this area; is that
23 correct?

24 MR. NELSON: Yes, sir.

25 MR. GOLDSTEIN: And on the pattern of

1 development of this area?

2 MR. NELSON: Yes.

3 MR. GOLDSTEIN: And did you come to
4 certain conclusions as to the impact, if any, that
5 these dormitories, these four dormitories would
6 have upon the value and character and pattern of
7 development?

8 MR. NELSON: Yes, I have.

9 MR. GOLDSTEIN: And what is your
10 conclusion?

11 MR. NELSON: That property values have
12 continued to appreciate consistent with the
13 appreciation of rates throughout Dix Hills.
14 Property values are substantial in the area. New
15 developments have begun and nearing completion on
16 one of them. One on Country Point, on Carman
17 Road. The Greens is almost all sold out.

18 Nevertheless I focused on the immediate
19 vicinity of the subject property, more
20 specifically on Half Hollow Road directly opposite
21 the subject property.

22 MR. GOLDSTEIN: And before you began
23 looking at the dormitories and looking at the
24 area, is it your conclusion that these dormitories
25

1 would not in any way adversely effect the real
2 estate values or the pattern of development or the
3 character of the area?
4

5 MR. NELSON: Yes, sir.

6 MR. GOLDSTEIN: And that is based on
7 your experience of twenty-five years of doing this
8 kind of expert testimony; is that correct?

9 MR. NELSON: Yes, sir.

10 MR. GOLDSTEIN: And now, did you, in
11 order to corroborate your conclusion, what did you
12 do?

13 MR. NELSON: I studied the home sales
14 surrounding the subject property. They would
15 include Lone Hill Place, Petit Road and Court. It
16 will include adjacent streets of Fox Lane, Broad
17 Oak Lane, West Cliff Drive, Carman Road, Etna
18 Lane, Astro Place, Nell Drive, Highfield,
19 Vanderbilt and these are the streets most affected
20 by the college and the dormitories.

21 MR. MODELEWSKI: Are you reading from a
22 particular report, Mr. Nelson?

23 MR. NELSON: I am reading from an
24 exhibit.

25 MR. MODELEWSKI: It's not an exhibit

1
2 until we mark it one. Would you mark that number
3 40, please and what does that consist of?

4 MR. GOLDSTEIN: 40 consists of the --

5 MR. NELSON: The fold over would be the
6 Hagstrom map locating the subject property. It
7 includes nine photographs that are numbered and
8 some of the photographs are similar to the
9 photographs that I submitted on number 39. It
10 includes the tax maps for this immediate area and
11 that would be section 261 and 260 just to the
12 west.

13 The bottom portion of that exhibit will
14 include about fifty-one comparable sales in the
15 immediate area on the streets that I have just
16 recited. It gives you the addresses. What I did
17 was I identified the sales with the yellow dot on
18 the tax map. I identified each yellow dot by the
19 lot number, street address, a selling price and
20 the date it sold.

21 MR. GOLDSTEIN: And some cases we have
22 the date it was purchased?

23 MR. NELSON: Yes, sir.

24 MR. GOLDSTEIN: And this exhibit then
25 would show, if we're refer to these photographs,

1 this would identify particular pieces of property
2 within this area; is that right?
3

4 MR. NELSON: Yes, sir.

5 MR. GOLDSTEIN: And would you now --
6 I'm trying to do this without the envelope. Mr.
7 Nelson, let me ask you a question. I will put
8 them in this way.

9 I offer Exhibit number 41.

10 MR. MODELEWSKI: Why don't you --

11 MR. GOLDSTEIN: 41, it has a one on it.
12 41-1.

13 MR. MODELEWSKI: All right, Mr.
14 Goldstein.

15 MR. GOLDSTEIN: I'm going to offer 41-1
16 through 41-14.

17 MR. MODELEWSKI: What do the
18 photographs depict?

19 MR. GOLDSTEIN: They depict the photos
20 on the Exhibit number 41.

21 MR. MODELEWSKI: Okay and they're
22 individual photos so I will put one in evidence so
23 you can circulate the others around.

24 We will deem them in evidence and you
25 can have your assistance or whatever distribute

1
2 them in any way you want, so the record is
3 straight and everybody gets a chance to see them.

4 MR. MODELEWSKI: Mr. Nelson, let me ask
5 you this question. The bus company, has that
6 already had an impact on property values or has it
7 had no impact at all?

8 MR. NELSON: It's existing and any
9 impact is already reflected in the market.

10 MR. MODELEWSKI: Anything different
11 about this neighborhood because of the existence
12 of the bus company in terms of relative values in
13 the Dix Hills area?

14 MR. NELSON: I might say so.

15 MR. MODELEWSKI: In other words, is
16 there a discernible difference in value that can
17 be measured simply because one lives closer to the
18 bus company than not?

19 MR. NELSON: Not substantial, no.

20 MR. MODELEWSKI: If it's insubstantial
21 is it noticeable?

22 MR. NELSON: There is a slight
23 noticeable -- yes, on the east side of Petit Drive
24 and Petit Court.

25 MR. MODELEWSKI: Confined just to those

1 areas in your opinion?

2 MR. NELSON: Could I, yes.

3 MR. MODELEWSKI: Is it confined? Is it
4 just confined just to those two streets?

5 MR. NELSON: No.

6 MR. MODELEWSKI: Not confined?

7 MR. NELSON: I'm sorry, I'm missing
8 your question. Is the impact --

9 MR. SLINGO: Of the bus company
10 confined to those two areas?

11 MR. NELSON: No, it might spread out
12 slightly on Half Hollow Road and onto Petit Court,
13 but it's generally just in this immediate area

14 MR. MODELEWSKI: Then in the same
15 question with respect to the dormitories, will
16 they have any deleterious impact on any of the
17 surrounding homes in terms of their value simply
18 because of their existence?

19 MR. NELSON: No.

20 MR. MODELEWSKI: Tell us why, if your
21 answer is no.

22 MR. NELSON: From the comparison of the
23 sales found on Broad Oak, on Half Hollow, directly
24 near the subject property and I have comparable
25

1
2 sales on this panel as they are compared to the
3 homes further away are comparable in value. And I
4 will submit this exhibit for the board's
5 consideration and they can compare the immediate
6 homes directly.

7 And again, any study that I complete
8 now and show to you already takes into effect that
9 dormitories are there. The knowledge of the
10 community is educated that dormitories exist.
11 That they are proposing to have two hundred eight
12 beds, four buildings, forty-two units in each.
13 That any activity took place within the year 2001,
14 2002 and 2003 will reflect the impact that those
15 dormitories had immediately adjacent to the
16 subject property, directly north of the subject
17 property versus homes outside of this area.

18 MR. SLINGO: Mr. Nelson, can you
19 summarize the sales data for us?

20 MR. NELSON: Sure, if I can hand this
21 in as an exhibit. The board can have it right
22 now.

23 MR. SLINGO: Can you summarize
24 verbally?

25 MR. NELSON: On Broad Oak we have sales

1
2 at --

3 MR. GOLDSTEIN: What pictures?

4 MR. NELSON: It would be pictures one,
5 two and three. That's Broad Oak development.

6 MR. GOLDSTEIN: What did you find with
7 respect to that?

8 MR. NELSON: Number one Broad Oak was
9 sold for six hundred ten thousand dollars on 4/97.
10 There's no re-sale. Number three Black Oak Court
11 recently sold in 2001, May of 2001 for eight
12 hundred fifty thousand dollars. It was originally
13 purchased for five hundred twenty-five thousand
14 dollars in August of 1992.

15 MR. GOLDSTEIN: When did it sell?

16 MR. NELSON: Recently, May of 2001.

17 MR. MODELEWSKI: Mr. Goldstein, let me
18 interrupt. I mean, we can go through the MLS
19 listing too, but we can do the same thing. Let's
20 see if we can ask some more probative questions.
21 I don't know if I have any probative question in
22 me, but I'm going to give it a shot.

23 MR. GOLDSTEIN: These values, the
24 summary if we look, if you allow him to testify,
25 every one of these homes would show a substantial

1
2 appreciation greater than the normal appreciation
3 or certainly the same as or greater than normal
4 appreciation.

5 MR. KURTZBERG: What is the normal
6 appreciation?

7 MR. MODELEWSKI: Let's get to that.

8 MR. NELSON: In the last two years,
9 between five and eight percent.

10 MR. MODELEWSKI: What are your findings
11 with respect to the surrounding properties and
12 tell us what the radius includes?

13 MR. NELSON: It includes the immediate
14 block to the north which would be Half Hollow Road
15 on the south, West Cliff Drive to the west.

16 MR. GOLDSTEIN: South side of Half
17 Hollow Hill Road?

18 MR. NELSON: South side of Half Hollow
19 Hill Road would be the subject property. The
20 north side would be the entrance into Black Oak
21 Court and to the residence that would be opposite
22 the subject property. And on the east side we
23 have Astro Place and to the north would be, the
24 first block would be Ethner Lane.

25 And we can see a consistent and similar

1 appreciation of homes in that block, more
2 specifically the 393 that has been boarded up and
3 vacant for a while. It was purchased in 2000 --
4 1999 and foreclosed for two hundred ninety-nine
5 thousand dollars. It was renovated. Put up to
6 the neighborhood standards and the seller is
7 asking nine hundred thousand dollars. So that is
8 consistent. He is consistent with home sales,
9 asking prices in this immediate area, even outside
10 of the block that I just defined.

11
12 MR. KURTZBERG: Did you do an analysis
13 of let's say a house which is closest to the
14 dormitories and take that same house and let's
15 move it let's say about a quarter of a mile away,
16 can we do an analysis to see if the prices are the
17 same as far as the resale value or not?

18 MR. NELSON: Yes. Again I'm going to
19 hand this exhibit in.

20 MR. KURTZBERG: I need him to tell me
21 that verbally.

22 MR. NELSON: Yes, I have done sales on
23 Hemingway Drive.

24 MR. KURTZBERG: Give me an address of a
25 particular piece of property and tell me how close

1
2 it is to the dormitory facility and then give me
3 one about a quarter of a mile away, a similar
4 house and let me know whether or not the prices
5 are basically the same and if there is any
6 variable because it's a different kind of house or
7 an extra bedroom or less of a bedroom or whatever.

8 Can you do that for me?

9 MR. NELSON: On Black Oak Court --

10 MR. KURTZBERG: What is the address?

11 MR. NELSON: Number three Black Oak
12 Court.

13 MR. KURTZBERG: How close is that to
14 the dormitory?

15 MR. NELSON: Directly across the
16 street.

17 MR. GOLDSTEIN: Within three hundred
18 feet?

19 MR. NELSON: Within three hundred feet,
20 eight hundred fifty thousand dollars.

21 MR. KURTZBERG: What kind of house?

22 MR. NELSON: Contemporary.

23 MR. KURTZBERG: How many bedrooms?

24 MR. NELSON: Five bedrooms.

25 MR. KURTZBERG: How many baths?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. NELSON: Four and a half.

MR. KURTZBERG: And it's one-acre zoning?

MR. NELSON: Yes, a little over an acre.

MR. KURTZBERG: Is there a pool there?

MR. NELSON: I don't remember.

FROM THE AUDIENCE: Yes.

MR. KURTZBERG: Now give me a house a quarter of a mile away in terms of a similar type of home with the same facilities available as this one. You have a five bedroom, four and a half bath.

MR. NELSON: 15 Hemingway Drive -- 14 -- we can go to 6 Faulkner Lane.

MR. MODELEWSKI: How far is that?

MR. NELSON: That would be within a quarter of a mile west.

MR. KURTZBERG: Is it actually a quarter of a mile?

MR. NELSON: It's three blocks west.

MR. KURTZBERG: Give me a little further, go a little further, if you don't mind.

MR. NELSON: Hemingway --

1
2 MR. KURTZBERG: Stay in the area
3 obviously.

4 MR. NELSON: Okay, I can go to --

5 MR. KURTZBERG: Do you have something
6 about a quarter of a mile away?

7 MR. NELSON: I believe Faulkner Road
8 would be a quarter of a mile away, 62 Fox Lane.

9 MR. MODELEWSKI: Let the man testify.
10 You will get an opportunity to be heard. Go
11 ahead, Mr. Nelson.

12 MR. NELSON: 62 Fox Lane.

13 MR. KURTZBERG: Is how far away?

14 MR. NELSON: Four blocks east. It's
15 east of Wood End Road.

16 MR. KURTZBERG: Four blocks east?

17 MR. NELSON: East of Wood Lane. Four
18 blocks east of the subject property. It's outside
19 of the immediate area. And that would be eight
20 hundred forty-six thousand dollars in September of
21 2002.

22 MR. KURTZBERG: What kind of house?

23 MR. NELSON: Colonial.

24 MR. KURTZBERG: How many bedrooms?

25 MR. NELSON: Five bedrooms.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. KURTZBERG: How many baths?

MR. NELSON: Four baths.

MR. KURTZBERG: Is there a pool?

MR. NELSON: I don't remember.

FROM THE AUDIENCE: Yes.

MR. KURTZBERG: It's on one acre?

MR. NELSON: Yes.

MR. KURTZBERG: When was the eight hundred fifty thousand dollar one closer to the dormitory constructed?

MR. NELSON: 1992.

MR. KURTZBERG: When was the Hemingway Drive constructed?

MR. NELSON: I believe 1975.

MR. KURTZBERG: What was the purchase price of the five bedroom closest to the dormitory? What is the address of that one by the way?

MR. NELSON: Three Black Oak Court.

MR. KURTZBERG: Go ahead.

What was that purchased for at the time it was constructed in '92?

MR. NELSON: Five hundred twenty-five thousand dollars.

1
2 MR. KURTZBERG: What about the one at
3 15 Hemingway?

4 MR. NELSON: 15 Hemingway is currently
5 in contract for --

6 MR. KURTZBERG: No, you told me eight
7 hundred forty thousand dollars.

8 MR. NELSON: That was Fox Lane.

9 MR. KURTZBERG: When was Fox Lane
10 constructed?

11 MR. NELSON: 1972.

12 MR. KURTZBERG: What was that?

13 MR. NELSON: That was purchased in '98
14 for five hundred thirty-eight thousand dollars.
15 That was prior sale by that owner.

16 MR. KURTZBERG: In '72 what was it sold
17 for?

18 MR. NELSON: I don't have that number
19 for you.

20 MR. KURTZBERG: What did you just say
21 now?

22 MR. NELSON: Five hundred thirty
23 thousand dollars.

24 MR. KURTZBERG: When was that?

25 MR. NELSON: 1998.

1
2 MR. KURTZBERG: And the present owner
3 is still there? It hasn't been sold since then?

4 MR. NELSON: No. I gave you the last
5 sale in 2002 for eight hundred forty-six thousand
6 dollars.

7 MR. KURTZBERG: In '98 it was five
8 hundred thirty and in 2002 it was eight hundred
9 forty-six thousand dollars. Same type of house,
10 five bedrooms, four and a half baths.

11 MR. NELSON: It's a different style
12 colonial. It's a box built in 1970 when they were
13 building sort of box type colonials, center hall
14 colonials. It had a big awning in the front.
15 Today on the one on Black Oak is contemporary
16 style design, in the early nineties. That is the
17 style they were building at that time.

18 MR. KURTZBERG: Okay, thank you.

19 MR. MODELEWSKI: Mr. Nelson, let me ask
20 you this question. Have you undertaken any other
21 studies of residential values nearby colleges?
22 Let's say, let's take for example, we know there's
23 one right down the road to the west on 25A. It is
24 the CW Post campus over in Brookville.

25 Have you ever undertaken any studies of

1
2 any other suburban college and noted whether or
3 not there's any impact, either adverse or
4 positive, with respect to surrounding property
5 values?

6 MR. NELSON: I looked at CW Post. I
7 have looked at closely, Adelphi University. But
8 if we go back to the CW Post, there's a
9 development just to the southwest. Again, we have
10 bigger properties, bigger homes there, but you
11 have what is on the polo grounds which is the
12 adjacent block to the west of the subject
13 property, you have homes on larger two to four
14 acre parcels.

15 MR. MODELEWSKI: Were they contiguous
16 with the college's property?

17 MR. NELSON: Yes.

18 MR. MODELEWSKI: And they have
19 dormitories there?

20 MR. NELSON: Yes.

21 MR. MODELEWSKI: Go ahead.

22 MR. NELSON: And those homes are being
23 constructed and their values are in excess of
24 three million dollars.

25 MR. MODELEWSKI: How does that compare

1
2 with other existing homes not contiguous with the
3 college's property but in the same general
4 neighborhood and in the same community?

5 MR. NELSON: Those homes sold for
6 substantially more. They were larger homes in
7 greater estate-type properties. But they did sell
8 substantially greater in value than the closer
9 homes that were older age. This is the demand in
10 that market at this time.

11 MR. SLINGO: You are talking about Old
12 Brookville? You are talking about the older homes
13 in Old Brookville?

14 MR. NELSON: Near CW Post, yes. I did
15 study Adelphi University. Now Adelphi University
16 has got comparable selling homes adjacent to the
17 college just to the west.

18 MR. MODELEWSKI: Why did you study
19 Adelphi? For what purpose? Was it part of the
20 application for municipal approval?

21 MR. NELSON: They received a special
22 use permit to construct additions to existing
23 dormitories. That was for a hundred eighty rooms
24 back in, I think, 2001.

25 MR. MODELEWSKI: What were your

1 findings over there?

2
3 MR. SLINGO: Was that the Garden City
4 campus?

5 MR. NELSON: Yes. My findings were
6 that values continued to appreciate. Homes on the
7 close proximity to the college sold equal to homes
8 five and six blocks away. When the grant was
9 granted there was no influx or no -- there were no
10 other than some normal one or two sales. There
11 was not a great amount of sales put on the market
12 to leave the community.

13 The homes adjacent to the college, and
14 we have college units that I mean, the dwellings
15 that back right up to the college to the west.
16 Those homes sold equal and I would like to note
17 that those homes are on parcel sizes of about six
18 thousand to twelve thousand square feet, much
19 smaller than what this community has, one-acre
20 parcels.

21 MR. MODELEWSKI: And what were the
22 setbacks of the dormitory buildings; do you
23 recall?

24 MR. NELSON: Approximately three
25 hundred feet. They were on the westerly side.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. MODELEWSKI: Three hundred feet?

MR. NELSON: But they're on open fields and they're greater in height, four stories and the residences were to the west view, they can view the dorms.

MR. MODELEWSKI: Were those buildings buildings of a residential tenor in character with respect to the architectural details or were they something different?

MR. NELSON: They were townhouses. They were multi stories.

MR. MODELEWSKI: Like these buildings?

MR. NELSON: These are of garden apartment style. These are two-story dwellings. These are consistent. The others are more substantial in nature.

MR. MODELEWSKI: All right. Any other board members have any questions for Mr. Nelson before Mr. Goldstein continues?

(No response.)

MR. GOLDSTEIN: We will hand Exhibit number 41 up.

MR. MODELEWSKI: Okay.

MR. GOLDSTEIN: And we have a full

1
2 report that he summarized. We will put that in
3 evidence.

4 MR. MODELEWSKI: We will take the
5 report and put that number 42.

6 MR. GOLDSTEIN: I have one in evidence.

7 MR. SLINGO: I have an over question of
8 Mr. Nelson. I don't think that the question is
9 answered. I started to ask it and Mr. Kurtzberg
10 sort of refined the question. If you could
11 verbally describe to us the difference in value
12 that these dorms would bring to a typical home
13 right in the area adjacent to the dorms and say a
14 quarter of a mile away, can you give some type of
15 -- is it the same increase or decrease in value
16 with those two typical homes, the same grades?

17 MR. NELSON: We can look at, if I can
18 answer with an example, we have 361 Half Hollow
19 Road and that is less than a quarter of a mile to
20 the west. It would be immediately impacted to the
21 subject property. That has some sale history on
22 the property. And what it is is part of my
23 report, that property was new construction sold
24 originally for seven hundred five five hundred
25 dollars in October of 1997. It resold again in

1
2 2002, January and the last time August 2002. In
3 the first part of that year it sold for one
4 million fifty thousand dollars and resold for one
5 million one hundred fifty thousand dollars. So it
6 showed that in eight months it appreciated
7 approximately ten percent and it's Half Hollow
8 Road, number 361.

9 MR. SLINGO: That's very close to the
10 dorms?

11 MR. NELSON: Yes, sir. And the dorms
12 are already constructed.

13 MR. SLINGO: Yes, I understand that.
14 Now how about a home of comparable size and shape
15 and property located further away where the dorms
16 would not have any direct impact?

17 MR. NELSON: Almost the same price

18 MR. SLINGO: Give it to me.

19 MR. NELSON: That is a larger home so
20 it sold a little higher. We can take homes on
21 Hemingway Drive. Hemingway Drive I supplied to
22 the board. They can look at the home sales in my
23 chart that I supplied on Hemingway Drive and they
24 are varying prices they're not as substantial.
25 It's hard, this is a unique area. Many of the

1
2 homes are upgraded and have substantial amenities
3 added to the property.

4 MR. SLINGO: So the original home that
5 you said in 1998 sold for seven hundred five
6 thousand five hundred dollars?

7 MR. NELSON: '97, that's correct.

8 MR. SLINGO: In 2002 that same home
9 sold for one million one hundred fifty thousand
10 dollars?

11 MR. NELSON: Yes, sir.

12 MR. SLINGO: What percent increase is
13 that?

14 MR. NELSON: I believe from the same
15 year, one was ten percent and the total was
16 approximately twenty-five percent and the total is
17 approximately twenty-five percent.

18 MR. SLINGO: From seven hundred
19 thousand to one million one hundred is about
20 twenty-five percent?

21 MR. NELSON: A little over that.

22 MR. SLINGO: Now the home that is
23 further away, comparable home in '98, do you have
24 anything similar to that home that sold in '98 and
25 again in 2002?

1
2 MR. NELSON: If we stayed on Half
3 Hollow Road and continued further west, number 2
4 288 Half Hollow Road sold in 2000 for eight
5 hundred thousand dollars and just recently closed
6 January of 2003 for one million thirty-nine
7 thousand dollars. Identified across the street
8 393 Half Hollow Road, if we continue --

9 MR. SLINGO: That was an increase of
10 about twenty percent in three years as opposed to
11 an increase of twenty-five percent in five years
12 on the previous?

13 MR. NELSON: Right. I have 460 which
14 is not a relevant comp, but just to give you an
15 idea of the activity in the area. 460 which is
16 east of the subject property on Half Hollow Road
17 was purchased, it's an older home, a smaller home,
18 farm ranch cape cod style cottage sold in 1997 for
19 a hundred forty-two thousand five hundred. It's
20 on half acre. It's east of the college. And it
21 resold to a developer for three hundred five
22 thousand dollars November of 2002. The developer
23 has demolished the existing house and put up, is
24 looking to put up a new colonial on a half acre
25 and the current asking price is nine hundred fifty

1
2 thousand dollars.

3 MR. SLINGO: That's far more than
4 twenty-five percent?

5 MR. NELSON: Well, he's going to put up
6 a new house. It just shows you if he was
7 concerned about the immediate market this is
8 within walking distance of the college. It's just
9 east of the college.

10 MR. SLINGO: So the bottom line is it's
11 your testimony that the building of the
12 dormitories will not adversely affect property
13 values in the immediate area and then based on
14 your expert opinion that it is consistent with
15 other properties in the Dix Hills general area?

16 MR. NELSON: Yes.

17 MR. GOLDSTEIN: Let me ask you one more
18 question. If these buildings, these fifty-four
19 thousand square foot of buildings were used as
20 classrooms, would there be any difference or
21 exactly the same as used for dormitories?

22 MR. NELSON: You are going to have
23 substantial -- again it's not in my -- as far as
24 impact on the values of property, all they're
25 going to do is see substantially more amount of

1 traffic coming and going to the campus past the
2 front of their doors.

3
4 MR. GOLDSTEIN: That could have more
5 adverse impact?

6 MR. NELSON: It could be more
7 deleterious effect on the property.

8 MR. GOLDSTEIN: Now with respect to the
9 testimony Mr. Haff gave and very quickly, this
10 exposure of one area of the seller, if you will
11 that is exposed, there are a number of homes and
12 institutions within the Dix Hills area that are
13 similarly constructed; is that correct?

14 MR. NELSON: Yes, we don't generally --
15 this immediate area of Dix Hills is not generally
16 flat. It has rolling terrains. Many of the homes
17 have walk out lower levels partially on the side
18 where the garage is or partially on the rear.
19 Some of it in front, depending on the topography
20 of the parcel that it's developed on, it is not
21 unique to this area.

22 MR. GOLDSTEIN: And we have eleven
23 photographs that are fair and accurate
24 representations of the institution and homes that
25 are similar to this Five Towns College as built;

1 is that correct?

2 MR. NELSON: Yes.

3 MR. GOLDSTEIN: I would offer those
4 eleven photographs as one exhibit. I think we
5 have 50 or 51.
6

7 MR. MODELEWSKI: Well, Mr. Goldstein,
8 we're up to number 42.

9 MR. MODELEWSKI: So you have something
10 after the reports?

11 MR. GOLDSTEIN: Yes, I have these
12 photos.

13 MR. MODELEWSKI: You have more
14 photographs?

15 MR. GOLDSTEIN: Yes.

16 MR. MODELEWSKI: We will take the next
17 set of photographs in as one single exhibit,
18 number 43.

19 MR. MODELEWSKI: How many photographs
20 do we have?

21 MR. GOLDSTEIN: Eleven photographs.
22 And I have some for each of you.

23 MR. GOLDSTEIN: I have no other
24 questions of this witness.

25 MR. MODELEWSKI: All right, any other

1
2 board members have any questions of Mr. Nelson?

3 (No response.)

4 MR. MODELEWSKI: Thank you, Mr. Nelson.

5 MR. GOLDSTEIN: Thank you.

6 MR. MODELEWSKI: Any other witnesses?

7 MR. GOLDSTEIN: No other witnesses.

8 MR. MODELEWSKI: Mr. Jurman.

9 Let's just have, Mr. Goldstein, since
10 the young lady was your witness, the young lady
11 that testified, this lady has handed up her
12 written statement which we will incorporate into
13 the record as Exhibit number 44.

14 MR. GOLDSTEIN: Thank you.

15 MR. MODELEWSKI: Mr. Jurman. We have
16 your appearance, why don't you get to your first
17 witness, sir?

18 MR. JURMAN: Thank you, Chairman
19 Modelewski. I do want to ask, before I get to my
20 first witness from a procedural standpoint, the
21 testimony that you just heard from before Mr.
22 Nelson was not included in the document that was
23 submitted to you as the DEIS. Is it Mr. Goldstein
24 and his client's intention to amend the document
25 to include that testimony?

1
2 MR. MODELEWSKI: You can ask that
3 question rhetorically and we'll hear from him
4 later.

5 MR. JURMAN: I have some prepared
6 remarks from myself to give you an overview as to
7 why House Beautiful is here in opposition tonight.

8 MR. MODELEWSKI: Go ahead.

9 MR. JURMAN: I was going to say in the
10 interest of moving it along and the fact that Mr.
11 Ethan Elden is here tonight and he's our
12 environmental expert, I would like to get his
13 expert testimony in before the late hour expires.

14 MR. MODELEWSKI: You want to call Mr.
15 Elden now?

16 MR. JURMAN: I'm going to call Mr.
17 Elden to take care of that first.

18 MR. MODELEWSKI: Do you swear the
19 testimony you are about to give is the truth, the
20 whole truth and nothing but the truth?

21 MR. ELDEN: Ethan C. Elden, 3 Margo
22 Lane, Huntington, New York 11743.

23 MR. MODELEWSKI: Mr. Jurman, we are
24 familiar with Mr. Elden's credentials and we have
25 qualified him previously as an expert before the

1 board. So he's free to provide us with opinion
2 testimony.

3
4 MR. JURMAN: Thank you.

5 MR. ELDEN: Mr. Chairman, members of
6 the board, we have reviewed the document, the DEIS
7 and find it seriously deficient in many ways. In
8 fact, I have to say that it is the poorest example
9 of an EIS that I have seen in thirty years of
10 experience with the SEQRA process. It is
11 confusing. It leaves out much that is required of
12 an EIS and in my opinion it never should have been^{A-1}_{2.1}
13 issued for public review before the many
14 deficiencies were corrected.

15 Even worse, however, than the
16 information that is incorrect or just plain
17 lacking from the document is that the entire DEIS
18 reads like an attorney's presentation to the
19 board. This DEIS, instead of being an independent
20 third-party unbiased disclosure document of
21 potential environmental impacts as required by the
22 State Environmental Quality Review Act, reads
23 throughout like an advocacy document straining to
24 try to convince the reader of the merits of the
25 project provides little, if anything, by way of

1 arms-length analysis of the potential
2 environmental impact of the proposed project.

3
4 Early in the document the claims made
5 that the proposed dormitories will reduce impact
6 to waste water because of quote, as of right the
7 college is allowed to add one thousand five
8 hundred eighty-two additional commuter students.

9 The issue is not what the college can
10 do as of right versus the proposed dormitories.
11 What they can do as of right would not be
12 surrendered if the dormitories were approved.

13 The issue for the EIS is the impact of
14 the proposed dormitories. On the same page a
15 statement is made that one job is created for
16 every eleven students, but absolutely no
17 verifiable documentation is provided to support
18 that claim.

19 The same unsubstantiated claim is made
20 again on page I-7. A DEIS is a disclosure
21 document and substantiation of this kind of
22 statement is a basic requirement.

23 The entire section I1.3 that goes on
24 for three pages is a highly biased discussion of
25 the history of litigations of the proposed

A-2
2.2

A-3
2 3

A-4
2.4

1 project. That has no relevancy for documenting
2 potential environmental impact. But would seem to
3 lecture the ZBA on the appropriateness of the
4 action, of the applicant's action. This is
5 totally inappropriate.
6

7 The section entitled community
8 opposition, instead of objectively stating the
9 concerns raised by the community, the document
10 again chastises the ZBA with advocacy statements
11 like, and I quote, the record should reflect that
12 the first application was made to the ZBA in 1998
13 but the ZBA declined to involve itself, end quote.

14 And quote, if the ZBA considered this
15 matter at that time, this entire controversy might
16 have been voted, close quote. This kind of
17 statement shows how biased the authors of what
18 purports to be a DEIS, the material fails any test
19 of objectivity.

20 The waste water analysis presented in
21 the DEIS fails to identify a significant negative
22 environmental impact. The statement on page 3-3,
23 that if the dormitories were approved quote, as
24 the SCSC allots five gallons per day for each non-
25 residential student, there would be capacity for

A-5
2.5A-6
2.6

1 an additional two commuter students and no
2 capability to accommodate any additional dormitory
3 students, closed quote.
4

5 A similar statement was made here
6 tonight in testimony. That if the dormitories
7 were approved they would be at their maximum
8 capacity. This is based on an erroneous
9 calculation. In fact, if this proposal were
10 approved the college would go over the allowable
11 sewage limit by a substantial amount.

12 Specifically, table 3-1 presents calculations
13 based on seventy-five gallons per day usage for
14 dormitory students and five gallons per day for
15 commuter students, but neglects to show the
16 additional two point five gallons per day that
17 should be added for both commuter and dormitory
18 students for cafeteria usage.

19 I refer you to Suffolk County
20 Department of Health Services publication entitled
21 standards for approval of plans and construction
22 for sewage disposal systems for other than
23 single-family homes as revised March 5, 1984. The
24 requirement for the two point five gallons per day
25 addition for cafeteria usage was verified in a

1 conversation between Mr. Jeff Kitt of my office
2 and Mr. Douglas Feldman, senior engineer in the
3 Suffolk County Health Department Environmental
4 Group.
5

6 A net calculation of two hundred eight
7 residential and eight hundred eight commuting
8 students provides a total of one thousand sixteen
9 students. If the proposed dormitories were
10 approved which would generate a total of two
11 thousand seven hundred sixty-six, five gallons per
12 day more than shown in the DEIS. The one hundred
13 two faculty generators, faculty members would
14 generate an additional two hundred twenty-five
15 gallons per day for a total system usage of
16 twenty-three thousand one hundred forty gallons
17 per day, which is over the allowable limit by two
18 thousand nine hundred eighty gallons per day of
19 sewage.

20 This constitutes a significant
21 environmental impact, since it is over the
22 allowable limit as shown in the DEIS. Further, it
23 would contribute significantly to nitrogen impact
24 on groundwater.

25 This failure to add the two point five

gallons per day for cafeteria usage constitutes a significant environmental impact that should have been identified and was not disclosed in the DEIS and clearly limits any expansion of the college's facilities.

As to traffic impacts, the traffic impact report does not provide the complete peak hour study. Only a section of the Petit Drive analysis mentioned that the A.M. peak hours are eight to nine A.M. and not nine to ten A.M. for the commuters at college the peak hour is respectively.

The Saturday and P.M. peak hours were not provided. How the peak hours were determined and what time periods were studied should have been provided in the report and were not. Figure one in the traffic impact study shows the off ramp on to the Long Island Expressway north service road exiting between Bagatelle Road and Burrs Lane. The traffic volumes at the westbound approach at the intersection of the Long Island Expressway north service road and Bagatelle Road should be greater than those from the intersection of Long Island north service road and Burrs Lane

A-7
2.7

A-7
2.7

1 because of the off ramp that exists between Burrs
2 Lane and Bagatelle Road.
3

4 However the traffic impact study
5 indicates that the traffic is equal between the
6 intersection of Bagatelle Road and Burrs Lane.
7 This means that the traffic exiting from the
8 westbound LIE main lanes is missing from the
9 analysis. It hasn't been added.

10 As indicated in the traffic impact
11 study, approximately fifty percent of the students
12 at Five Towns College are Suffolk County
13 residents. Approximately thirty percent are
14 Nassau County residents. Approximately ten
15 percent are from New York City and approximately
16 ten percent are from outside of Long Island, of
17 the Long Island New York metropolitan area. This
18 indicates that approximately fifty percent of the
19 students arrive at the college from the west side
20 of the campus and the majority of them would use
21 the Long Island Expressway to drive to the
22 college.

23 The traffic conditions for the Long
24 Island Expressway South Service Road at Bagatelle
25 Road is currently at level of service F. That is

A-9
2.7

1
2 severe congestion, with a delay time of one
3 hundred thirty-six point five seconds.

4 Under the no build conditions that is
5 in the year that the building would occur, but
6 without the building it would be a hundred
7 fifty-five point five seconds delay time That is
8 the time the vehicle would have to wait before
9 they could pass through the intersection That is
10 during the P.M. peak hour.

11 The trip assignments in the traffic
12 impact study indicates that six vehicular trips
13 from the project were assigned to the Long Island
14 Expressway South Service Road left turn movement
15 at Bagatelle Road during the A.M. commuter peak
16 hour. However in the P.M. commuter peak hour only
17 one vehicle trip of the thirteen inbound trips to
18 the project was assigned to the Long Island
19 Expressway South Service Road left turn movement
20 at Bagatelle Road. This is an unreasonable low
21 traffic volume assigned to the LIE South Service
22 Road left turn movement at Bagatelle Road for the
23 P.M. commuter peak hour.

24 Based on the existing roadway network
25 since the LIE South Service Road carries students

1 coming from Nassau County and New York City. This
2 unreasonably low trip assignment avoids showing a
3 significant traffic impact that would most
4 certainly result from a realistic analysis of that
5 intersection that already operates at level of
6 service F.
7

8 In the cultural resource section two
9 point six point one, a phase one B archeological
10 study is referred to and is included in the
11 appendix. However there's no documentation from
12 the New York State Office of Parks, Recreation and
13 Historic Preservation indicating whether this
14 documentation or study was ever received, reviewed
15 or approved.

16 The original environmental assessment
17 form for this project was deficient for not
18 notifying the New York State Office of Parks,
19 Recreation and Historic Preservation and the
20 pattern continues with this DEIS.

21 This document is not approvable without
22 verification on this point because the Office of
23 Parks, Recreation and Historic Preservation
24 notified the applicant after we contacted them
25 regarding the failure of the applicant to notify

1
2 them of the original EIS process and the state
3 notified them that this site is located within an
4 area designated by the state to be archeologically
5 sensitive.

6 The DEIS does not contain the necessary
7 documentation from the state, that they have
8 revised the one archeological analysis and that
9 they accept it and approved it. And that the
10 project would not have a negative impact on an
11 archeologically sensitive area. It's just not
12 there.

13 I strongly believe that there is an
14 issue of segmentation for the DEIS. In
15 advertisements by the college that I have seen a
16 planned new library was discussed. I have seen it
17 on plans that were previously submitted to the
18 town. In a memo from James C. Milkan of Nelson
19 and Pope to Arthur Goldstein dated November 29,
20 1999 the statement was made that the planned
21 library of approximately ten thousand square feet
22 was covered in the EAF and states quote, there for
23 the future library was considered during the
24 town's environmental review, closed quote.

25 In a letter from Arthur Goldstein to

1 the chair of the Planning Board dated December 9,
2 1999 Mr. Goldstein acknowledged the planned
3 library. Yet only a month later, on January 20,
4 1999 Mr. Goldstein sent a letter to Mr. Richard
5 Macktay, Director of Planning for the town stating
6 that the college has no current plans to construct
7 a library.
8

9 Clearly if they plan it, clearly they
10 planned it if they have advertised it since 1998
11 and included it in the original environmental
12 assessment form. If it was in the EAF it should
13 be evaluated in the DEIS. If the plan is to build
14 it later, it should be included in the DEIS and
15 the DEIS should be redone as a generic
16 environmental impact statement or GEIS.

17 Generic GEIS are typically used in a
18 college campus situation so that the full extent
19 of building over time can be evaluated so that the
20 full significance of the impacts of various
21 buildings can be evaluated.

22 Our firm has done various generic
23 environmental impact statements for other colleges
24 in our state for exactly that reason and there's
25 plenty of case law to show that

1
2 The DEIS was distributed to the public
3 and to this board, that was distributed to the
4 public and this board did not have the correct
5 plans included and was lacking much information.

6 The last ditch highly irregular tactic
7 was adopted by the applicant in an effort to cover
8 the mistake by issuing approximately two weeks ago
9 a document entitled, Response to Staff Comments on
10 the Draft Environmental Impact Statement dated
11 July 2003. No specific date was provided.

12 Anyone that read the DEIS prior to the
13 issuance of the supplementary material would have
14 been completely misled to believe that what they
15 saw was complete and correct. Responses to staff
16 comments should have been incorporated into the
17 DEIS before it was made public or sent to the
18 board. That is the way that it is done in
19 jurisdictions throughout the state.

20 I will tell you that our firm has
21 served as SEQRA review consultants for state
22 agencies for a long period of time reviewing all
23 of the DEIS and EAF that were submitted for
24 projects all over the state and that has also been
25 the standard. No one could properly evaluate what

A-12
2.1

1 this reported DEIS says.

2
3 Because it was too thoroughly confused
4 and confusing in its presentation and material. I
5 have never in my thirty years of experience with
6 SEQRA seen such a strange process that has taken
7 place with this alleged DEIS.

8 In the alternative section no clear
9 evaluation of potential environmental impact is
10 provided. A DEIS is required to show all of the
11 potential environmental impacts for each category
12 of study for each alternative for the purpose of
13 comparison by the reader.

14 Once again, the DEIS was used merely to
15 present advocacy statements on behalf of the
16 applicant that have no place at all in the DEIS
17 which is required to provide unbiased scientific
18 analysis of potential environmental impacts. This
19 document fails to meet even the most rudimentary
20 tests necessary to qualify as DEIS.

21 I urge you for the sake of the
22 integrity of the SEQRA process and the Zoning
23 Board of Appeals process not to certify it and
24 require the applicant to provide an unbiased
25 comprehensive full disclosure document revealing

A-13
2.11

1 all potential environmental impacts.

2 Thank you for your attention.

3 MR. MODELEWSKI: Do any board members
4 have any question of Mr. Elden?

5 (No response.)

6 MR. MODELEWSKI: Thank you.

7 MR. JURMAN: I just do have two
8 questions, Mr. Elden.

9 MR. MODELEWSKI: He's your witness. Go
10 ahead, Mr. Jurman.

11 MR. JURMAN: Mr. Elden, you touched
12 upon a couple of different issues relating to the
13 inadequacy of the study conducted. I wanted to
14 ask you specifically for the record to elaborate a
15 little more on the sewage issue and specifically
16 your opinion as to the study that was conducted
17 and whether or not it was adequate.

18 MR. ELDEN: Well, it was clearly
19 inadequate because it did not indicate the two
20 thousand seven hundred some odd gallons per day
21 that they were over the limit that they are
22 allowed at the campus.

23 MR. JURMAN: So it's your expert
24 opinion that the sewage analysis was incorrect?
25

A-14
2.6

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. ELDEN: Yes.

MS. GAUGHRAN: Mr. Elden, that two hundred plus gallons, that was because of the kitchen facilities or the cafeteria facilities?

MR. ELDEN: That's correct. And we referenced the Suffolk County Health Department document that that comes from and the senior environmental engineer that works at the agency with whom we also verified.

MS. GAUGHRAN: Thank you.

MR. MATTHEWS: I note that Mr. Elden appeared to read from a document. Will you submit a report?

MR. ELDEN: I will submit a copy of my comments.

MR. MODELEWSKI: Why don't you hand that up then, Mr. Elden? We will mark that number 45 in evidence.

Mr. Jurman, I believe you have at least one more question.

MR. JURMAN: No, I don't actually. I'm going to cut it. That's my last question for this particular witness.

MR. MODELEWSKI: All right. Why don't

1
2 you call your next witness.

3 MR. JURMAN: As I had indicated to the
4 board when Mr. Goldstein and I were actually or I
5 should say Mr. Goldstein indicated to the board
6 that House Beautiful has a complete and non-
7 redundant package to present to you tonight, so my
8 next witness is Sheila Sachs.

9 MR. MODELEWSKI: Do you swear the
10 testimony you are about to give is the truth, the
11 whole truth and nothing but the truth?

12 MS. SACHS: I do.

13 MR. MODELEWSKI: Please state your name
14 and address for the record.

15 MS. SACHS: Sheila Sachs, 37 Melrose
16 Road, Dix Hills. I handed my exhibits to someone
17 and I am just -- could I ask for them, please?

18 Chairman Modelewski and members of the
19 zoning board, my name is Sheila Sachs. I am a
20 resident of Dix Hills for over thirty years. I
21 have been active in my community for a good part
22 of those years and I will not take the board's
23 time to go into my years of involvement because
24 many of the issues are well known.

25 I will however say that I sincerely

1
2 believe that the issue before you tonight is far
3 more reaching and will have the greatest effects
4 on our communities development in the years to
5 come than all of the other issues that have
6 appeared before the town put together, including
7 the Hartman factory issue or the Olympus fiasco,
8 both of which were a major concern, but situation
9 where workers would exit our community at five
10 P.M. and would not return on weekends or holidays
11 wherein the nine to five schedule would be
12 followed five days a week.

13 Therefore, with dedication and concern
14 in mind I would like to bring the following
15 information to you on behalf of the House
16 Beautiful community. Anything Goes was the
17 Broadway show the Five Towns College chose to
18 present this year.

19 MR. MODELEWSKI: That was Cole Porter
20 wrote the lyrics.

21 MS. SACHS: Yes and I believe that
22 Anything Goes is truly the theme that the college
23 has chosen to adopt toward this neighborhood with
24 regard to the dormitory project, with regard to
25 the DEIS and with regard to our neighborhood

1
2 history.

3 MR. MODELEWSKI: Mrs. Sachs, Mr. Jurman
4 is assisting you and he put this exhibit in front
5 of us. Do you wish to have us consider that and
6 mark that in?

7 MS. SACHS: If you would like to have
8 it, yes.

9 MR. JURMAN: It's a prop. I don't
10 think that needs to be put in.

11 MR. MODELEWSKI: All right, go ahead.

12 MS. SACHS: Now that I have your
13 interest. According to the DEIS on page S-1, the
14 special use permit being requested is for approval
15 to erect four dormitory buildings, each to house
16 fifty-two students with a total population of two
17 hundred eight people.

18 This statement is to be accepted as a
19 basic fact. If you count the number of bedrooms
20 you will see there are sixteen on the first floor
21 and nineteen on the second floor or thirty-five
22 rooms. However, each room has two computer
23 terminals. It's stated in the DEIS. Each room
24 has two closets. Every room is large enough in
25 size to accommodate at least two students. The

1 double rooms are only twenty-four inches longer
2 than the so-called single rooms and this I would
3 give in as an exhibit. This is something that is
4 from the DEIS that shows the typical rooms and the
5 sizes of the singles and doubles.
6

7 MR. MODELEWSKI: Okay, we will mark
8 that number 46 in evidence, if you would assist
9 us, Mr. Jurman.

10 MS. SACHS: We have on-site testimony
11 that you will hear shortly that reveals that the
12 rooms in building one and two already have been
13 used for doubles and even triples. That bunk beds
14 were set up in the so-called single rooms.
15 Nothing will prevent this practice of putting
16 additional people in each room from continuing.
17 There's no on-site inspection. That will even
18 limit the number of occupants in each room. If
19 you have thirty-five rooms in each building, each
20 containing two people, you have seventy people per
21 building, not fifty people but an approximate
22 total of two hundred eighty people. Approximately
23 one-third more people than the DEIS indicates.

24 If one refers to building plans
25 submitted one can see seventy, I repeat, seventy

mailboxes that are to be installed.

MR. MODELEWSKI: All right, we will mark that number 47.

MS. SACHS: Seventy mail boxes for fifty people or seventy mailboxes for seventy people. Where are the room supervisors for each building? Do they have a spouse? Do they have children? Why aren't they accounted for as part of the living total in the building population?

The DEIS is materially wrong when it fails to adequately address the true number of people that will live in each building and it therefore should not be accepted. On page S-7 it states there will be no change in the use of the site, only in the level of intensity of that use.

FTC bought Burrs Lane Junior High School thirty-three point six three point four acres for a million dollars and with the disclosed statement of intent to operate a for-profit commuting college. Realizing that enrollment could go up as well as profits, on-site housing for students became the objective.

If an institution changes from a commuting facility where everyone goes home at

1
2 night to a twenty-four hour seven day a week year
3 around operation and you say, and I quote, the
4 DEIS, there will be no change in the use of the
5 site and the absence of any change in the land use
6 of the subject site, there is the absence of any
7 change in the land use of this subject site. Page
8 S-7, it's absolutely an outrage and totally false
9 statement.

10 In discussing potential significant
11 impact from the project, the DEIS states on page
12 1-10 that the college has five residences within
13 four hundred feet of the project area and because
14 of this it minimizes the potential for adverse
15 impact to these potential receptors, unquote.

16 Since when did four hundred feet become
17 the new official measure of impact? But in fact
18 there are seventy-two homes within five hundred
19 feet of the college and hundreds of homes within a
20 half mile of the college. The college is located
21 in the middle of a one-acre family residential
22 neighborhood. You can see from the map --

23 MR. MODELEWSKI: Now we will put your
24 map in as number 48.

25 MS. SACHS: Institutional uses in our

A-17
2.14

1 neighborhood are currently being referred to in
2 the DEIS and as a matter of fact one of the other
3 speakers referred to the institutional uses.

4 Let's look at our neighborhood and the so-called
5 institutional uses. The first one, the first one
6 listed in the DEIS is the institution called
7 Temple Beth Torah on the south side of the LIE and
8 that would be down here. Not in this residential
9 area, but on the south side of the LIE. The
10 second institutional use is identified as Chestnut
11 Hill Elementary School, quite an institution. And
12 the third is identified as High School East which
13 is over here and the fourth institution is
14 identified as the former elementary school now
15 used as administrative offices for our school
16 district right over here. And they also
17 identified the farm over here which is an
18 agricultural use.

19
20 None of these so identified
21 institutions have any similarity to the proposed
22 dormitory use. All of them are day facilities,
23 not twenty-four hour, five day a week twelve month
24 a year operations. Even Sagamore has turned into
25 a day facility primarily.

1
2 To compare a religious facility, a
3 temple, a public day school, a high school to a
4 dormitory is once again an example of there
5 blatant wrong information. In an R-40, one-acre
6 zone area you have parent or relatives supervising
7 two, three, four children in a home, children who
8 go to school in the morning and return home later
9 in the day.

10 There is a huge difference between
11 students who are only at school during the day
12 going to classes and students who are away at a
13 school for twenty-four hours a day seven days a
14 week. There's no correlation between the two.
15 And shortly you will hear testimony from a
16 homeowner of how unsupervised students effected
17 her life and that of her family.

18 FTC is placing two hundred eight
19 unrelated people mainly of college age living
20 together in four clustered buildings on three
21 point two acres. The impact you have is
22 equivalent to that of putting an apartment house
23 or a garden apartment complex in an R-40 zone,
24 only this complex is for singles, primarily
25 college age. And this is definitely not in

1
2 keeping with the character of the single-family
3 community.

4 The college may not be changing the
5 zoning code, but it will be impacting the
6 single-family residences in the immediate area.
7 The book of lists published by the Long Island
8 Business News devotes a section to promoting
9 conferences, meetings and exhibition facilities on
10 Long Island. Each facility is ranked by the
11 number of square feet it contains.

12 FTC has been included on this list for
13 many years and they refer to themselves as the Dix
14 Hills Convention Center at Five Towns College. So
15 now in addition to having a college and
16 dormitories we find out that we have a convention
17 center in our neighborhood. And it is our
18 understanding that the current zoning would
19 prohibit a convention center, yet it has been
20 listed for many years.

21 In 1998 the college was ranked third in
22 size as a convention center competing with the
23 Huntington Town House in first place and the
24 Nassau Coliseum in second. They're ranking
25 dropped slightly over the years. In '98, '99,

A-11
2.15

1
2 2000 and 2001 the college's meeting and exhibition
3 size of forty thousand square feet remained the
4 same, as did the number of hotel rooms they had
5 and zero zero, as in none, hotel rooms were listed
6 in the advertisement.

7 However, in the year 2002 and as
8 recently as 2003 of this year the convention
9 listing changed. The square feet available and
10 the number of meeting rooms, they were the same.
11 But the college now advertised the availability of
12 a hundred thirty-six hotel rooms. This dramatic
13 change and availability just happened to coincide
14 with the completion of two dormitory buildings and
15 two -- I would like to have the board, to give the
16 board, ever member a list of what I have been just
17 referring to with the year 2003 on the top, going
18 back for a period of five years listing the
19 college as a convention center with the
20 information that I have just given you.

21 MR. MODELEWSKI: We will mark that in
22 as Exhibit number 49 in evidence.

23 MS. SACHS: When the college's owner
24 was confronted with this information by a reporter
25 he denied the information saying, and I'm quoting

1
2 the Newsday article, they checked the figures with
3 the school but it never sent the newspaper updated
4 information. It's not part of our plan and will
5 not happen. I think what is really happening is
6 that those forces, those individuals that are
7 aligned against the college for any reason were
8 just cooking up a straw in the wind, unquote.

9 How did the number of hotel rooms go
10 from zero to a hundred thirty-six, to say the
11 college knew nothing about this is beyond belief.
12 Yet this is just another example of the college
13 doing whatever it wants even if it is illegal and
14 when caught denying any action.

15 I guess the college has gotten away
16 with denial in the past so it continues. Just
17 read the DEIS.

18 It's up to this board to stop this kind
19 of denial. When asked about the school hosting
20 conventions including last summer's group of local
21 business leaders who were allowed to stay in the
22 dorms Mr. Cohen said, and I quote verbatim, last
23 summer's event was not a convention in the usual
24 sense, but an educational event. And that the
25 school agreed to host it only after the original

1
2 site abruptly cancelled and that was stated in
3 this Newsday article that Mr. Jurman will
4 distribute to the board.

5 Using the dorms, quote --

6 MR. MODELEWSKI: Mr. Jurman, you have
7 what?

8 MR. JURMAN: A Newsday article.

9 MR. MODELEWSKI: Okay, we will mark
10 that number 50 in evidence.

11 MS. SACHS: Using the dorms, quote,
12 only after another group canceled is very
13 different language from that found in the DEIS
14 which I have read carefully and it says in the
15 DEIS, and I quote, 'Five Towns College will use the
16 living/ learning center for educational programs
17 and educational conferences and retreats offered
18 at the college in furtherance of its objectives
19 such as the three day leadership Huntington
20 retreat held in June of 2002.

21 What are we to believe when confronted
22 with two opposite positions and in writing?

23 Number one, there's no convention center. Number
24 two, we never listed a hundred thirty-six rooms.
25 Number three, we only allowed last summer's event

1
2 because of a mishap with the local business
3 group's plans.

4 And then the opposite, a convention
5 center listed for the year 2002, 2003 with a
6 hundred thirty-six hotel rooms at Five Towns
7 College. Five Towns College as has advertised the
8 convention center for at least the past five
9 years. And the fact of its existence has not been
10 included in the DEIS.

11 In addition the college has advertised
12 hotel rooms and it denies the information. And
13 the DEIS states that the dorm rooms will be used
14 only for three day conferences held by a local
15 business group. But the quote in Newsday that
16 says it was a one time accommodation and that's
17 all, this all adds up to incorrect and omitted
18 information and another reason why the DEIS should
19 not be accepted.

20 Our community spent a great deal of
21 time and effort requiring the college to adhere to
22 the SEQRA law and to prepare a DEIS that would
23 reveal to the public the college's long-term
24 plans. Plans that would enumerate its curriculum
25 expansion, it's degree expansion, it's future

1
2 building needs, it's plan for providing housing
3 when all dormitory rooms are filled.

4 But instead of providing this required
5 information as outlined in the scoping document
6 the DEIS addresses these concerns with these
7 statements. One, the college has indicated it has
8 no present plans for any new structures. That was
9 on page 124. Two, the campus residential
10 population of the college has reached its maturity
11 and is not projected to increase. Number three,
12 its degree programs are more diversified today
13 than a decade ago and is projected to remain
14 constant.

15 Number four, in the fall of '92 when
16 the college transferred its operation to Dix
17 Hills, it's total enrollment which someone asked
18 on the board a little while ago, was six hundred
19 seventy-four. It says it in the DEIS and the
20 projected build-out enrollment will be one
21 thousand sixteen or almost double the number of
22 students.

23 Number five, the college has no plans
24 for a library. Six, the dormitory project will
25 have no impact on intersections. Seven, there

1 will be no impact to bus twenty-three in spite of
2 the fact that over two hundred people will now not
3 have to commute.
4

5 Number eight, there will be no change
6 in the use of the site. According to what one
7 reads there will be no changes, no expansion, no
8 future building, no impact. Everything is going
9 to remain the same. And all of this in spite of
10 the aggressive TV advertising campaign and
11 newspaper ads that the college puts out.

12 How can one believe this? Since the
13 college moved to Dix Hills it has increased the
14 student population, added new courses, added new
15 degrees, increased the size of the school building
16 and now wants to add dormitories and for the sake
17 of this ZBA hearing the college says no changes.
18 All previous plans and documents that the college
19 submitted to the town included a future library
20 and courtyard. All of them.

21 We can go back as far as 1997 to the
22 files and as recent as the DEIS, the original one
23 submitted to you. Just turn to the back of the
24 volume and refer to the grading and drainage
25 plans. In addition, the certified plan on file

1
2 with the Planning Department clearly shows a
3 library and a courtyard.

4 And in addition on 5-28, I'm sorry on
5 5-20-98, FTC listed on their web site, and I
6 quote, major campus improvements including plans
7 for outdoor amphitheater, a new library, better
8 housing facilities for students, unquote. We know
9 there's some element of truth to their web site
10 because the college is presently seeking a special
11 use permit for the housing facilities mentioned on
12 the web. But what happened to the library, and
13 amphitheater?

14 Since the college has the right to
15 build the library and the amphitheater without ZBA
16 approval because they are accessory structures and
17 anything else they may want to build in the
18 future, maybe the college feels they shouldn't
19 bring it up tonight. Just prior to the last
20 public hearing held before this board there was an
21 intense effort to try to get the library included,
22 if you remember, with the dormitory approvals.

23 An institution that posts in its
24 advertisement of new programs, higher degrees,
25 would simply seek to improve its status by

1 offering its students a more extensive library.
2 They may even be required by the nature of their
3 offering to house a certain number of volumes for
4 the student body.
5

6 Therefore, a mere statement of ten
7 words saying there are no current plans to
8 undertake a library improvement project in the
9 response remarks are not consistent with the past
10 history of all of the years and is not consistent
11 with the plans included in the rear of the DEIS
12 labeled are grading and drainage plan dated and
13 revised 2-8-02 and with the certified building
14 plans in the Planning Department.

15 In the college's response to the staff
16 comments, there's an acknowledgement of the
17 library and the courtyards being included. The
18 response seems to indicate that it was some sort
19 of an error, page ten, quote, and it should be
20 corrected, unquote. And the new plan, quote, no,
21 no quote now. And the new plan no longer depicts
22 the library and the courtyards thanks to White-
23 Out.

24 It is our contention that the library
25 project was removed as was the courtyard and even

1
2 the amphitheater so they would not have to be
3 addressed in the DEIS and when it comes time to
4 build a library and other structures, the college
5 will not need ZBA approval. They will never be
6 under ZBA scrutiny again for any other future
7 projects on the property because any future
8 projects will be deemed an accessory structure.

9 A DEIS which is incomplete and fails to
10 include a full and clear plan of future
11 improvements such as a library and a courtyard is
12 an omission and deemed segmentation and therefore
13 another reason that the DEIS should not be
14 accepted by this board.

15 Our history with the college goes back
16 now approximately ten years and while the college
17 can boast of activities and programs and concerts
18 it provides for the people of Long Island, the
19 neighbors' history with the college has not been
20 positive. One day we have a major guitar show
21 with hundreds of cars parked on Half Hollow Road
22 and the next month we read of a major car event
23 contest to take place on the lawn of the college.
24 A contest to determine the van that had the
25 loudest van stereo system.

1
2 When confronted with this event Mr.
3 Cohen claimed he did not know the context of the
4 event, even though he signed the contract for the
5 use of the college's grounds. And I might add
6 that the signor is also an attorney. This is one
7 of the ads for that college car stereo van show.

8 MR. MODELEWSKI: Why don't you hand
9 that up since Mrs. Sachs referred to that. That
10 will be number 51.

11 MRS. SACHS: It looks like a regular
12 ad, but if you look at the print you will see
13 where it's taking place at the Five Town College
14 and the hours and its location.

15 MR. JURMAN: If I may, there was
16 another document that Ms. Sachs referred to prior
17 that I was going to hand up.

18 MR. MODELEWSKI: What is the other
19 document?

20 MR. JURMAN: The web site.

21 MR. MODELEWSKI: Okay, we will mark the
22 web site number 52.

23 MS. SACHS: The neighborhood history
24 and continued relationship with FTC seems to be
25 one of denial, false information and antagonism

1
2 and as the poster said, Anything Goes. There are
3 more than a hundred thirty-five different types of
4 applications in the town code that require the ZBA
5 to issue a special use permit, none of which would
6 come near the impact that granting this permit
7 would have on the long-term development of this
8 neighborhood.

9 We are informing you of the
10 deficiencies and the errors in the DEIS and we ask
11 you not to accept it. Thank you.

12 MR. JURMAN: I would would like to call
13 Alisa Klinger.

14 MR. MODELEWSKI: Do you swear the
15 testimony you are about to give is the truth, the
16 whole truth and nothing but the truth?

17 You do so swear?

18 MS. KLINGER: I do so swear.

19 MR. MODELEWSKI: Your name and address
20 for the record.

21 MS. KLINGER: My name is Alisa Klinger,
22 1 Black Oak Court. I live within five hundred
23 feet of the proposed plan and that's Dix Hills,
24 New York 11746.

25 I want to thank you at this late hour

1
2 that you are allowing me to speak I appreciate
3 it. I want to state that I live within five
4 hundred feet of the proposed project and I want to
5 clear one thing up before I read my prepared
6 statement and that is that a neighbor 3 Black Oak
7 Court which was up about discussion about real
8 estate and I wanted to set straight several
9 things.

10 One is that it was not five bedrooms,
11 it's a six bedroom house. The people that bought
12 the house are here today in opposition, also
13 concerned.

14 Secondly, they're not on an acre,
15 they're on more than an acre as well so that is a
16 big difference. Another thing, it's been on the
17 market for quite a while. There's a house next
18 door to me on Oakwood Court, it's on the market
19 for quite a while, it didn't sell. While in the
20 community further down sells within three months.
21 I wanted to add that in.

22 And if you want to compare apples to
23 apples, the quality in that one million dollar
24 house on Bagatelle built by the same builder as my
25 house had put in the best of the best. Okay, so I

1
2 think they put in one point fifty million and I
3 think they're at a loss and if you need them to
4 come down I can try to get them. They're living
5 in Westhampton now. So they I think were at a
6 loss. So I don't think that was an apple to apple
7 comparison.

8 That aside, I'm here to speak to you
9 today in regard to the fact that I have read
10 through the DEIS and I believe it fails, falls
11 short of providing the necessary information and
12 I'm going to focus on one topic to make it a
13 little simpler for everyone. And that topic is
14 found on page 3-2 of the DEIS where it states that
15 the college anticipates the addition of an
16 elevator for building two. And as you will soon
17 find out that the college, according to federal
18 government regulations, will need to put an
19 elevator not only in building two but in all the
20 buildings. That is one, two, three and four.

21 There are specific guidelines from the
22 Americans With Disabilities Act that they have set
23 for protects of the handicapped. That young
24 wonderful woman here that wants to move into the
25 dormitories to protect her and make sure they get

1 a fair shake. Equal access under the law as she
2 says. I have made copies for you. This is the
3 code and I have made it very simple. I will hand
4 it to you and I made it very simple because I
5 highlighted the areas that specifically focus on
6 the issue at hand.

8 MR. MODELEWSKI: All right, Mr. Jurman,
9 I will mark that in as exhibit number 53. All
10 right.

11 MS. KLINGER: Now this is from the ADA
12 code regulation 28 CFR part 36 section 413 that
13 states accessible building new construction
14 requires one passenger elevator in a three-story
15 building. Now I am aware tonight that we had
16 someone come and say according to the town that
17 this is a two story building. But for all intents
18 and purposes we are using the federal guide
19 regulations and I have highlighted for you the
20 following.

21 According to the ADA definition a story
22 is that portion of the building included between
23 the upper surface of the floor and the upper
24 surface of the floor or roof next above. If such
25 portion of the building does not include

1
2 occupiable space it is not considered a story for
3 the purpose of the guidelines.

4 The college basement according to these
5 federal guidelines is considered a story. The
6 basement is being used and is considered as having
7 what they call occupiable space which was
8 mentioned today, that there is occupiable space in
9 there. The ADA's definition of occupiable space
10 has been highlighted for you and it says that it
11 is a room enclosed or space designed for human
12 occupancy in which individuals congregate for
13 amusement, educational or similar purposes in
14 which the occupants are engaged in labor and which
15 is equipped with a means of egress, light and
16 ventilation, all that have been brought to your
17 attention today.

18 I have another handout, gentlemen, I
19 don't know what number it is, but it shows that
20 the college is using the basement for a cafe and
21 student lounge. I will pause here so you will
22 look at that.

23 MR. MODELEWSKI: I will mark that
24 Exhibit number 54.

25 MS. KLINGER: This is the same thing,

1
2 it's just an enlarged version.

3 MR. MODELEWSKI: That is also 54.

4 MS. KLINGER: By now you must be
5 wondering how did the college get permits issued
6 for buildings one and two without meeting the ADA
7 requirements of federal regulations. I believe
8 just as what was presented here today that the
9 Building Department looked at the plans that you
10 have had in the DEIS which I have enlarged for you
11 and I will put that in the record as well.

12 This is building one and building two
13 and I will put building four down here. Building
14 three --

15 MR. MODELEWSKI: Let's start with one
16 and two. Mr. Jurman, if you will assist us and
17 make that number 55 in evidence and the other one
18 we will call number 56, please.

19 MS. KLINGER: The question is, why is
20 building three not here? Not because I couldn't
21 get building number three. It was not available
22 to me because it's been stated that building four
23 is the flip of building three so therefore there's
24 no real plan available for me to show you. For
25 all intents and purposes building four and

1
2 building three are just the flip of each other.
3 That's why you don't have a copy there.

4 Upon looking at this I believe that the
5 Building Department considered this dwelling to be
6 a two story because with a cellar or basement just
7 with open space as seen here. And it was never
8 disclosed that the open space was actually going
9 to be used for a variety of student activities.
10 and very clearly according to the ADA the young
11 woman here, if she is on the second floor how can
12 she participate fairly to get to the basement?

13 Now you say well, there's a ramp,
14 she'll go outside and we'll bring her, there's
15 access to the basement with a ramp outside. Well,
16 if the person can walk, can go indoors, ADA says a
17 person in a wheelchair has that same right. Thank
18 God for them. I mean, she is happy to have the
19 housing, she should have equal access.

20 So based on these findings I believe
21 that the DEIS is lacking once again. And I feel
22 that the full range of details are a little bit
23 clouded. And I just tried to make one clear for
24 you and I want to say that we have a ZBA to
25 protect us and ZBA to give us a fair shake and you

1
2 have been and I recommend that the EBA ask the
3 college to provide us, the public as well as
4 yourself with a proper and worthy DEIS. Thank you
5 so much.

6 MR. MODELEWSKI: All right, Mr. Jurman.
7 We have reached our point of no return for this
8 evening. So we are going to obviously continue
9 the hearing because there's a lot more that we
10 have not heard. We're going to give the shortest
11 date for all concerned that we possible can give
12 under the law.

13 Mr. Matthews, we have certain
14 obligations with respect to the notice
15 requirements, even though this is merely an
16 adjournment; is that right?

17 MR. MATTHEWS: That's correct. There
18 must be notice as the original hearing is noticed.

19 MR. MODELEWSKI: So what we're going to
20 do, Mr. Goldstein, since we're breaking for this
21 evening, I'm going to confer with the board's
22 secretary in the morning where we will pick an
23 appropriate date. We will make it the shortest
24 date that we can for everyone for the sake of the
25 applicant, the community and ourselves so we can

1
2 get through the rest of the testimony and we can
3 do what we have to do with respect to our
4 obligation concerning both SEQRA and the zoning
5 code of the Town of Huntington.

6 So we will get in touch with you. We
7 will have to go through the notice protocols once
8 again and reconvene and complete in the hearing.

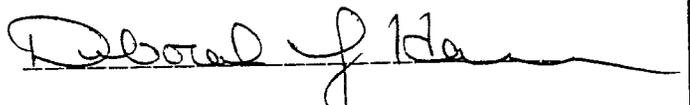
9 Mr. Jurman, you understand?

10 MR. JURMAN: I do. I do want to note
11 for the record that we only have about an hour. I
12 know you want to break at this point.

13 MR. MODELEWSKI: We're not going to cut
14 anybody off, we're going to do this right. So we
15 will reconvene and adjourn this hearing with a
16 date convenient and we'll continue the hearing.
17 That's it for tonight.

18 * * * *

19 I hereby certify that the within is a
20 true and accurate transcript of the above
21 entitled proceeding.

22
23 

24 DEBORAH J. HANSEN
25



APPENDIX B
WRITTEN COMMENTS

Ethan C. Eldon

July 24, 2003



Five Towns College DEIS Comments
Ethan C. Eldon
Town of Huntington Zoning Board of Appeals

July 24, 2003

My name is Ethan C. Eldon, president of Ethan C. Eldon Associates, Inc. an environmental and traffic consulting firm located at 50 Charles Lindbergh Boulevard, Uniondale New York. I previously served as Commissioner of Air Resources for the City of New York for four years, I also served as President of the New York State Association of Environmental Professionals for 5 years and as Vice President of the national Association of Local Air Pollution Control Officers for 4 years. I taught environmental and transportation planning on the graduate faculty in the Graduate School of Public Administration at New York University for 5 years.

We have reviewed the document and find it seriously deficient in many ways. In fact, I have to say that it is the poorest example of an EIS I have seen in thirty years of experience with SEQRA. It is confusing, it leaves out much that is required of an EIS and in my opinion it never should have been issued for public review before the many deficiencies were corrected. Even worse however than the information that is incorrect or just plain lacking from the document is that the entire DEIS reads like an attorney's presentation to the Board. This DEIS instead of being an independent third party unbiased disclosure document of potential environmental impacts as required by the State Environmental Quality Review Act, reads throughout like an advocacy document straining to try to convince the reader of the merits of the project and provides little if anything by way of an arms-length analysis of the potential environmental impacts of the proposed project.

B-1
2.1

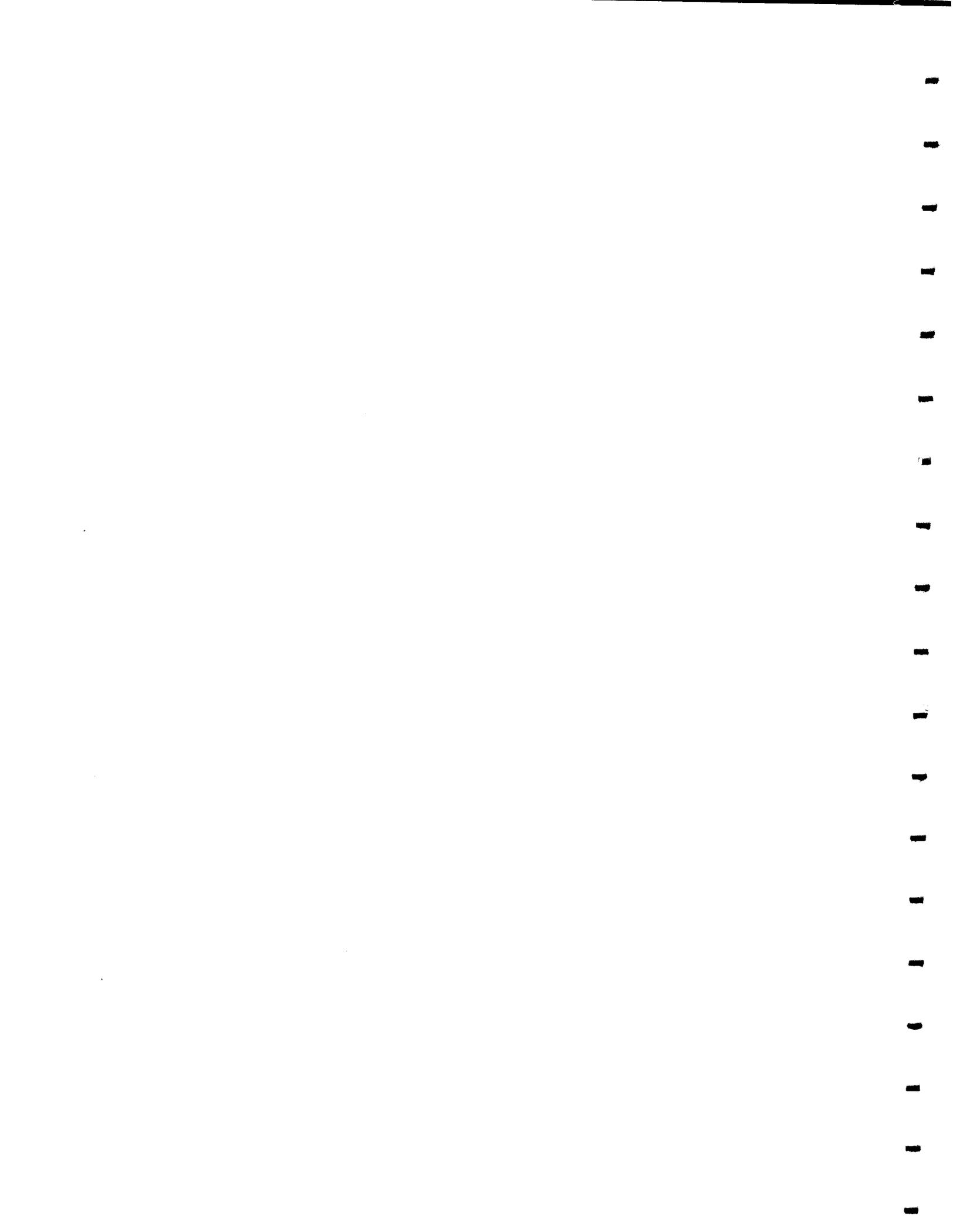
Early in the document (p.S-2) the claim is made that the proposed dormitories will reduce impacts to wastewater because "as-of-right the College is allowed to add 1,582 additional commuter students. The issue is not what the College can do as-of-right versus the proposed dormitories. What they can do as-of-right would not be surrendered if the dormitories were approved, the issue for the EIS is the impact of the proposed dormitories. On the same page a statement is made that one job is created for every 11 students but absolutely no verifiable documentation is provided to support the claim. The same unsubstantiated claim is made again on p I-7. A DEIS is a disclosure document and substantiation of this kind of statement is a basic requirement.

B-2
2.2

B-3
2.3

The entire section I-1.3 that goes on for three pages is a highly biased discussion of the history of litigation on the proposed project that has no relevance for documenting potential environmental impacts but would seem to lecture the ZBA on the appropriateness of the applicant's previous actions. This is totally inappropriate in a DEIS.

B-4
2.4



The section entitled Community Opposition instead of objectively stating the concerns raised by the community the document again chastises the ZBA with advocacy statements like "The record should reflect that the first application was made to the ZBA in 1998, but the ZBA declined to involve itself." and "If it (the ZBA) had considered this matter at that time, this entire controversy might have been avoided." This kind of statement shows how biased the authors of what purports to be an DEIS but utterly fails any test of objectivity.

B-5
2.5

The wastewater analysis presented in the DEIS fails to identify a significant negative environmental impact. The statement on page 3-3 that if the dormitories were approved "As the SCSC allots 5 gpd for each non-residential student, there would be capacity for an additional 2 commuter students, and no capability to accommodate any additional dormitory students." is based on an erroneous calculation. In fact if this proposal were approved the college would go over the allowable sewage limit by a substantial amount. Specifically, Table 3-1 presents calculations based on 75 gpd usage for dormitory students and 5 gpd for commuter students but neglects to show the additional 2.5 gpd that should be added for both commuter and dormitory students for cafeteria usage (see Suffolk County Department of Health Services "STANDARDS FOR APPROVAL OF PLANS AND CONSTRUCTION FOR SEWAGE DISPOSAL SYSTEMS FOR OTHER THAN SINGLE-FAMILY HOMES Revised March 5, 1984"). The requirement for the 2.5 gpd addition was verified in a conversation between Mr. Jeff Kitt of my office and Mr. Douglas Feldman, Senior Engineer in the SCDHS (that the 2.5 gpd per student for cafeteria use should be added to the calculation). A net calculation of 208 residential and 808 commuting students total 1,016 students if the proposed dormitories were approved which would generate a total of 2,765 gpd more than shown in the DEIS the 102 faculty members would generate an additional 225 gpd for a total system usage of 23,140 gpd which is over the allowable limit of 20,160 gpd by 2,980 gpd. This constitutes a significant environmental impact since it is over the allowable limit as shown in the DEIS. Further, it would contribute significantly to nitrogen impact on groundwater. This failure to add 2.5 gpd for cafeteria use constitutes a significant negative environmental impact that should have been identified and was not disclosed in the DEIS and clearly limits any expansion of the college's facilities.

B-6
2.6

- The Traffic Impact Study report does not provide the complete peak hour periods studied. Only a section of the Pettit Drive analysis mentioned that the AM peak hours are 8-9 AM and 9-10 AM for the Commuter and College peak hours, respectively. The PM and Saturday peak hours were not provided. How the peak hours were determined and what time periods were studied should have been provided in the report and were not.

B-7
2.7

- As indicated in the Traffic Impact Study, the traffic volume survey was conducted during the weekday during 7:00-9:00 AM, 11:00 AM-3:00 PM and 4:00-6:00 PM and during the Saturday 11:00 AM-3:00 PM and 4:00-6:00 PM periods. These peak hour periods correspond to Commuter peak hours and are different from the

B-8
2.7



- College peak hours. As shown in Page 24 of the Traffic Impact Study, the
- College peak hour is 9:00-10:00 AM. The Traffic Impact Study does not provide information as to how and when the background traffic volumes for the 9:00-10:00 AM as well as the PM and Saturday College peak hours were collected.
- Figures 2 to 6 in the Traffic Impact Study provide the existing traffic volumes. According to Figure 1 – Road map in the Traffic Impact Study, the traffic volumes should be balanced (equal) on Bagatelle Road between the Long Island Expressway Northbound and Southbound Service Roads and on Burr's Lane between the North Site Access and South Site Access. However, the traffic volumes for those intersections have not been balanced. Conversely, Figure 1 in the Traffic Impact Study shows the off-ramp onto the LIE North Service Road between Bagatelle Road and Burr's Lane. The traffic volumes at the westbound approach at the intersection of the LIE North Service Road and Bagatelle Road should be greater than those from the intersection of the LIE North Service Road and Burr's Lane because of the off-ramp that exits between them from which some trips are coming from the westbound LIE main lanes. However, the Traffic Impact Study indicates that the traffic is in balance between Bagatelle Road and Burr's Lane (see Figures 2 to 6 in the Traffic Impact study). This means that the traffic exiting from the westbound LIE main lanes is missing from the analysis.
- The Traffic Impact Study calculated the No-Build condition traffic volumes for the Dix Hills Soccer Club and states (Page 14): "On Saturday and Sunday, there will be games played on the Five Towns College soccer fields. As per Ted Freedman, the games will be scheduled hourly, beginning hourly at 10:00 am and lasting until 4:00 pm on some days. Using the number of vehicles per team listed above, there will be 40 vehicles entering and exiting the college each hour, for the soccer fields only". This estimate (total 80 vehicular trips) only includes the trips for the players. There should be some vehicular trips from audience for the games within the same time. Therefore, the total trips would be more than 80 vehicular trips.
- As indicated in the Traffic Impact Study (page 17), approximately 50% of the students at Five Towns College are Suffolk County residents, approximately 30% are Nassau County residents, approximately 10% are from New York City and approximately 10% from outside of Long Island /New York Metropolitan region. This indicates that approximately 50% of the students arrive at the College from the west side of the campus and the majority of them would use the LIE to drive to the College. The traffic condition for the LIE South Service Road at Bagatelle Road is currently at level of service (LOS) of F (severe congestion) with delay time of 136.5 seconds (155.5 seconds of delay under the No-Build Condition) during the PM peak hour. The trip assignments in the Traffic Impact Study indicate that 6 vehicular trips from the project were assigned to the LIE South

B-9
2.7

B-10
2.7

B-11
2.7



Impact Statement dated July, 2003 (no specific day was provided). Anyone who read the DEIS prior to the issuance of the supplementary material would have been completely misled to believe that what they saw was correct. Responses to staff comments should have been incorporated into the DEIS before it was made public or sent to the board. No one could properly evaluate what this purported DEIS says because it was so thoroughly confused and confusing in the presentation of materials. I have never in my thirty years experience with SEQRA seen such a strange process as has taken place with this alleged DEIS.



In the Alternatives section no clear evaluation of potential environmental impacts is provided. A DEIS is required to show all of the potential environmental impacts for each category of study for each alternative for the purpose of comparison by the reader. Once again the DEIS is used merely to present advocacy statements on behalf of the applicant which have no place in a DEIS which is required to provide unbiased scientific analysis of potential environmental impacts. This document fails to meet even the most rudimentary test necessary to qualify as a DEIS. I urge you for the sake of the integrity of the SEQRA process and the Zoning Board of Appeals not to certify it.

B-15
2.11

1
2 will permit them to do so.

3 So, why don't you get on with your
4 opposition case.

5 MR. JURMAN: Before I call the next
6 witness, at the last hearing, due to the late
7 nature of the night and the time limitation
8 that the Board put on the proceedings, I had
9 forgone my own comments in favor of Mr. Eldon
10 because we didn't want him to come back.

11 So, I have a few comments that I would
12 like to put on the record regarding the
13 overall presentation, so to speak, and it will
14 give the Board an overview of what we're
15 trying to accomplish here tonight.

16 MR. CHAIRMAN: Understood, go ahead.

17 MR. JURMAN: As you are aware, I'm the
18 attorney for House Beautiful, and I'm here to
19 present the community arguments as to why the
20 draft environmental impact statement offered
21 to you for acceptance should not be accepted.

22 In fact, it's submitted that the
23 document in its current form should be
24 rejected in its totality as being willfully
25 inactive and non-responsive to the concerns

1
2 voiced by the members of this Board when you
3 wisely gave this application a positive
4 declaration and required the preparation of an
5 environmental impact statement.

6 I would like to remind and report for
7 the record the purpose of why we're here
8 tonight, and the overall reason for the
9 opposition to the proposed project by House
10 Beautiful and its members.

11 First, it must be noted that House
12 Beautiful is not an opponent of satisfactory
13 housing for students, as the applicant
14 suggests, from a political perspective.

15 House Beautiful is here tonight
16 because it's concerned not about the
17 dormitories, per se, and the specific
18 dormitories at issue in and of itself, but
19 about the fundamental transformation of Five
20 Towns College from that of a small, day-time
21 commuter college to a full-time residential
22 institution that the college will become if
23 the dormitories are approved as proposed.
24 Such transformation will be a change from what
25 the community got when Five Towns moved in and

1
2 why we believe from a legal perspective that
3 the Town of Huntington wisely required a
4 special use permit to be issued in connection
5 with the college dormitory project.

6 The special use permit is the vehicle
7 for the proper scrutiny that must be afforded
8 to the project before it is allowed to
9 proceed, and we thank the ZBA for agreeing
10 with us on this issue.

11 All the foregoing being said, the
12 reasons being set forth by the members of
13 House Beautiful you will hear from does not
14 believe that the DEIS submitted adequately
15 addresses all of the concerns that both the
16 community and the Zoning Board addressed
17 previously when the positive declaration was
18 voted upon and when the scoping document was
19 prepared from a global point of view. The
20 DEIS that the college must need to prepare in
21 connection with this application must be a
22 document that details its operational and
23 expansion plans for the college for at the
24 very least, the short term into the future.

25 This is especially true given the

1
2 college's recent history of course and degree
3 upgrades and expansion; its almost forty
4 percent increase in student population over
5 the past decade, as well as the non-existence
6 margin for error in its sanitary and waste
7 water environment numbers, which not
8 incidentally are flawed.

9 Such view was most certainly expressed
10 by House Beautiful when we encouraged the
11 positive declaration and participated in the
12 scoping procedure, and it was the position of
13 the Zoning Board when requiring the DEIS
14 process and the scope document itself.

15 In spite of all this, looking at the
16 document offered to you, one cannot come to
17 any conclusion as to the college's plans going
18 forward. Rather, the college has simply
19 offered all denials that it has any plans for
20 further construction or any designs on
21 increasing enrollment in the document offered
22 to you tonight.

23 In fact, instead of submitting any
24 substantive proof in support of its claims
25 within the DEIS, the college has the temerity

1
2 to simply claim that such proof of expansion
3 restricts further enrollment increases that
4 can come from the sanitary Code itself, and
5 its prescription against any further expansion
6 due to the maximization of waste water flow.
7 In other words, the college claims that it
8 won't expand further because it won't be able
9 to do it legally.

10 However, nowhere in the DEIS is there
11 any actual documentation offered by the
12 college to show that the college
13 administration or trustees have actually
14 limited future expansion or have promulgated
15 any policy in this regard.

16 The ZBA and the community is therefore
17 supposed to accept the veracity of the
18 submission and take these claims at face
19 value. Although the college was previously
20 caught in an untruth about the existence of a
21 library plan and even now claims there's no
22 such plan, although they paid their architects
23 and engineers to draw and include such a
24 library on all of the prior plans and even had
25 their attorney argue that the library was

1
2 included in the prior SEQRA review.

3 Instead of submitting any credible or
4 substantive documentation to support its
5 allegation made in the DEIS, the applicant
6 merely cites in a circular fashion that it has
7 no expansion plans at all.

8 Now, just as an aside, I'm going to
9 put aside the rest of the prepared comments.
10 The document that has been submitted to you
11 doesn't have any substantive inclusion
12 relating to course offerings, relating to what
13 their actual student population is, relating
14 to what the faculty and the amount of other
15 ancillary employes are on the college campus.
16 There is no backup. All they simply have in
17 this document are what the sanitary code would
18 provide for and allow, as a maximum flow or
19 output, and they back into that particular
20 number and say in the dormitories we'll have
21 fifty-two students in each dormitory and we'll
22 have this number of commuter students, and
23 that's all we're ever going to have, and we're
24 done growing and we're done with everything.
25 This is the way we're going to be.

1
2 I don't, and I don't think that the
3 community, and I don't believe the Zoning
4 Board would believe that. I believe that they
5 have grown over forty percent over the last
6 ten years, and they're going to continue to
7 grow. And, as a function of their continued
8 growth, they're going to at some point need to
9 increase their sanitary facility and what
10 should be in this document and is not is to
11 provide for that eventuality.

12 They don't say in here, and Mr. McTay
13 pointed it out in the documents that are
14 actually in here, is that at some point in
15 time, they're going to need to increase their
16 sanitary facilities. We want, or the Zoning
17 Board should want a study of this, an
18 explanation of this. What are their plans?
19 How are they going to go forward?

20 They don't do that. They don't tell
21 us anything that we want to know. Anything
22 that we have wanted as a community to know
23 throughout the entire course of this
24 proceeding related to what they're going to be
25 tomorrow, not ten years from now or five years

1
2 from now, but tomorrow.

3 If the Zoning Board approves the
4 document in its present form and approves the
5 special use permit, there is nothing stopping
6 the college from tomorrow coming into the
7 Planning Board's office with a plan to
8 increase their sanitary system and I believe
9 that that would be segmentation which we have
10 all agreed that shouldn't be done in this
11 process. They shouldn't be able to segment
12 that.

13 Therefore, the college should be made
14 by this Board to come up with a real document,
15 not just a traffic study that says, oh, the
16 traffic is going to be fine. And, not just
17 questionable issues relating to whether or not
18 this is going to have an impact on house
19 values and market values of the homes which
20 the Board questioned real estate experts about
21 the last time.

22 We really need a real document about
23 what this college is all about, what this
24 college is going to be tomorrow, what this
25 college will be five years from now. Then, at

1
2 that point, we can all take a look at it and
3 see what we have here, but before that happen,
4 I don't know, the community doesn't know and
5 the Zoning Board doesn't know and I believe
6 that based upon that, this document should
7 be-- you should say no to this document.

8 MR. SLINGO: You made mention of the
9 fact that you have seen architectural
10 engineering drawings for a proposed library.
11 Has that been submitted in evidence.

12 MR. JURMAN: That's part of the
13 record. All of the prior -- all of the prior
14 plans that were submitted to the Zoning Board, C-2.
15 the Planning Board, the Zoning Board before,
16 they all referenced the library. There was a
17 drawing related to the library and courtyard
18 and as a matter of fact, right in this
19 document, there's a reference to the
20 engineering staff requiring the college to
21 take it out.

22 MR. SLINGO: I know there was
23 references to a proposed library, but I'm
24 talking about specifid engineering and
25 architectural drawings.

1
2 MR. JURMAN: They were on the
3 architectural drawings. The library was on
4 the drawing.

5 MR. SLINGO: Thank you.

6 MR. JURMAN: At this point in time, I
7 would like to call Joel Baden.

8 (Whereupon, the witness was duly
9 sworn.)

10 MR. BADEN: Joel Baden, 22 High
11 Pasture Circle, Dix Hills 11746.

12 MR. CHAIRMAN: Mr. Baden, that sign
13 that you displayed on the podium, is that
14 something that you wish the Zoning Board of
15 Appeals to consider in opposition to the
16 applicant's case?

17 MR. BADEN: No, this is here so it's
18 clear what part of the presentation is the
19 House Beautiful lineup of people speaking.
20 Once the public session continues, at that
21 point, this banner will be removed. If you
22 have a problem with it, this can be removed
23 now.

24 MR. CHAIRMAN: Unless you want us to
25 consider it part of the record, I would

1
2 suggest that you remove it.

3 MR. BADEN: I have been before the
4 Board before, made many comments. I'm not
5 looking to be realized this evening as an
6 expert for testimony, but let me give you a
7 little bit of my background.

8 My background is, I have a degree in
9 chemical engineering from Cooper Union in New
10 York City. I have worked for the U.S. Patent
11 and Trademark office in Washington, D.C.
12 Years later, I'm living in Dix Hills in a
13 totally different capacity, but at least my
14 background does lend itself that I would be
15 one to delve into the record and look at the
16 sanitary numbers, all of the different
17 configurations, all of the different
18 calculations, and it's early in the night.
19 Hopefully all of these numbers won't get to
20 the point that it's going to bore you to
21 tears.

22 MR. CHAIRMAN: We're here for two
23 things, two reasons. One is to consider
24 whether or not the applicant has made out the
25 proof necessary for us to grant a special use

1
2 permit. This is a conditionally permitted
3 use. It's a joint hearing and we're
4 considering the testimony of the public and of
5 whoever wants to testify from House Beautiful,
6 whether or not we should accept as sufficient
7 the environmental impact statement.

8 So, please address your comments, your
9 criticism to those two specific issues and if
10 you would please, because we do have a lot of
11 folks here that are interested in this
12 hearing, get on with what it is that you want
13 us to consider.

14 MR. BADEN: Yes, sir.

15 This is a graph.

16 MR. CHAIRMAN: It's a graph that you
17 have there. We will mark that as Exhibit
18 Number 61 in evidence.

19 MR. BADEN: This is a graph of the
20 Five Towns College student population growth
21 over the last ten years since they have been
22 here in Dix Hills.

23 In 1992, according to the DEIS, they
24 came to Dix Hills with, I believe, 684
25 students, less than 700. In 1999, when the

1
2 beginning of all of the applications for the
3 dormitories were submitted, at that point the
4 college said the student population was 800.
5 At full build-out which I have graciously put
6 here at 2004, they claim that the student
7 population will be slightly over 1,000.

8 So, if you follow the line of growth,
9 we get to a little over 1,000, and from all
10 the DEIS papers, the college claims because
11 they are becoming more selective there will
12 not be any growth after this staggering growth
13 and between 600 and over 1,000 in a ten-year
14 period, they are going to go flat. They are
15 not going to increase enrollment. They're
16 going to become selective and that will be the
17 cap of enrollment. And, being a for-profit
18 institution, it seems very hard that one year,
19 five years, ten years in the future this is
20 going to be their capped enrollment.

21 So, starting at that point, where
22 their data has become suspect, we have looked
23 into it and these are the two magic numbers.
24 The magic number of 22,160 is the maximum
25 density.

1
2 MR. CHAIRMAN: Do you have a copy of
3 that for us, or do you want to use that
4 number, or is that actually something that you
5 want us to consider and make part of the
6 record?

7 MR. BADEN: If you would like to put
8 this into the file --

9 MR. CHAIRMAN: This is your case, but
10 if you are going to reference this, let's put
11 it in the file, Exhibit Number 62 in evidence.

12 MR. BADEN: This is the maximum number
13 of sanitary density for sewage on the
14 property. This 22,150 is the number that the
15 college is proposing at full build-out. This
16 is their maximum waste that they are going to
17 create. Those are the two numbers that a plan
18 of such dollar value was created on with such
19 a small difference.

20 Going back to my July 24th speech, my
21 connection to the college goes back to when
22 they moved here and I moved here both in the
23 early 90's. And, my presentation has changed
24 in the past two months, as I'm sure the
25 college and all our numbers have also.

1
2 So, I would like to enter into
3 evidence -- this is a copy from the Suffolk
4 County Health Department. We're confirming
5 that Nelson & Pope, that's the 2.5 gallons of
6 additional waste water from a cafeteria.

7 MR. CHAIRMAN: We will mark that
8 document Exhibit Number 63 in evidence.

9 MR. BADEN: Okay. As that was part of
10 Mr. Eldon's speech because at that time in
11 July, a conversation with Doug Feldman of the
12 Suffolk County Health Department had not gone
13 into details much with Mr. Eldon that the two
14 and-a-half gallons of waste water attributable
15 to the cafeteria were not indeed sanitary
16 waste but is another term called gray water,
17 gray waste or it's non-nitrogen based waste.

18 So, that number does exist for total
19 waste water generation, but it does not count
20 for density of the total sanitary waste for
21 the property and that brings us to the 20,160
22 that is calculated in the DEIS.

23 Here is a copy of the Suffolk County
24 Health Department, how the actual calculation
25 came about. They're spoken about in the DEIS,

1
2 but we have made copies for you of the
3 different considerations if you are a school,
4 or an office, or if you are a day camp. All
5 of the different numbers, how you actually
6 calculate for legal purposes what your maximum
7 generation of sanitary waste can be to meet
8 the cut.

9 MR. CHAIRMAN: We will mark those in
10 as Exhibit Number 64 in evidence.

11 MR. BADEN: And, in addition, this way
12 we will understand the chart I'm about to get
13 to.

14 This is the highlighted paragraph from
15 the DEIS pages 1-19 that talks about how a
16 commuter student or a commuter occupant of the
17 property, not just students, faculty, office
18 workers, cafeteria workers, anyone that is
19 employed or works on the premises is deemed to
20 generate 2.5 gallons of sanitary waste.

21 In addition, the new residents who
22 live there twenty-four hours a day, and live
23 in the building, shower in the building, do
24 everything where you would live, they come up
25 with a number of 75 gallons per day, and

1
2 according to full build-out from the DEIS,
3 there would be 208 residents of the four
4 dormitories, 808 commuters at the five gallons
5 and 102 staff at the college at 5 G.P.D. --
6 gallons per day, bringing us to the magic
7 number that the college has submitted and
8 signed off with Nelson & Pope on all their
9 applications of 20,150.

10 MR. CHAIRMAN: That new exhibit that
11 you have there, do us a favor and mark as 65
12 on that.

13 So, your point is that they are
14 estimating the DEIS --

15 MR. BADEN: This is their maximum
16 calculated when they build the plan. The
17 calculation for figuring out your maximum
18 density of sanitary waste is based on, and I
19 have the page here, you will get that in a
20 moment, is based on property area. This is
21 natural cesspools in the ground. This is not
22 a sewage treatment plant. This is all the
23 waste going into like a private residence,
24 into a cesspool in the lawn and property
25 wherever it's located.

1
2 I's funny how I have been living here
3 ten years, and my neighbors moved into Dix
4 Hills and something comes up about sewers.
5 It's like I have cesspools. Half of the
6 people that moved recently to my block had no
7 idea, it never came up with realtors. If it
8 didn't have a problem or the cesspools were
9 new and the person had the advantage of having
10 new cesspools. Half of the people moving into
11 my area aren't ever aware of it. They think
12 we have sewers like in Nassau or Queens.

13 So, here we are in the large facility
14 such as the college, and we're still using the
15 basic technology of putting all of the waste
16 into the ground. The extra water will leach
17 through and there's a certain maximum that you
18 have to do because the Suffolk County Health
19 Department is involved in it, and on top of
20 everything else, here in Dix Hills, we're on a
21 SGPA, which is a special groundwater
22 protection area.

23 So, on top of everything else, some of
24 the Board members have been involved in the
25 local water district and have been advocates

1
2 to protect our water, more than anything else,
3 health-related problems and the water being
4 what it is and being in that SGPA, special
5 groundwater protection area, anything that
6 leaches into the ground that can contaminate
7 it will affect everyone, every single home in
8 our area. Any single home in the community,
9 in the neighborhood on Long Island.

10 As always, you hear about the
11 different spills and liquid came down and from
12 twenty and thirty years ago, the chemicals
13 that have affected the groundwater are coming
14 back to haunt us now. How many of the
15 different illnesses are attributable to what
16 happened thirty years ago.

17 So, that being said, Suffolk County
18 has stringent rules and regulations how
19 they're calculated and on property of 33.4 or
20 33.6 acres, the maximum allowable sanitary
21 waste is 21,600. So, with that in mind, and
22 that number --

23 MS. GAUGHRAN: You want to say that
24 again?

25 MR. BADEN: 20,160. That is the

1
2 calculated number. It's not arbitrary, that's
3 what they came up with.

4 So here, Nelson & Pope and the college
5 have said, let's design a plan where we come
6 up and we're below the limit and when you
7 figure out the calculations and being an
8 engineer, you always talk about safety
9 factors. When you build a bridge, what is the
10 safety factor? What's the limit? Should we
11 be ten percent over or one percent as a safety
12 factor?

13 Well, Nelson & Pope designed this
14 particular system with 20,150 as compared to
15 maximum of 20,160 with one-half of one tenth
16 of a percent, .05 percent which is .005, .0005
17 of a safety factor not to go over their
18 allowable limit and we feel that those numbers
19 are suspect.

20 I'm going to the application to the
21 Suffolk County Department of Health Services
22 and let me see if this page has a date. It's
23 stamped April 23, 1999, upon initial
24 application.

25 MR. CHAIRMAN: We will mark that as

1
2 Exhibit Number 66 in evidence.

3 Go ahead.

4 MR. BADEN: So, in 1999, the college
5 had a certain student body. Again, this is
6 four years ago. This is before we go back to
7 our little chart on growth. We're over here
8 in the growth chart. You have that in your
9 thing. You are right here in the middle.
10 We're right here in the middle of the growth
11 chart where 800 students plus faculty which
12 made it 911 generated so much amount of waste.

13 Gee, how much do we have left? They
14 took what was left, divided it by seventy-five
15 gallons per person, and came up with 208 and
16 said, let's go out and build four buildings,
17 fifty-two per building and give us 208
18 students. That's exactly within one-half of
19 one percent safety factor -- percentage safety
20 factor. Let's build 208 beds in a dormitory.
21 Sounds good to me. We're within the range.

22 What happens to their plan? Their
23 plan said we're going to build 208 beds and in
24 the next three years, or hopefully two years
25 at that point, by then we're in such a rapid

1
2 growth, we will get 208 more students, and
3 call it quits. Fill the dormitories with the
4 additional students, and it's over with.

5 We now have maxed out and capped out
6 the maximum waste water and we're done. How
7 could three-and-a-half years ago anyone
8 predict where the numbers would be coming
9 from? Well, when you look at the chart at
10 full build-out, in the DEIS, we have 208
11 residents in the dorms. Right now, we will
12 have 808 commuting students, and we have 102
13 staff, 2,150.

14 Four years later, when the dorms are
15 done, we did exactly what we said in 1999. No
16 deviation, no change, nobody dropped out in
17 the middle of the semester. Nobody joined.
18 Transfer students can be omitted in all three
19 terms, fall, spring and summer. But, we hit
20 our target exactly as we planned four years
21 ago. These people should do a moon shot.

22 Going to look at the different numbers
23 and one of the things that came up was a 102
24 staff.

25 Well, you go on the Internet and

1
2 whether you want to take this into evidence of
3 not, a couple of different sources on the
4 Internet which, when you go shopping for a
5 college, first thing you do is, you have
6 something of interest and you look at a few
7 different sources on the Internet. One of the
8 different sources -- and I will pull another
9 one in a second -- July 22nd, this was two
10 days before the first hearing.

11 MR. CHAIRMAN: We will mark this
12 Exhibit Number 67 in evidence.

13 MR. BADEN: One of the things when you
14 look for a college, you want to know how many
15 students. I went to Cooper Union. There were
16 120 engineering students in the entire class;
17 24 chemical engineering, 32 mechanical
18 engineers.

19 MR. CHAIRMAN: Mr. Baden, you are not
20 proffering this to convince us that this is
21 from the college, are you? Because it says
22 X-apt. Tell me what X is.

23 MR. BADEN: It's one of the college
24 information services not owned, not paid for,
25 by the one subscribed to. This is a

1
2 third-party service. When you want to
3 research a college, you look for information.

4 So, I heard, whether you want to admit
5 it or not, I have more than one, but when you
6 go look what is the population of Five Towns
7 College in Dix Hills, as of July 22, 2003, and
8 they say student body 1,100 --

9 MR. CHAIRMAN: So, you are telling us
10 that we should be caused to believe that there
11 is other erroneous information; that they are
12 lying to us about the number of students?

13 MR. BADEN: That the number, again,
14 1999, the report stated 2002 the DEIS began,
15 and their numbers haven't changed. They
16 haven't deviated. They haven't said we were
17 off on something, we were off on here. Their
18 numbers have been flat. This is what it was
19 in 1999. This is what it was in 2002.

20 We have other reports and everything.
21 This is what it is today, September 17, 2003.
22 This is what our numbers are. We have not
23 changed one iota in four years. Well, I wish
24 all business planning could be so well and so
25 much on target.

1
2 So, I bring -- the next thing when you
3 start talking about business planning is, what
4 did Five Towns College do early on, because
5 their first Suffolk County IDA loan which
6 encouraged businesses to come to Suffolk
7 County and encouraged people to come here and
8 do their business, earn a living, make money,
9 pay taxes eventually. But, an IDA program is
10 a program, it's an encouragement or inducement
11 for businesses to come and they did receive an
12 IDA loan back in 1992, I believe the year was,
13 and it's mentioned in the DEIS that their loan
14 is now expiring and their tax abatements have
15 ended. That it goes from 50 percent to 45 to
16 40, down to zero abatement on their property
17 taxes.

18 So now, they're building a new project
19 coincidentally at the end of their first IDA
20 loan. They need a new IDA loan because the
21 funding is lower than regular market funding.
22 You do have to pay some up-front costs because
23 the money is bonded.

24 I spoke with people at the IDA and
25 what is involved in getting an IDA loan and I

1
2 have other businesses that I deal with that
3 have tried and you find out for certain
4 projects that you have to -- the agency
5 secures a bond. They create a bond for your
6 money. Whether it's a million, two million,
7 twenty million, they create a bond. There is
8 a lot of fees in that, but all of the fees are
9 paid for by the applicant, but then your
10 interest rate that you pay is usually below
11 market, below prime. Not as low as some of
12 the mortgage rates you can get personally, but
13 still below prime is for the IDA.

14 The Five Towns College, on August 23,
15 2000 -- and I show you how numbers don't
16 change, but occasionally they do -- in order
17 to encourage people to come, and one of the
18 things they want is, they want people to
19 create jobs. Jobs are flying off Long Island
20 quicker, all of the lower cost places in the
21 south, manufacturing jobs, Northrop-Grumman,
22 they're bringing jobs back, but the tons of
23 jobs that Sperry Gyroscope and all of the
24 high-paying expensive jobs are starting to
25 migrate off Long Island.

1
2 What is left on Long Island, some
3 high-tech jobs, education market and the Five
4 Towns College, and this is two pages.

5 MR. CHAIRMAN: We will mark this as
6 Exhibit Number 68 in evidence.

7 MR. BADEN: So, in the year 2000, Five
8 Towns College says, we would like another
9 loan. We would like all of the great
10 financing at the low market rate. We will pay
11 for the bonding because it pays for us to do
12 it, because of the outside benefit of it.

13 Besides getting the below market
14 interest rate, one of the bonanzas of it is,
15 you get a tax abatement and your tax abatement
16 is based on your property taxes and it goes on
17 for ten years, and starts at fifty.

18 MR. CHAIRMAN: Have you introduced
19 this document, because of what it says on page
20 12 with respect to full-time or equivalent
21 employ? Is that the purpose of the offer of
22 evidence.

23 MR. BADEN: That's my second part of
24 the application, yes.

25 MR. CHAIRMAN: Other than the fact

1
2 that it says present at the time, the
3 application was made 125 full-time or
4 equivalent employees and it seems to graduate
5 thereafter up to 140.

6 MR. BADEN: At full build-out.

7 MR. CHAIRMAN: Is there anything else
8 about this document? Does it bring in any
9 other evidence that you would like to have us
10 consider that bears on the questions that we
11 must resolve in this hearing?

12 MR. BADEN: Those are the two
13 principal numbers that your attention is being
14 called to.

15 MR. CHAIRMAN: So, again, now you are
16 giving us documentary proof, but the point is
17 the same, that they are lying?

18 MR. BADEN: That their numbers have
19 changed, but the DEIS does not reflect that.
20 I try not to use the "L" word.

21 MR. CHAIRMAN: Okay. Anything else?

22 MR. BADEN: Well -- so, in 2000, the
23 Five Towns College submits an application and
24 says they have 125 full-time or part-time
25 equivalent. We will get into part-for

1
2 students -- part-time equivalent, when we get
3 into some of the numbers of the students in a
4 moment.

5 But, New York State regulates Suffolk
6 County IDA funding, and this is a state
7 agency. This is not a separate entity. But,
8 the state agency or county agency, the IDA is
9 looking to create jobs. Their definition of a
10 part-time employee -- well, a full-time
11 employee is an employee who is working
12 approximately forty hours a week. I forgot
13 the designation of what the salary difference
14 was. I believe 20 or \$25,000 as they show
15 there.

16 The definition of a part-time employee
17 is two, nor more than two, two employees
18 working forty hours a week, making the
19 equivalent salary of the one full-time.

20 So, if you have six, I'm assuming six
21 associate professors each working five hours,
22 five-and-a-half hours a week, making forty
23 hours, those six do not make one full-time
24 employee to the IDA. IDA is strict; full-time
25 employee, two part-time, equaling one

1
2 full-time in salary and hours.

3 So, on Five Towns College's
4 application 125 current employees, whether
5 they are professors, whether they work in the
6 cafeteria, whether they cut the lawn, whether
7 they sweep the parking lot, whether they are
8 personally working directly for the college
9 security person, whether they are hiring out
10 thirty-party security officers, are not
11 included in the IDA calculation.

12 So, in the year 2000, the college
13 claimed they had 125 full or part-time
14 employees and going to full build-out
15 technically should have been 140. We'll get
16 into that in a moment.

17 Finishing this chart, we had down here
18 the two-and-a-half gallons, which were
19 considered gray water, and that's where the
20 22,430 number was. What number should I give
21 my chart number to?

22 MR. CHAIRMAN: Number 69 in evidence,
23 and tell us what that is.

24 MR. BADEN: This is a chart continuing
25 our maximum gallons per day of sewage because

1
2 the more people you have on the property, the
3 more sanitary waste they're going to generate
4 and in addition, if they're eating in the
5 cafeteria, the more total waste they're going
6 to generate. There was a distinction between
7 sanitary waste at five gallons per person for
8 a commuting student and seventy-five gallons
9 for a resident of the property, a dormitory
10 resident. This is just a repeat, number one
11 from the other chart. Number two is also a
12 repeat from that chart.

13 Number three down here is new
14 information. What is also in the DEIS and
15 it's very interesting because, again, these
16 people don't run a business school. They run
17 a music school, but they have a business plan
18 that is airtight. Their business plan is, we
19 have 208 students in our dormitories at all
20 times, without any differentiation. We will
21 have fifty-two freshmen in our dorms; fifty-two
22 sophomores; fifty-two juniors, and fifty-two
23 seniors. No deviation. Middle of the
24 semester, sophomore drops out, and we can only
25 fill that slot with a sophomore. They have --

1
2 MR. CHAIRMAN: Well, Mr. Baden, you
3 are not telling us that sophomores generate
4 more waste than freshmen, are you?

5 MR. BADEN: Everybody is at a happy
6 seventy-five in the dorm. Seventy-five is a
7 happy number. They're content with it. I'm
8 content with it.

9 MR. CHAIRMAN: Let's mark your chart,
10 Exhibit Number 70 in evidence.

11 MR. BADEN: According to the plan,
12 they have a distinct difference every semester
13 and it's mentioned in the DEIS, possibly on
14 that page. I might have another again, but
15 they have fifty-two of each classman in the
16 dorm and that's the way it goes. They will
17 move through their lives at Five Towns
18 College, whether they are moving from dorm to
19 dorm, they keep the dorm, we don't know how
20 they're planning on doing it. But, they will
21 always constantly have fifty-two.

22 MR. CHAIRMAN: What's your point?

23 MR. BADEN: It's also mentioned in the
24 DEIS that we're going to have a resident dean
25 supervising. So, besides -- and I made the

1
2 point three times, we have fifty-two of each.
3 That is 208. The dorms are designed in every
4 single piece of paper for 208 students; 208
5 residents. But, now, suddenly, we have -- do
6 I have it on here, what they call it in the
7 DEIS, but they have an additional faculty.

8 MR. CHAIRMAN: Fifty-one or fifty-two.

9 MR. BADEN: It's in there that they
10 are going to have a dean. I don't know of any
11 sophomores or seniors that are deans, but
12 those people have to be added.

13 In addition to that, the dean of
14 students lives -- that's the expression -- can
15 also be married, can have a family.

16 Not introducing into evidence, but
17 there was a past dean of students that did a
18 survey of what benefits the dean of students
19 got at different universities. That person is
20 no longer at Five Towns College. I believe
21 he's in Rochester, but in his survey, can you
22 have dogs? Can you have fish? Can you have a
23 parakeet? Can you have a wife? Yes.

24 Well, we have four dorms. There's
25 definitely, I believe, proposed for building

1
2 three or building four, the dean of resident
3 life to live there in an apartment. So, we
4 put the number six at faculty residents. On
5 top of the 208 students immediately, there is
6 a 450 additional gallons per day.

7 We have the gray water situation,
8 which we have calculated for, but not adding,
9 they're in the red at the moment. But, if
10 we're talking sanitary only with a 102 staff,
11 now I have also calculated back because we
12 have a 102 staff, but I took the six and have
13 them living in the dorm. So, I had to take
14 six times five, I had to take seventy-five
15 gallons out because they're no longer
16 commuting, they're living there. So, how the
17 number becomes 20,587 and-a-half which
18 suddenly passes our red flag number. That's
19 just in -- we have one. All you need is the
20 dean of residents life on top of the 208
21 students generating 75, is the happy 75. He
22 makes that ten gallons go away. Seventy-five
23 less five because he's no longer commuting,
24 that is now seventy above the limit on there.
25 But, again, for this purpose we calculated

1
2 six.

3 But, if we go on my IDA and actually I
4 have it on another, he has 140, starting at
5 125 before build-out and went to 140 according
6 to the IDA in 2000, but according to the
7 DEIS-- I'm trying to find the page of the DEIS
8 to reference about how much staff -- in the
9 2000 DEIS, the IDA number was 125 and said it
10 would grow to 135. DEIS says growth of 20
11 staff in the building, if buildings three and
12 four were completed. So, I rounded it to 150
13 as a maximum number. I will bring it back to
14 the IDA number when I get to my third chart.
15 But, 150 compared to the build-out, if he
16 started at 125 plus additional employees
17 needed for four dormitories, he would come up
18 with 150 staff at five gallons a day. That
19 sanitary number is 20,840. He's now almost
20 700 gallons above.

21 MR. CHAIRMAN: Exhibit Number 71.
22 What is that?

23 MR. BADEN: This is now number four.
24 We went from Exhibit Number proposed. My
25 second one which included the waste water

1
2 generation, non-nitrogen gray water, whatever
3 you might call it, cafeteria related waste
4 water into the ground, but not in the density
5 calculation which the density calculation was
6 my magic red number.

7 And now, we come to possible
8 potential. We spoke about later in the
9 presentation, I'm doing numbers and I'm
10 talking how the one number and the one
11 different of one-half of one percent rang
12 bells throughout everyone when we read the
13 DEIS. How can you make a project so close?
14 What is going on here? Where did they design
15 208.

16 We asked about the buildings when they
17 were being created. We were told that our
18 students will pay a premium to have a single
19 room, most of them will be doubles. We will
20 have some singles. Therefore, we come up with
21 52 beds in each building.

22 What happens if someone doesn't want
23 to pay the premium for a single room and
24 again, the premium is not double for a dorm
25 room. It's higher, but it's not double a rate

1
2 to room at a school. It's higher, but not
3 double. What happens if they don't have
4 people that are, on top of today's high
5 tuition don't want a single room, then we will
6 take that room and put two in that room. And,
7 what is happening now because the college was
8 caught off guard that building that building
9 three is 75 percent built, but not finished.
10 The outside was completed, the inside isn't.
11 It has no C.O. and no shingles. So, the
12 college doesn't have room for extra students.

13 To be presented later in the report
14 that the college is now exceeding the 52 bed
15 capacity in the dorm. We came up with a
16 number of 70, which I won't -- at this moment,
17 it's again pure speculation. We're drawing
18 you a chart and we'll see where I'm leading in
19 a moment.

20 Full occupancy of the dorms, 70 per
21 building, it's not outrageous, would give you
22 280 residents in each of those 52 bed
23 buildings. If you take the 75 happy number
24 per person gives you 21,000 gallons per day
25 sanitary waste for that. Now, we have 820

1
2 commuters. Where did I get that from? The
3 Internet document stating 1,100 is the
4 population of the school. Whether it's 1,050
5 or 1,100, it might be 1,200 if that chart
6 doesn't go flat. So, 1,100 is not a
7 terribly outrageous number.

8 So, we would then have 820 commuter
9 students left. This is now talking about
10 total waste water generation. Your seven-and-
11 a-half gallons maximum sanitary disposal per
12 day, per person and two-and-a-half according
13 to Suffolk County attributed to non-nitrogen
14 loading, gray water total waste water.

15 So, they're generating seven-and-a-
16 half gallons per day, per person, and now you
17 are back to 140 staff that was conjecture at
18 150. Now, let's go to 140 that's what was
19 stated in the signed affidavit. Stating that
20 they were going to employ a 140 full or
21 part-time equivalent, which technically if 20
22 of them were part-time equivalent, we would
23 actually have 106.

24 I don't know, when I get to work in
25 the morning and get out of traffic, I have to

1
2 use the bathroom. I drink my coffee and I'm
3 back in the bathroom again. If you have two
4 part-time equivalents, you can't say they're
5 going to use the bathroom possibly more than
6 one full-time employee. You have 140 staff
7 members at seven-and-a-half gallons, which now
8 brings us to 28,200 gallons per day total
9 waste water distribution.

10 Whether we talk about full-time or
11 part-time equivalent students in the DEIS, the
12 college nicely says it well, an average load
13 for students is fifteen credits. I think I
14 took fifteen or sixteen a semester also. And,
15 we have a lot of part-time students. They
16 might only take three credits. They might
17 take six. So, we have lumped the credit hours
18 for the students, divided it down by fifteen
19 or I think they were less generous. But, they
20 came up with part-time equivalent students in
21 their calculation of making up their 800
22 students.

23 So, again, we go back to the part-time
24 equivalent workers. Are five students coming
25 for three credit courses, going to generate

1
2 the exact same amount of waste as one student
3 who is there constantly for fifteen credits?
4 Do the three credit people come to school, use
5 the facility, stay into the night, use the
6 music lab, attend the different performances,
7 do all of the things that college students do?

8 I went to graduate school part-time.
9 I used to go to Hofstra. I would go to
10 Hofstra, afterwards I would stay at the pub,
11 have something with friends and go home later.
12 I was young and unmarried, it didn't matter.
13 So, any part-time student is not going to show
14 up and leave after his one class or two
15 classes are done.

16 So, we think that it's not obvious if
17 you create fictitious phantom full-time
18 students out of all of the part-time students
19 and that brings us to -- when I say stay for
20 all of the different performances of the
21 college, this is mailed to all of the
22 colleges, puts on very nice performances, it
23 fills up. It's mentioned in the traffic
24 study. This is their calendar for 2003 and
25 2004.

1
2 MR. CHAIRMAN: We will mark the
3 calendar number 72 in evidence.

4 MR. BADEN: So, that is their calendar
5 of performances. I believe there is sixty-odd
6 events, sixty events, starting on August 9th
7 of 2003, running through to May 30, 2004.
8 Shows open to the public. Some are free.
9 Some have very nominal charges, other ones not
10 mentioned on here. I have seen what they
11 have, whether it's the college or someone that
12 sublets the college, they have dinner theater
13 at the college also. Nice large crowds and I
14 heard from neighbors what wonderful
15 performances they put on and that attracts
16 crowds from all parts of Huntington.

17 Someone I spoke to in the Suffolk
18 County Department of Health has even been to
19 the Five Towns College performances. They're
20 well-known all over Long Island and they have
21 a 500 plus seat auditorium there. That
22 auditorium holds 500 people for sixty
23 performances with an average performance a few
24 hours long. You drive there. It's in the
25 traffic study what time they get there and

1
2 the exact same amount of waste as one student
3 who is there constantly for fifteen credits?
4 Do the three credit people come to school, use
5 the facility, stay into the night, use the
6 music lab, attend the different performances,
7 do all of the things that college students do?

8 I went to graduate school part-time.
9 I used to go to Hofstra. I would go to
10 Hofstra, afterwards I would stay at the pub,
11 have something with friends and go home later.
12 I was young and unmarried, it didn't matter.
13 So, any part-time student is not going to show
14 up and leave after his one class or two
15 classes are done.

16 So, we think that it's not obvious if
17 you create fictitious phantom full-time
18 students out of all of the part-time students
19 and that brings us to -- when I say stay for
20 all of the different performances of the
21 college, this is mailed to all of the
22 colleges, puts on very nice performances, it
23 fills up. It's mentioned in the traffic
24 study. This is their calendar for 2003 and
25 2004.

1
2 MR. CHAIRMAN: We will mark the
3 calendar number 72 in evidence.

4 MR. BADEN: So, that is their calendar
5 of performances. I believe there is sixty-odd
6 events, sixty events, starting on August 9th
7 of 2003, running through to May 30, 2004.
8 Shows open to the public. Some are free.
9 Some have very nominal charges, other ones not
10 mentioned on here. I have seen what they
11 have, whether it's the college or someone that
12 sublets the college, they have dinner theater
13 at the college also. Nice large crowds and I
14 heard from neighbors what wonderful
15 performances they put on and that attracts
16 crowds from all parts of Huntington.

17 Someone I spoke to in the Suffolk
18 County Department of Health has even been to
19 the Five Towns College performances. They're
20 well-known all over Long Island and they have
21 a 500 plus seat auditorium there. That
22 auditorium holds 500 people for sixty
23 performances with an average performance a few
24 hours long. You drive there. It's in the
25 traffic study what time they get there and

1
2 what time they leave. It doesn't interfere
3 with the neighborhood.

4 All of these cars coming on Saturday
5 night or Sunday morning in addition to the
6 soccer people that drive to and from the site,
7 but using their belief that we can create
8 full-time, part-time people, I went ahead and
9 created 200 full-time commuters out of a
10 maximum crowd of 500 people, sixty events.
11 And, assuming they're in the building for
12 three hours, dividing that back out by fifteen
13 course curriculum which is three hours a
14 credit, 45 hours, do all of the math, and
15 that's why I don't want to bore you with the
16 calculations.

17 I have it here, but that comes out of
18 200 full-time commuter students, just as they
19 put together by hours and course load, phantom
20 commuter students, I have come up with 200
21 full-time commuter students. Give the
22 seven-and-a-half gallons each because, again,
23 my hours are the same as the students who
24 would spend on the campus and that comes up to
25 1,500 gallons per day if they were commuter

1 students at seven-and-a-half.

2 I spent a lot of time reviewing and
3 reviewing. Is my number pie in the sky? Did
4 I pull 1,500 gallons per day out of nowhere?
5

6 Well, at the end of my search after I
7 spent the hours of calculating back and forth
8 and where, how many hours can I create? What
9 is fair? What is a number to make for gallons
10 and how many fictitious full-time students?
11 All of these people in the theaters that come
12 and enjoy performances, how many gallons do
13 they really have?

14 I was here and it will be submitted in
15 a moment, but according to the Suffolk County
16 Health Department, actually it's probably in
17 your handout, if you look up theater, you go
18 under theater and theater generates three
19 gallons per day. Three gallons per day. I
20 said 500 seat theater, 1,500 gallons.

21 I took a pie in the sky number. I
22 guess I have good planning, too. That number
23 is handwritten here because that was added
24 tonight. I never had confirmation of 1,500
25 gallons. If you look at the Suffolk County

1
2 handout, the theatre generates three gallons
3 per seat. It's not full all of the time, but
4 friends and neighbors that said they went to
5 the performance said it was crowded, ladies
6 waiting on line to use the facilities. 1,500
7 gallons, seven-and-a-half gallons including
8 the total waste water because there are
9 fictitious full-time students.

10 And last, the 280 residents in the
11 dorms, we have 208 residents at 75 gallons per
12 day, talking to two people, very
13 knowledgeable, Donald Feldman in the Suffolk
14 County Health Department and also John
15 Fitzgerald, both of them going over and
16 conforming that, gee, we didn't know that they
17 had a theater.

18 On top of everything, should we
19 include the two-and-a-half gallons per day,
20 non-nitrogen loading gray water, waste water
21 into a calculation? They said, oh, of course,
22 you should include it. It's not in the magic
23 number. It's not in the 20,166, but it is
24 waste water distribution.

25 People are on campus, they are going

1
2 to the cafeteria and they generate the
3 additional waste water. Again, not talking
4 build about our sanitary limites, but this is
5 waste water.

6 Well, I take my numbers here, but
7 start at the top. Two hundred eighty
8 potential students. Eight hundred twenty
9 commuter and a hundred forty ID staff, all now
10 at seven-and-a-half, which is total waste
11 water distribution. We add our phantom
12 students in the opera in the theater. Fifteen
13 hundred gallons and now we add the additional
14 700 GPD, which is non-sanitary or again, I'm
15 calling it gray. When I add everything up, I
16 come to 30,400. It's 51 percent over the
17 maximum sanitary limit, but that is still not
18 a magic number.

19 I wrote another number down here,
20 30,000. That's my new magic number, 30,000 is
21 the magic number because once you hit 30,000,
22 forget about talking to Suffolk County. You
23 are talking to New York State Department of
24 Environmental Protection.

25 At 30,000 gallons of total waste

C-4
2.

1
2 water, I don't know if it's sanitary, I don't
3 care if it's from your cafeteria. You flush
4 the toilet and you run a sink, you are
5 creating waste water. We're not including
6 water now from anything else but waste water.
7 If you go over 30,000, it's hello sewage
8 treatment plant. You can't use cesspools.
9 You are generating so much waste water of any
10 type; nitrogen or no nitrogen.

11 Mr. Feldman and Mr. Fitzgerald confirm
12 it, you hit 30,000. It's New York State
13 Department of Environmental Protection. You
14 are required to build a sewage treatment
15 plant. That's where all the charts led to.
16 Bringing us to 30,000 when they were only ten
17 gallons off in the beginning.

18 But, when you think about potential,
19 again potential, they have grown forty
20 something percent in the last five or
21 something years. Their report from 1999 to
22 now, dead on. We grew exactly. Is their
23 report going to be the same way five years
24 out?

25 Well, let's look, what was their

1 conjecture? What is going to happen in the
2 next five years? Next five years college is
3 doing nothing. Building nothing, doing
4 nothing, we have no plans. You have plans to
5 build anything? No plans. What does plans
6 mean? Do they have architectural plans? Pie
7 in the sky plans. Have they thought about
8 plans? They have no plans.

9
10 So, going to the last topic on where
11 we are in the dormitories, where they're
12 built, where the cesspools are and we get to
13 other things.

14 In the GIS, it talks about, we
15 located the dorm away from homeowners, away
16 from the road. We could have gone within our
17 fifty feet of the property line, but we
18 brought it back to keep more buffers. We
19 brought it back to do this and that.

20 Well, according to the Suffolk County
21 Department of Health, and I have plans and I
22 will show you the complex layout of all of the
23 different waste water runoff, rain water
24 runoff and the coming out in a second.
25 But, here is a --

1
2 MR. CHAIRMAN: You have given us a
3 photograph. We will mark it Exhibit Number 73
4 in evidence.

5 MR. BADEN: This is a photograph on
6 the situated position of building three.
7 Photograph was taken from Burrs Road. The
8 person is standing not on college property.
9 The person is standing on Burrs Road. That is
10 the proximity to the edge of the property.

11 MR. CHAIRMAN: What is the other
12 photograph?

13 MR. BADEN: From Half Hollow Road.

14 MR. CHAIRMAN: That's Exhibit Number
15 74 in evidence.

16 MR. BADEN: And, it brings us to the
17 approved site plan, building one and two are
18 approved buildings, three and four, not
19 finished and not approved.

20 MR. CHAIRMAN: Is this already in
21 evidence? Isn't this part of the document on
22 the Exhibit Number? We will mark it into --

23 MR. BADEN: We're going to put a few
24 markings on it as we talk.

25 MR. CHAIRMAN: What I want you to do

1
2 corner of the property was so precious to
3 them. What is going to happen on the balance
4 of the property and what is going to happen
5 with total student population?

6 In closing, finally, I just want to go
7 back and say one thing which Mr. Eldon said,
8 that the DEIS is basically an advocacy
9 document. They're building a project and the
10 DEIS which he commented he's never seen
11 before, goes through the history of the
12 project and everything else up to the point in
13 why their project is okay. Instead of going
14 into the bottom line reasons why their numbers
15 work and why these numbers are true because
16 the numbers are suspect.

17 The numbers have been worked
18 backwards, as we saw when I started with my
19 magic red number, everything working
20 backwards. Therefore, from this presentation
21 I think it's evidence that the DEIS has not
22 been thorough. The college has not accurately
23 shown its true plan and the DEIS should not be
24 accepted by the Board.

25 Thank you.

1
2 MR. CHAIRMAN: Mr. Jurman, do you have
3 any other witnesses?

4 MR. JURMAN: I do. I would like to
5 call --

6 MR. CHAIRMAN: I believe the gentleman
7 said he had a chemical engineering background.

8 MR. JURMAN: Yes, that's what he said.

9 MR. CHAIRMAN: I thought, during a few
10 moments during the course of the presentation,
11 I thought he was one of the part-time theater
12 students over at Five Towns College because of
13 the theatricals.

14 Do we have some more evidence or some
15 more criticism of the evidence? What do we
16 have?

17 MR. JURMAN: We have Bob Brady.

18 MR. CHAIRMAN: Okay.

19 (Whereupon, the witness was duly
20 sworn.)

21 MR. CHAIRMAN: Please state your name
22 and address for the record.

23 MR. BRADY: Robert Brady. My home is
24 at 427 Wolf Hill Road in Dix Hills.

25 In the event that the Board sees fit

1
2 to grant the applicant's request for a special
3 use permit, I strongly urge that you
4 simultaneously impose the required
5 alternative, too, as expressed on Page S-13 of
6 Volume 1 of the DEIS. This would require the
7 provision of the new vehicle access to the
8 North Service Road of the L.I.E., while
9 closing all access to the parking lot from
10 Burrs Lane.

11 My justification for this position is
12 based solely on safe traffic flow on Half
13 Hollow Road, between Vanderbilt Parkway and
14 Carmen's Road, a distance of approximately 400
15 feet.

16 I start with the premise that the Half
17 Hollow Road is the most significant and
18 sensitive interface between the college and
19 the community and the desire to minimize this
20 impact. The basic questions to be answered
21 here are, one, what is the safe traffic
22 carrying capacity of Half Hollow Road.

23 Two, how much traffic is it carrying
24 now, and, three, how much traffic will it be
25 carrying if dormitories three and four are

C-5
2.2

1 completed and occupied.

2
3 To determine the safe capacity of the
4 road, I reviewed several highway engineering
5 and traffic engineering textbooks, and one
6 quickly becomes aware of the fact that highway
7 and traffic engineering are not exact sciences
8 in the same sense as nuclear physics, and
9 celestial mechanics.

10 Safe highway design capacity and speed
11 assignments are based upon the perception
12 time, judgment time and reaction time of an
13 assumed average driver. In addition, the
14 acceleration and braking characteristics of
15 various cars and trucks must be considered
16 along with the highway geometry and road
17 surface conditions.

18 In spite of all of the uncontrollable
19 variables, various authorities, such as the
20 American Association of State Highway
21 officials, and the U.S. Bureau of Public Roads
22 have been able to empirically derive some
23 standards that have been accepted. By
24 definition, *"The basic capacity of traffic*
25 *lane is the maximum number of passenger cars*

1
2 that can pass a given point on a lane or
3 roadway during one hour under the most nearly
4 ideal roadway and traffic conditions that can
5 possibly be attained."

6 The accepted basic capacity for a
7 multi-lane highway with 12-foot lanes is 2,000
8 cars per hour, per lane. But, only if the
9 following five conditions are met can a
10 traffic lane reach this basic capacity:

11 1. There must be at least two lanes
12 for the exclusive use of traffic in one
13 direction. Half Hollow Road has only one lane
14 in each direction.

15 2. All vehicles must move at
16 approximately the same speed, which is
17 governed by the slowest drivers and lies
18 between 30 and 40 miles per hour. The traffic
19 flow on Half Hollow Road is intermittent due
20 to the operation of traffic signals, and
21 during the gap, the cars move much faster than
22 30 to 40 miles an hour in spite of the posted
23 30 mile per hour speed limit.

24 3. There must be practically no
25 commercial vehicles. During my own a.m. peak

1
2 hour survey on Half Hollow Road, I found that
3 more than 11 percent of the vehicles were
4 trucks or buses.

5 4. The width of traffic lanes,
6 shoulders and clearances for vertical
7 obstructions beyond the edge of the traffic
8 lane must be adequate. The lane widths on
9 Half Hollow Road are 12 feet, and the
10 shoulders are greater than six feet wide.

11 5. There must be no restrictive sight
12 distances, grades, super-elevated curves,
13 intersections or interferences by pedestrians.
14 Between Vanderbilt Parkway and Carmen's Road,
15 there are nine intersections. Three of which
16 are signalized. There are 17 driveways.
17 There is an S-bend in the road beginning at
18 Astro Place, which limits the sight distance
19 to a maximum of 1,000 feet between Vanderbilt
20 Parkway and Astro Place, and 500 feet between
21 Astro Place and the driveway onto Half Hollow
22 Road from dormitories three and four.

23 For a two-lane road where the above
24 conditions are met and where passing is
25 allowed, it has been established that the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

total capacity in both directions is 2,000 vehicles per hour. This might be 2,000 vehicles in one direction and 100 in the other, or 1,000 in each direction.

In the case of Half Hollow Road, there is a double yellow line down the center of the entire length of road thus precluding any passing ability. This, coupled with the aforementioned intersection, driveways and restrictive sight distances, significantly reduces the road capacity.

During the hearings on the Hartman Systems factory on Wolf Hill Road, Harry Letson, who was then the Town Director of Planning, stated that roads like Wolf Hill Road and Half Hollow Road, if they had 12 foot lane width, had a capacity of 800 cars per hour. This then will be the assumed answer to the first question, what is the traffic carrying capacity of Half Hollow Road.

The next basic question was, how much traffic is Half Hollow Road carrying now at the Burrs Lane intersection. RMS Engineering provides us their answer in figure 2 of

1 appendix A in volume 2 of the DEIS.

2
3 They show that the westbound peak a.m.
4 commuter volume entering and leaving the
5 intersection on May 1, 2002, was 1,124
6 vehicles per hour. This represents a 40.5
7 percent overload on the road that can safely
8 carry only 800 vehicles per hour.

9 RMS then goes on to estimate that
10 dormitories three and four occupy, this
11 westbound a.m. commuter peak will rise to
12 1,145 vehicles per hour as shown in figure 42
13 of the appendix A, volume 2. This is a 43
14 percent overload factor.

15 I am disappointed that RMS makes
16 absolutely no mention of these facts in the
17 text of their report. They chose instead to
18 concentrate their investigation on what is
19 known as the level of service. LOS, at
20 signalized intersections on Bagatelle Road and
21 the Long Island Expressway. Some distance
22 from the school.

23 RMS defines this concept on page 12 of
24 volume 2 of the DEIS as follows: "The LOS of
25 a signalized intersection is evaluated on the

1
2 *basis of average stop delay measured in*
3 *seconds per vehicle."*

4 In case you don't understand this, you
5 are referred to a more detailed definition of
6 LOS provided in appendix B. Here, it says,
7 *"Level of service for signalized intersection*
8 *is defined in terms of delay, which is a*
9 *measure of driver discomfort, frustration,*
10 *fuel consumption and lost time."*

11 It appears that LOS is more concerned
12 with specifying driver convenience and comfort
13 than defining the safety capacity of a
14 specific stretch of road. In confirmation of
15 this suspicion, I offer the following
16 statement from page 118 of the latest edition
17 of the Traffic Engineering Handbook, which is
18 the bible used by the Town of Huntington
19 Traffic Engineering Department:

20 *"In practice since 1965, levels of*
21 *service have been and continue to be defined*
22 *by one or two measures of effectiveness for*
23 *each facility type. These measures relate*
24 *much more to speed, delay and density than*
25 *they do to the qualitative factors or to*

1
2 208 of the residential students, but it also
3 offered significant relief of traffic on Half
4 Hollow Road if properly implemented as shown
5 in the Five Towns College drawing labeled
6 "Proposed Expressway Road Entrance Plan."

7 To conclude, I disagree with the
8 college when it states on page 2-8 of volume,
9 *"As no impact to the area roadways or*
10 *intersections are anticipated, no mitigation*
11 *measures are necessary or proposed."*

12 I also disagree with RMS when it
13 essentially concurs with this conclusion by
14 virtue of their statement of pages 20, 21, 30
15 and 31 of volume 2.

16 As a matter of fact, I have good
17 reason to question whether RMS has actually
18 presented the worse case traffic flow
19 conditions. The first set on the top of page
20 10, volume 2, states: *"The peak hours during*
21 *each of these periods, commuter and college,*
22 *for each scenario studied at each intersection*
23 *was commuted to represent the most*
24 *conservative depiction of the traffic volumes*
25 *experienced at each location."*

1
2 I submit that this Board does not need
3 the most conservative traffic flow
4 information. They need the worse case traffic
5 flow information to make an educated decision
6 on this matter.

7 In order to clarify this point, I made
8 an independent traffic survey of westbound
9 traffic on Half Hollow Road from 7:00 to 9:30
10 a.m. on September 10, 2003. In making this
11 survey, I counted all westbound vehicles
12 entering and leaving the intersection during
13 each one-minute interval, during the mentioned
14 period.

15 For example, the first interval was
16 from 7:00 to 7:01. The next, 7:01 to 7:02.
17 And the last was 9:29 to 9:30. This raw data
18 will be entered into evidence as figure RB-1.
19 This data was then added up to determine the
20 hourly flow rate in one minute increments.

21 In other words, the first hour ran
22 from 7:00 to 8:00. The second hour ran from
23 7:01 to 8:01, and the last hour ran from 8:30
24 to 9:30. This allows one to see exactly how
25 the flow built during the measurement period.

1
2 This will be entered into evidence as figure
3 RB-2.

4 In order to offer a visual
5 presentation of the data of figure 2, the data
6 was done graphically and will be submitted
7 into evidence as RB-3. I'm going to put this
8 graph up on the easel and at the same time or
9 before I do that, I will submit into evidence
10 a complete copy of my presentation with figure
11 RB-1 and RB-2.

12 MR. CHAIRMAN: We don't use RB.
13 That's no slight to you or your initials, but
14 we're up to Exhibit Number 76 in evidence.

15 You also have a diagram that you wish
16 to have us look at? Do you have a chart or
17 diagram that you wish to have us consider?

18 MR. BRADY: That's in there.

19 MR. GOLDSTEIN: If I could get copies?

20 MR. CHAIRMAN: Mr. Brady, do you have
21 an additional copy of your submission that you
22 could share with Mr. Goldstein?

23 MR. BRADY: No, not at the moment.
24 It's just this one here, which I will share
25 with everyone.

1
2 MR. GOLDSTEIN: I didn't want to
3 interrupt or cause a pause in the proceedings.

4 MR. CHAIRMAN: You have access to
5 everything in the record.

6 Mr. Brady, that is a chart that you
7 have there?

8 MR. BRADY: Yes.

9 MR. CHAIRMAN: Would you mark that
10 with the number?

11 MR. BRADY: This is the one I'm going
12 to keep. You have yours in that folder.

13 MR. CHAIRMAN: That is also in the
14 folder?

15 MR. BRADY: Yes.

16 MR. CHAIRMAN: Okay, go ahead.

17 MR. BRADY: You will notice that there
18 are 90 data points on this graph. I don't
19 know if you will notice, but we're telling you
20 there is 90 data points on this graph. Each
21 of which represents a peak hour interval from
22 7:00 a.m. to 9:30 a.m., and it shows that the
23 dispersion of traffic flow is somewhat
24 parabolic in nature or a bell curve in nature
25 and so on.

1
2 The maximum peak flow of traffic
3 occurred on that day from 7:50 a.m. to 8:50
4 a.m. and 817 cars passed the measuring point.
5 I want to emphasize that every one of the
6 other 89 hours are by definition peak traffic
7 hours, and every one of them is conservative
8 with respect to this one, the peak one. At
9 least the most conservative point is the one
10 from 7:00 a.m. to 8:00 a.m., and it shows the
11 passage of 619 vehicles.

12 The point I want to make is, the
13 maximum flow of traffic is 40 percent higher
14 than the most conservative estimate, which is
15 what RMS gave us on May 1, 2002. So, one
16 cannot help but wonder what the peak traffic
17 flow actually was on that date, but we do not
18 have that information available.

19 One other aspect of this survey
20 concerns traffic build-up or back-up from
21 Bagatelle Road. During the measurement period
22 there were varying degrees of congestion
23 experienced, and the congestion maximized for
24 several minutes at 8:13 a.m. when it backed up
25 all the way to Burrs Lane, a distance of 1,162

1
2 feet. This is the equivalent of 73 car
3 lengths. Under these conditions, it was
4 virtually impossible for cars from West Cliff
5 Drive to make entry to Half Hollow Road.

6 Based upon my evaluation of this DEIS,
7 I would respectfully recommend to th Board
8 that they offer the following advice to those
9 that are conducting traffic studies to be
10 presented in a DEIS in the future.

11 The Board will accept LOS information
12 if it offers a degree of satisfaction for the
13 preparer to do so. But, they must also submit
14 actual volume data similar to the format of
15 exhibits presented earlier so that it may be
16 evaluated in a meaningful manner.

17 Thank you.

18 MR. CHAIRMAN: Mr. Jurman, do you have
19 any other witnesses you want to introduce?

20 MR. JURMAN: Yes.

21 MR. CHAIRMAN: How many more?

22 MR. JURMAN: Six. I would like to
23 call Andrea Hirsch.

24 MR. GOLDSTEIN: May I approach for a
25 moment, please?

1
2 You know, I just think that there
3 should be some kind -- I would respectfully
4 suggest that Mr. Jurman wanted to present his
5 case in a unified fashion. I didn't object to
6 that even though they were not expert
7 witnesses.

8 However, at this juncture, there is
9 one gentleman that I know who is next on the
10 list to testify at the last hearing, and it
11 seems to me that you have six witnesses. I
12 would suggest that maybe he take two and let
13 the other people in the audience state their
14 piece, and let him resume with the rest of
15 his. These are really public statement
16 witnesses. They're not expert witnesses.

17 MR. CHAIRMAN: That, I will not
18 tolerate.

19 MR. GOLDSTEIN: And, I think it's only
20 fair that these people that came down to
21 testify last time, that they be allowed to
22 testify. They not be held up because of the
23 unusual departure from procedure.

24 It's been your practice in the Zoning
25 Board that the experts testify with a

1
2 presentation of the case, and then the public
3 testifies. Now, this is a long cry from what
4 Mr. Jurman is doing. I make that request
5 because I think in the interest of fairness,
6 we should give the other people time to do it.
7 I think two more witnesses would be fair. He
8 has four. Let him have two more, go to the
9 public and just alternate it somehow.

10 MR. CHAIRMAN: Mr. Goldstein, let me
11 say this: So far, what we have heard has been
12 pointed and has addressed the sufficiency of
13 the draft environmental impact statement. We
14 haven't heard anything on the special use
15 permit yet.

16 What I'm going to suggest to you, Mr.
17 Jurman, is this: Because the law permits a
18 ten-day public comment period with respect to
19 the sufficiency of the environmental impact
20 statement, I'm going to ask that you keep that
21 in mind. I'm going to ask that with respect
22 to the six witnesses and subject to my
23 determination of whether or not they are
24 giving us relevant testimony, they don't
25 necessarily have to have a pedigree and series

1
2 of post-graduate degrees in order to provide
3 to us analysis or criticism that is worthy of
4 this Board's consideration, but I remind you
5 that what we are looking at here is two
6 issues, and you still have an opportunity to
7 introduce criticism, evidence, anything you
8 wish to with respect to the sufficiency issue
9 on the DEIS, and that doesn't have to be by
10 way of public hearing.

11 We can simply cut that testimony off
12 and I will rely on you, Mr. Matthews, with
13 respect to that. But, I believe we can cut
14 that off and take that as written submission
15 after the close of the public hearing, and we
16 are still within the bounds of the law.

17 Remember, please, that this is a
18 conditionally permitted use, and Mr. Goldstein
19 put on a case under 198.66. He introduced his
20 proof and what we really would like to hear
21 right now is criticism of whether or not those
22 proofs were adequately made out.

23 All right. I'm not telling you that
24 we don't want to hear evidence on the
25 sufficiency of the DEIS. What I'm telling you

1
2 is, that is legal for that information to come
3 to us in another way.

4 Now, I'm going to continue to listen
5 to your witnesses, but I'm going to do so with
6 a view towards the fact that now it's 8:40.
7 We don't want to go past 11:00 again, because
8 we want to get this hearing in, give everybody
9 that wants to have a say an opportunity to say
10 what is relevant, and what they deem to be
11 necessary. But, I also am obliged not to cast
12 off the rules of procedure that we have
13 observed here for many, many years in the way
14 that we conduct these hearings.

15 Have I made myself clear to you?

16 MR. JURMAN: Yes.

17 MR. CHAIRMAN: Mr. Goldstein, have I
18 made myself clear to you?

19 MR. GOLDSTEIN: Yes.

20 MR. CHAIRMAN: Why don't you call your
21 next witness.

22 (Whereupon, the witness was duly
23 sworn.)

24 MR. CHAIRMAN: Please state your name
25 and address for the record.

1
2 MS. HIRSCH: Andrea Hirsch, 7
3 Hemmingway Drive, Dix Hills, New York.

4 MR. CHAIRMAN: Go ahead.

5 MS. HIRSCH: Good evening, Mr.
6 Chairman, and Members of the Board.

7 My name is Andrea Hirsch, and I told
8 you where I live, and I reside there with my
9 husband and two children, ages seven and
10 five-and-a-half.

11 I'm here to speak to you about the
12 character of the community. So, we're going
13 to move on from the some of the areas that we
14 have already discussed.

15 Before I begin, I would like to hand
16 in to the Board the statement from the DEIS
17 that has to do with the character of the
18 community.

19 Where the town, where the college is
20 testifying that they will not affect the
21 character of the community.

22 MR. CHAIRMAN: You are calling our
23 attention to page 22 of volume 1 of the DEIS;
24 is that correct?

25 MS. HIRSCH: Yes, that's correct.

1
2 Three years ago, I stood in this exact
3 spot imploring the Town to disallow the
4 construction of the dormitories at Five Towns
5 College. We know construction began in spite
6 of the ongoing court litigation. I'm sorry to
7 say that everything I predicted is slowly
8 coming true. I pleaded that the dormitories
9 are not consistent with the type of
10 development or atmosphere of our neighborhood.
11 Although the construction isn't complete, it's
12 obvious that the enormity of the project
13 protruding over Half Hollow Road is a blatant
14 eyesore and is purely inconsistent against the
15 backdrop of the surrounding residential
16 community.

17 Three years ago, I stood in the exact
18 spot speaking about the fact that if the
19 dormitories were built, the school would need
20 to expand. Although the dormitories are not
21 fully completed, the Five Towns College
22 expansion has already begun.

23 The college boasts about the expanding
24 enrollment and advertises extensively on local
25 radio stations, cable channels and baseball

1 fields. When Five Towns College bought Burrs
2 Elementary, it professed to the community that
3 it would remain a small, self-contained
4 community college for music. Since then, it
5 has the only municipal bus running through a
6 residential community every day, and offers
7 degrees outside of music, like education. So,
8 we have already begun to see what happens when
9 a school or center of learning finds itself
10 located in a residential community, and it
11 needs to grow. It slowly encroaches on the
12 community and eventually envelops it.

14 I ask you to pick where you may have
15 attended college or a university. If not,
16 please consider my example. My husband
17 attended the University of Maryland, and I,
18 George Washington University in D.C. We spent
19 several years living in the area and can
20 attest how a community can be taken over by a
21 learning institution that operates there.

22 The town of which the University of
23 Maryland is located was once a residential
24 community, a suburb of Washington, D.C. Prior
25 to the university's existence, it contained

1
2 heavily wooded lanes and roads with large
3 estate-like homes. As the university grew and
4 grew, these lanes and roads began to
5 experience an influx of traffic, noise,
6 development, commercial and otherwise. Owners
7 of private homes began to move their families
8 away from the dorms due to the noise and
9 traffic and their homes turned into investment
10 properties.

11 These investment properties became
12 subdivided, and evolved into multiple dwelling
13 units housing as many as eight to fourteen
14 students that could not get university housing
15 or decided they no longer wanted to live in a
16 dorm.

17 What happened to the tree-lined
18 streets? They became littered with the runoff
19 of cars that didn't fit on the driveway of the
20 subdivided homes.

21 What became of the estate-like homes?
22 They began to have overcrowding and lack of
23 maintenance as the owner could not keep with
24 up the repairs. Soon, the quiet home streets
25 became dotted with a laundromat, a pizza

1
2 place, dry cleaners, coffee house, delis and
3 of course, the bars.

4 Well, we all know that our
5 neighborhood is not zoned the establishments
6 today, the writing is on the wall. Three
7 years from now, I fear I might be standing in
8 this same spot, pleading for the Board to
9 disallow a 7-Eleven or CVS to be built in our
10 R-40 area. Rest assured that the applicant
11 will claim, we are a college, and we have
12 abilities to meet the needs of our live-in
13 population.

14 Perhaps the University of Maryland is
15 too far away to envision. A slightly similar
16 example is Dowling College located in Oakdale,
17 a quick drive from Dix Hills.

18 Dowling College evolved from Suffolk
19 campus in '68 at the former Vanderbilt Estate
20 with enroll of 700. In '74, a mere six years
21 later, a Racanelli Center was built and the
22 first dormitory was built. Today, the college
23 boasts enrollment of over 6,000. That's a 670
24 percent increase, and they're expansion has
25 yet to end.

1
2 In order to support its increase in
3 enrollment, Dowling College purchased many of
4 the surrounding homes and paved their front
5 lawn, creating parking lots and turned them
6 into offices and centers of learning, and the
7 following pictures I will show you can attest.

8 MR. CHAIRMAN: Let's mark the three
9 photographs that you have, collectively as one
10 Exhibit Number 77.

11 MS. HIRSCH: As you can see here, this
12 is the single-family ranch home. This is the
13 backyard. It's completely paved over for
14 parking. This same ranch home, this is the
15 front of it -- was converted to a performing
16 arts center. This sign says, "Performing Arts
17 Center," when you get a little closer to it,
18 you can see it. So, this is a home like any
19 one of ours that we have in Dix Hills.

20 Lastly, this is a ranch style home, a
21 colonial style home converted into a visual
22 arts center, and this is the sign. As you can
23 see, what they did is, they closed off the
24 garage and they built tremendous steps going
25 up and made it a two-level area for students

1
2 to display their art.

3 Five Towns College is in its infancy
4 stage of development. Dowling College is in
5 its teenage years, where its envelopment of
6 the surrounding community is on an ongoing
7 process. The University of Maryland is a
8 full-fledge adult, and complete annihilated
9 its surrounding community so much so that it's
10 now named College Park.

11 Five Towns College took a risk of
12 building when they were involved in an ongoing
13 litigation. On a personal level, my husband
14 and I wanted to build an accessory structure
15 on our property, 7 Hemmingway Drive. We
16 researched the requirement laws and legal
17 process that the Town of Huntington enacted to
18 ensure that the character of our community
19 would not be changed by what we wanted to
20 produce.

21 We filed all of the papers properly
22 and timely. We applied for and received a
23 variance by proving to the Zoning Board that
24 all of the surrounding neighbors, not some of
25 them, but all of them, did not oppose our

1
2 application, and in addition, our development
3 did not change the character of the community.

4 Only after we made and received the
5 approval of our variance application did we
6 proceed with our own construction.

7 As residents of the Town of
8 Huntington, we followed the laws, the building
9 codes and the environmental requirements
10 established, including dropping a new dry
11 well. We did this knowing full well, if we
12 chose not to follow any of the guidelines, and
13 didn't conform to the Town Ordinances, we
14 would not receive a C.O., and we would be
15 forced to rip down the structure that we
16 built, not try to change it into something
17 else.

18 As a town resident and homeowner that
19 has properly complied with all of the Town
20 regulations and Codes, it baffles me how Five
21 Towns College was able to circumvent the
22 system and not be held to the same standards
23 as everyday homeowners.

24 I would like to take the opportunity
25 to present another issue applicable to

1
2 tonight's hearing, and directly to the
3 character of the community.

4 The public notice for this hearing,
5 which is dated June 20, 2002, states the
6 applicant is requesting the special use permit
7 which states, institution of higher learning
8 offering courses of study approved by the New
9 York State Department of Education, and
10 dormitories for their residence facilities
11 accessory thereto. Those are the key words,
12 and I would like to submit this in evidence
13 just for --

14 MR. CHAIRMAN: Sure, hand that up and
15 we'll mark that Exhibit Number 78.

16 MS. HIRSCH: The key words that I
17 highlighted for you is "residence facilities
18 accessory." It's our understanding that this
19 term directly relates to additional parking
20 for the college. I am presenting to you
21 pictures that show that even with the current
22 additional parking, a completely filled
23 parking lot with cars filling up and over the
24 entire length of Burrs Lane exists.

25 These pictures have been marked. I

C-7
2 2

1 submit these into evidence as well. There is
2 eleven of them. Do you want me to mark each
3 number?
4

5 MR. CHAIRMAN: What are those?

6 MS. HIRSCH: These are pictures taken
7 yesterday.

8 MR. CHAIRMAN: You have a total of
9 eleven?

10 MS. HIRSCH: Yes, we have one for each
11 of you, if you so desire, but I would like to
12 point out to you what they are.

13 MR. CHAIRMAN: How many photographs
14 are depicted?

15 MS. HIRSCH: Each -- it's all the
16 same, one page is the same. Everything is
17 exactly the same, one for each of you.

18 MR. CHAIRMAN: We'll mark that in,
19 three photographs on one posterboard in
20 evidence as Exhibit Number 79.

21 MS. HIRSCH: What this shows in front
22 of you is the top picture shows Burrs Lane,
23 and you can see the sign that says Five Towns
24 College. That is at 9:30 in the morning,
25 where you can see some of the buses leaving,

1
2 going to and from the bus depot across the
3 street, and it shows the cars parked on Burrs
4 Lane, which are not supposed to be there. At
5 9:30 a.m.

6 MR. SLINGO: This is looking --

7 MS. HIRSCH: South -- no, north,
8 excuse me.

9 MS. GAUGHRAN: Is Burrs Lane marked
10 no parking"? I don't recall seeing "no
11 parking" signs on Burrs Lane. Are they there?

12 MS. HIRSCH: To be honest with you, I
13 don't know. I didn't exactly look for that.
14 I was just looking at the amount of cars
15 parking on Burrs Lane.

16 MS. GAUGHRAN: You mentioned that they
17 were illegally parked.

18 MS. HIRSCH: As far as we knew. What
19 is so important and why I'm bringing this up
20 to you is, in the DEIS, the college states
21 that they have ample parking. Now, only two
22 of the dorms are built. The other two are
23 not, and they're already filling up and down
24 Burrs Lane as these pictures will show.

25 The middle picture shows a completely

1 full parking lot at 9:30 in the morning.
2
3 Midday, at 12:00, it shows Burrs Lane
4 completely packed up and down with cars. So,
5 if they today are stating that they have
6 enough parking, why are they parking on Burrs
7 Lane, and when are they going to start parking
8 on Half Hollow Road, Petit Drive, Lone Hill?
9 Because there is access from the residential
10 communities, and it's a short walk around the
11 corner up into the school. That's why I
12 wanted to show this to you.

13 In conclusion, this Board has the
14 opportunity have 20/20 hindsight by analyzing
15 the mistakes of other communities that
16 permitted college dormitories to be
17 constructed; the opportunity to preserve the
18 character of our community, and prevent Five
19 Towns College from turning Dix Hills into a
20 future Oakdale or College Park.

21 Thank you very much for your time.

22 MR. CHAIRMAN: Next, Mr. Jurman.

23 MR. JURMAN: Judy Landon.

24 (Whereupon, the witness was duly
25 sworn.)

1
2 MR. CHAIRMAN: Please state your name
3 and address for the record.

4 MS. LANDON: Judy Landon, 453 Half
5 Hollow Road, Dix Hills.

6 Good evening. My name is Judy Landon,
7 and my home is within 500 feet of Five Towns
8 College. I've lived on Half Hollow Road for
9 30 years raising two children and had no
10 problems with the college when it was the
11 commuter school it was all intended to be.

12 That all changed drastically when Five
13 Towns College began building dormitories. The
14 first thing to get my attention was the
15 bulldozers plowing down the trees and greenery
16 that served as a lovely buffer to the school.
17 I was sick to see the landscape that once made
18 me feel like I was living in the country torn
19 down.

20 As the first dorms were completed, I
21 was struck by two things: First is the height
22 of the building, and the fact that I was
23 looking at the back of the building instead of
24 the front.

25 Second, why were they so close to the

1 street.

2
3 I couldn't help but see how obtrusive
4 and imposing these apartment-like buildings
5 are. They're visually far higher than any
6 other structure in the residential community.

7 I have an exhibit to submit to you.

8 MR. CHAIRMAN: You have photographs
9 for us to consider?

10 MS. LANDON: Yes.

11 MR. CHAIRMAN: One posterboard with
12 three photographs, two of which we have seen
13 before from Mr. Baden, but we'll mark this as
14 Exhibit Number 80 in evidence.

15 Go ahead.

16 MS. LANDON: The picture on the bottom
17 is the existing view of the building from Half
18 Hollow Road. The two pictures above are
19 graphic representations of what the building
20 will look like when completed. Building four
21 faces Half Hollow Road and building three on
22 the top right faces Burrs Lane.

23 I understand that the height of these
24 buildings are within the 35 foot limit, and
25 technically, they may follow the Code, but as

1
2 you can see from these pictures, the spirit of
3 this ordinance has clearly been violated since
4 it is obvious that they are much higher than
5 anything else around.

6 Massive concrete retaining walls are
7 on the right, and as you can see, the cellar
8 level of building four, which is actually well
9 above ground, is already high. The fact that
10 the plans call for an additional two stories
11 to be constructed on top of this level is
12 further confirmation that these buildings
13 violate the whole purpose of the 35 foot,
14 two-story limit.

15 The building may look like two stories
16 from the front, but that is not what faces
17 Half Hollow Road. Rather, it is the basement
18 level, plus two additional stories that will
19 be the view of the people of these residential
20 neighborhoods.

21 A second issue is equally, if not
22 more, troubling. The first two dorms were
23 already close to the road, and then to my
24 horror, I saw the foundation for the next two
25 dorms being built even closer to the road.

1 Literally, hanging on the side of what was a
2 steep, wooded hill. One would think that
3 there was no other space on the property given
4 the margin of property to build.
5

6 I have another photograph here for
7 you.

8 MR. CHAIRMAN: This is an aerial view,
9 and we'll mark that as Exhibit Number 81.

10 MS. LANDON: This figure, 1-3 is taken
11 from the college's response to the DEIS on
12 Page S-4 of the DEIS. It states that,
13 *"because the campus has been developed in the*
14 *central portion of the property, leaving the*
15 *perimeters to be retained in natural state for*
16 *esthetic and noise buffering, these perimeter*
17 *areas will continue to be naturally*
18 *vegetated."* But, as you can see, they are not
19 in the central portion of the property. The
20 building may meet the legal setback from the
21 street, but once again, you can see that they
22 appear to be very close to the street, and the
23 retaining walls are closer still.

24 So, why, with all of the property the
25 college has, did they choose to erect the

dorms so close to the perimeter?

Mr. Cohen has given his altruistic reasons, but I believe it's because they have plans to expand and build more in this interior. Of course, the college will deny this and say they have no plans, but I have learned from personal experience that one cannot believe what they say.

My deep concerns over the construction of dormitories on my peaceful block led me to become involved with the House Beautiful Civic Association. As a member that lives so close to the college, I was asked to go to the meetings with David Cohen to discuss what exactly his plans were and how we might find some common ground.

On June 4, 2002, I and two other House Beautiful members and our attorney met with David Cohen and Arthur Goldstein. One of the things that Mr. Cohen told us, almost apologetically at this meeting, was that the college was going to allow a three-day Huntington Leadership retreat to take place in the dorm the following weekend. He explained

C-9
2

1
2 it was a last minute accommodation and it was
3 one-time-only occurrence.

4 He personally assured us that the
5 college had no intention of ever renting out
6 the dorms again. Yet, on Page S-5 of the
7 DEIS, he clearly states under other potential
8 uses of dorms, that they will be using the
9 dorms for such purposes and in fact, he uses
10 the very June 2, 2002, conference as an
11 example of what would be permitted.

12 I have a copy of that. Do you need a
13 copy of that?

14 MR. CHAIRMAN: No, we have the DEIS.

15 MS. LANDON: All of us who attended
16 the July 24th hearing witnessed first-hand Mr.
17 Cohen's insincerity. He spoke most
18 convincingly about having no intention to
19 expand. He was quite emphatic about it.

20 On Page I-24 of the DEIS, it states no
21 present plan for any additional structures,
22 but when you ask him if he was looking to
23 agree to no expansion in writing, he
24 immediately backed down from the commitment.
25 It has become obvious to me that Mr. Cohen

1 cannot be taken at his word.

2
3 In closing, I am strongly opposed to
4 the dormitories for the negative visual impact
5 they have on the community, and for fear of
6 the future undisclosed plans that the college
7 has in store for my residential area.

8 MR. CHAIRMAN: All right. Mr. Jurman,
9 next?

10 MR. JURMAN: Moving along, I call
11 Sandra Taylor.

12 (Whereupon, the witness was duly
13 sworn.)

14 MR. CHAIRMAN: Please state your name
15 and address for the record.

16 MS. TAYLOR: Sandra Taylor. I live at
17 65 Fox Lane.

18 Good evening, Chairman Modelewski, and
19 Members of the Zoning Board. I've lived in
20 Dix Hills for 33 years, and during that time,
21 I have seen many changes in our neighborhood,
22 some good and few bad.

23 In all of those years of growth and
24 change, nothing compares to having a
25 residential college in your backyard. I

1 emphasize the word, "residential."

2 I personally attended a recent
3 open-house at the Five Towns College and took
4 a tour of their campus dormitories. My honest
5 assessment, after taking the tour is that this
6 is a college in the midst of growth and
7 expansion in both their programs and
8 facilities.
9

10 There are many students from outside
11 the Long Island area. All of these students
12 are in need of housing, and this is only the
13 beginning. As the college expands, and it
14 will, there will be a need for more houses.

15 I've heard first-hand of plans of new
16 offerings and growth. Their programs for
17 graduate and undergraduates have grown in a
18 short time from 30 programs to nearly 40, as
19 one can read in their advertisements, and I
20 have that for the Board.

21 MR. CHAIRMAN: All right. We'll mark
22 this document as Exhibit Number 82 in
23 evidence.

24 MS. TAYLOR: At the open-house, I was
25 informed by one of the professors that the

1
2 present library consists of books and
3 materials mainly for the use of music
4 students. How can the present library be
5 deemed adequate to the addition of all their
6 new academic programs?

7 When this Board asked about the
8 college's plan for a future building for a new
9 library, the college attorney replied that
10 because of the use of the Internet, it would
11 not be necessary to expand the library. I
12 felt research into this statement was needed.

13 I called the librarians of five local
14 colleges, and also thought it best to compare
15 a music college of similar body size and
16 offerings to the Five Towns College.
17 Manhattan School of Music, a long established
18 music school, met this criteria. Manhattan
19 School of Music offers their student body two
20 separate libraries. The music library
21 consists of 130,000 volumes, and their second
22 completely separate humanities library
23 consists of over 5,000 volumes.

24 After consulting with the head
25 librarian at the Manhattan School of Music, as

1
2 well as the other local colleges, the results
3 were consistent. The libraries are
4 consistently expanding to meet the needs of
5 their students.

6 While the Internet has made changes in
7 the library's way of being used, it has little
8 effect on their growth and the needs of their
9 students. It is clear that the Five Towns
10 College will require a new, larger library.

11 At one time the Five Towns College had
12 on its website the plans for building an
13 amphitheater. Why would the college want to
14 build an amphitheater? Is it because it
15 currently has an auditorium built many years
16 ago for a junior high school and only has
17 seating capacity for 600 people?

18 In comparison, Manhattan School of
19 Music has two auditoriums. One with a seating
20 of 240 and the other seating 1,160.

21 In order to compete as a first-class
22 college, the Five Towns College will need a
23 state-of-the-art auditorium. It seems clear
24 that the Five Towns College would have to
25 address these issues in the DEIS. It concerns

me, and it should concern you that the college has not disclosed the five or ten-year plan for the growth.

The tour of the dormitories was an eye-opener for me. The dormitories are presently situated on the college property, off Half Hollow Road, not as the DEIS states in the middle, on Page S-4. This leaves plenty of room for the building of an additional library, dormitories, classrooms and amphitheater, and whatever else they need in the future.

We cannot forget that any future building will not require the Board's approval because they will be considered accessory structures.

I saw first-hand how the dormitory rooms were currently being used. Two and three occupants per room, not as the DEIS document states. A resident assistant told me that the dorms are used to their full capacity with two to three students in a room. I was also informed by a representative of housing that in the fall semester, there will

C-12
2.1

C-3
2.4

C-7
2.12

1 definitely be three students in each room.

2
3 Does anyone really believe that the
4 college will ever have only one or two
5 students per room? One only has to look at
6 the plans for dorm four and see that there are
7 70 mailboxes shown on the plan.

8 In addition, I was made aware that
9 dorm four will have an extensive exercise room
10 in the basement. All four dorms have a men's
11 and women's lavatory in the basement. Why
12 have bathrooms in the basement? Because the
13 basement is going to be utilized. The college
14 never disclosed that the open space used by
15 these students is used by these students for a
16 variety of activities.

17 Not only does this make the DEIS
18 deficient, but as pointed out by a previous
19 speaker, the college has not met ADA
20 regulations that requires an elevator to be
21 put in to all four dorms.

22 Dormitories are where most colleges
23 make their greatest profit, and that is the
24 incentive to continue to build them. This is
25 good for the college, but bad for our

C-15
2.12

C-16
2.18

C-17
2.13

neighborhood.

We moved to Dix Hills because it was a community that consisted of only private homes, good public schools, and places of worship. The proposed dormitories as projected by Five Towns College will turn Dix Hills into a college town, and change the entire character of our neighborhood.

The Five Towns College is a thriving, growing business. Their plans for growth and the impact of that growth on our neighborhood has not been revealed in the DEIS. I ask you not to accept this.

Thank you.

MR. CHAIRMAN: Okay. Mr. Jurman, bearing in mind that you are the shepherd, there are two words that you should keep in mind: Relevance and redundancy. You are going to do that; correct?

MR. JURMAN: Yes, I try to do that all along.

MR. CHAIRMAN: Who is your next witness?

MR. JURMAN: Leo Smidlin (Phonetic).

1
2 (Whereupon, the witness was duly
3 sworn.)

4 MR. CHAIRMAN: Please state your name
5 and address for the record.

6 MR. SMIDLIN: Leo Smidlin, P.O. Box
7 341, Nesconset, New York.

8 Mr. Chairman and Members of the Board,
9 I am a private investigator. I was retained
10 by House Beautiful to take a look at some of
11 the crime statistics in the immediate area
12 around Five Towns College. I know there has
13 been some information provided to you by a Dr.
14 Bradley in the manner of a letter from
15 Dominick Verrone, who is one of the commanding
16 officers at the Second Precinct.

17 MR. CHAIRMAN: Mr. Jurman, give us an
18 offer of proof. What is the relevancy of this
19 testimony? Is this with respect to the
20 character of the neighborhood?

21 MR. JURMAN: It's with respect to the
22 character of the neighborhood, and also with
23 respect to the requirement relating to the
24 special use permit. Specifically to the
25 character of the neighborhood, I would have to

1 say, that's the best.

2 MR. CHAIRMAN: Okay.

3 MR. SMIDLIN: May I proceed?

4 MR. CHAIRMAN: Go ahead. You have a
5 submission?

6 MR. SMIDLIN: Yes.

7 MR. CHAIRMAN: What is that document?

8 MR. SMIDLIN: Statistical analysis of
9 crime reports for the area.

10 MR. CHAIRMAN: Okay. It was prepared
11 by this gentleman? By this witness?

12 MR. JURMAN: Yes.

13 MR. CHAIRMAN: We'll mark that Exhibit
14 Number 83 in evidence.

15 MR. SMIDLIN: The report that you have
16 in front of you is a statistical analysis of
17 the Suffolk County Police Department crime
18 figures for the police sector 219, which
19 covers Dix Hills, New York.

20 The official boundary description of
21 the 219 area is enclosed in the report. The
22 Five Towns College is located in this area.

23 This report highlights the vast
24 difference between the statistical information
25

1 recorded by the Suffolk County Police
2 Department, that I would like you to refer to
3 the enclosed article which is from Newsday of
4 July of this year, which shows a 65 percent
5 increase -- decrease in burglaries, and the
6 overall crime in the County, and the adjoining
7 County, Nassau, having dropped dramatically.

8
9 When we take the Suffolk County Police
10 statistics from the 219 patrol area, we show
11 that there has been an increase in burglaries
12 in the amount of 280 percent, and criminal
13 mischief, which would be damaging your house,
14 your automobile, things of this nature, is up
15 92 percent.

16 Now, we have -- we took two specific
17 time frames. They're in the report, so I
18 won't go into them. We also took a look at
19 the incident reports that occurred at Five
20 Towns College and on the grounds. There are
21 crimes on the grounds. Minor ones, such as
22 aggravated harassment, petty larceny, and so
23 forth.

24 The question that is constantly posed
25 to me is, is there a connection between Five

1
2 Towns College and the community, in regard to
3 crimes.

4 Well, if you thumb through that
5 report, you will see an interview with a Dr.
6 Long, who lives at 62 Fox Lane in Dix Hills.
7 To save time, I won't read that into the
8 record. I think you people can run through it
9 in a minute. But, you will see that a very
10 serious incident in which he confronted a
11 burglary in the home, and was threatened with
12 physical harm and upon the arrival of the
13 police department, they brought in the K-9
14 unit and they tracked the perpetrator up to
15 the grounds of the Five Towns College.

16 Now, do I have any personal knowledge
17 of what Five Towns College is like? From my
18 experience, having been a long-time probation
19 officer who handled the Huntington Town area,
20 who handled Dix Hills, who handled Wyandanch,
21 who handled West Babylon, North Babylon and so
22 forth, I can tell you with certainty that a
23 number of individuals, convicted criminals,
24 did attend the college as day students, and it
25 did concern me mainly --

1
2 MR. CHAIRMAN: Do you have empirical
3 data to support that opinion, sir?

4 MR. SMIDLIN: I can only give you my
5 recollection on it.

6 MR. CHAIRMAN: Your recollection?

7 MR. SMIDLIN: Yes, that's right.

8 MR. CHAIRMAN: You were a probation
9 officer here in Suffolk County?

10 MR. SMIDLIN: Yes.

11 MR. CHAIRMAN: At any given time, how
12 many cases were assigned to you?

13 MR. SMIDLIN: It generally averaged
14 about 100.

15 MR. CHAIRMAN: Were people discharged
16 from probation? Was that something that
17 happened on a routine basis?

18 MR. SMIDLIN: They were discharged.
19 They were violated, they moved from the area.
20 They transferred, yes, in the county, out of
21 the county, yes.

22 MR. CHAIRMAN: And, you served as a
23 probation officer for what period of time?
24 From when to when?

25 MR. SMIDLIN: 1969 through 1997, with

1
2 a term being sectorred to the Suffolk County
3 District Attorney's office and being sworn in
4 as a detective.

5 MR. CHAIRMAN: Are you telling us that
6 you have a specific recollection of five --

7 MR. SMIDLIN: Yes, I remember these
8 five individuals.

9 MR. CHAIRMAN: You have a specific
10 recollection of Five Towns College students
11 being your charges in the probation
12 department?

13 MR. SMIDLIN: Yes, I do.

14 MR. CHAIRMAN: How many of them total?

15 MR. SMIDLIN: Perhaps ten that I can
16 recall.

17 MR. CHAIRMAN: Ten. From '69 until --

18 MR. SMIDLIN: No, not from '69. I was
19 with the department. In the particular area
20 that I was in here, just south of that
21 location, which was in the mid-1990's, I had
22 about ten young men up at the college.

23 MR. CHAIRMAN: Mid-90's?

24 MR. SMIDLIN: Yes, about '93 through
25 '95, and they were serious people. So, I was

1
2 very concerned about their attendance there,
3 naturally. I would not -- I will leave it at
4 that. Thank you for your time.

5 MR. CHAIRMAN: Next witness, Mr.
6 Jurman.

7 MR. JURMAN: John Petrisori (Phonetic).
8 He's not present.

9 MR. CHAIRMAN: Do you have any other
10 witnesses?

11 MR. JURMAN: Kathy Cohen.

12 (Whereupon, the witness was duly
13 sworn.)

14 MR. CHAIRMAN: Please state your name
15 and address for the record.

16 MS. COHEN: Kathleen Cohen, 154
17 Middlesex Avenue in Oakdale, New York.

18 I am president of the Idle Hour Civic
19 Association.

20 The Idle Hour community is a community
21 that Dowling College exists in, and I was
22 asked to come here tonight to basically speak
23 to the character of the neighborhood maybe a
24 few years down the line.

25 We have a similar situation here.

1 Dowling College has dormitories that were
2 built, as you heard. Dowling College doesn't
3 have the advantage of Five Towns College's
4 music and arts, of having a very large campus
5 and no boundaries to separate them from the
6 community. So, Dowling College is in the
7 middle of the neighborhood. It is dispersed
8 through the neighborhood.
9

10 There are problems with, as brought
11 up, parking on the streets, parking facilities
12 are inadequate.

13 We have a situation called the
14 five-corners, where we have crossing of four
15 different streets, plus two coming out of a
16 diagonal, and in the morning when you have
17 cars coming in and out of there and students
18 crossing, it does cause quite a commotion
19 there.

20 We have problems with students parking
21 in front of other residences' lawns. We have
22 problems with them driving over lawns to get
23 to the gas station, and the 7-Eleven, and the
24 restaurants and the bars that are less than a
25 quarter of a mile away.

1
2 MR. CHAIRMAN: Do you have any
3 information on matriculated felons?

4 MS. COHEN: We're not privy to that.
5 I'm sure, if there are any, they're not going
6 to let that information out.

7 MR. CHAIRMAN: Well, let me ask you --
8 that was a flip question, but let me ask you
9 the more pointed question.

10 Do you have anything to tell us about
11 the quality of life in terms of criminality
12 that you say emanates as a result of the
13 presence of the college in your residential
14 neighborhood?

15 MS. COHEN: Yes. Just less than four
16 months ago, this 7-Eleven that is well lit,
17 well maintained, very busy parking lot was
18 robbed by four students from Dowling College
19 and we can prove that by the testimony of the
20 cashier there that had seen them before in
21 addition to the videotape that caught them.

22 MR. CHAIRMAN: Okay. What did they
23 steal?

24 MS. COHEN: They stole snacks. They
25 stole beer. They stole soda. Whatever they

1
2 could stuff in their pockets.

3 MR. CHAIRMAN: Were they armed?

4 MS. COHEN: Yes, they were.

5 MR. CHAIRMAN: With?

6 MS. COHEN: They assaulted him.

7 MR. CHAIRMAN: With weapons?

8 MS. COHEN: I don't know what kind of
9 weapon, but they did strike him in the head.
10 The paramedics were called in and the police
11 were called in to treat the store clerk.

12 We have had problems in the past. The
13 Town of Islip had to close down several of the
14 bars there for under-age drinking. This is a
15 consistent problem there.

16 We have a gas station that came up on
17 the corner for an application for a
18 convenience mart, and one of the
19 considerations was the hours of regulations
20 and the issues of whether liquor would be sold
21 there because of the problem of littering and
22 vandalism.

23 In addition, Dowling College has a
24 sewage treatment plant. It's a considered a
25 state-of-the-art sewage treatment plant, and

1
2 this was in response to a problem with their
3 old plant that they had prior to this, that
4 had the pools for the discharge.

5 MR. CHAIRMAN: Can you tell us what
6 the total enrollment is at Dowling?

7 MS. COHEN: Total enrollment has
8 dropped a little on the Oakdale campus. As
9 you know, they have two campuses, but the one
10 out in Shirley, they had to close down
11 considerably because they couldn't afford to
12 keep it running.

13 MR. CHAIRMAN: So, how many students
14 in your neighborhood?

15 MS. COHEN: Last they gave is a total
16 of 3,500 students coming into the Oakdale
17 campus itself, the Idle Hour campus, and their
18 numbers, between full-time students and
19 part-time students, most full-time students
20 are a 12 credit load, but they use a 16 credit
21 load to determine. We had issues with that in
22 the past.

23 The point of it here is that the Town
24 of Islip right now is dealing with the
25 situation that they have inherited, and most

1
2 of their time is spent trying to police it.
3 You have an opportunity here to use some
4 forethought before getting to that situation.

5 The library in Dowling College had a
6 small cooking facility underneath. They have
7 since expanded that cooking facility. "Lovin
8 Oven" now cooks in that area, and caters out
9 to surrounding country club and Land's End
10 down in Sayville.

11 Consequently, they made a curb cut
12 into a side street, one that is a two-lane
13 street, barely two cars can pass, and it makes
14 a sharp turn along Connetquot River, in order
15 to service the facility. They would have
16 Coca-Cola trucks coming in, other bar supply
17 trucks, restaurant supply trucks coming in,
18 and you might have seen this on Channel 12,
19 these trucks would be parked here 4:00 or 5:00
20 in the morning, and they would back in to a
21 resident's home, destroyed the column in front
22 of their home.

23 This went to court, and they were
24 finally told to close up this curb cut and
25 bring the trucks in through the main entrance.

1
2 Dowling's reason for never bringing
3 the trucks into the main entrance is, they
4 were afraid of the safety of their students.
5 But, they were not concerned with the
6 elementary children that would be walking down
7 the street, and the school buses coming down
8 the streets, and colliding with those trucks.

9 Do you have any other questions about
10 what life is like?

11 The sewage treatment plant, let me
12 give you an example.

13 Dowling College has a speedy permit to
14 dump 70,000 gallons of treated sewage per day
15 into the Connetquot River, and they do,
16 indeed, dump it. The pools will overflow.
17 Their parking lot backs onto freshwater
18 wetlands, and tidal wetlands.

19 Southampton College has been
20 conducting a study of mosquitoes ditching
21 systems on the wetlands, and they have come
22 back with reports of tremendous amounts of
23 sewage being transported through the mosquito
24 ditches to the back of this parking lot into
25 the Connetquot River and down into the South

1
2 Bay, and I witnessed the flow of the sewage
3 coming down the canal.

4 The other way that they control that
5 is to bring the trucks in and pump out the
6 plant on a weekly basis, simply because when
7 they built this, they estimated a certain
8 gallon per student, per sewage, per day, and
9 they have exceeded it.

10 MR. CHAIRMAN: Okay. Thank you.

11 Anyone else?

12 MR. JURMAN: I have no further
13 witnesses on my formal presentation, and to
14 give the public and Mr. Goldstein the
15 opportunity to respond to my comments, I ask
16 that I submit my summary, the words that I
17 would have said now in writing to the Board,
18 and they go specifically to what you said
19 before.

20 MR. CHAIRMAN: You have the comment
21 period, so you can, if you wish to put a
22 written statement in, you are entitled to do
23 that. Thank you.

24 Let's call off the list.

25 Dr. Bradley, you signed in first the

1
2 last time, and this time, so we're going to
3 hear from you.

4 (Whereupon, the witness was duly
5 sworn.)

6 MR. CHAIRMAN: Please state your name
7 and address for the record.

8 DR. BRADLEY: Dr. Sonia Bradley, 22
9 Goldfield Street, Melville.

10 Members of the Zoning Board of
11 Appeals, this is a letter from Dominick
12 Verrone, inspector and officer of the Second
13 Precinct with which I will just read the
14 letter.

15 "Dear Dr. Bradley, in response to your
16 recent conversation with Lieutenant Edmond
17 Erickson regarding problems in and around the
18 campus of the Five Towns College, a search of
19 records was performed. Calls for police
20 officers up and in the area surrounding the
21 college was performed for the period of
22 January 1 through March 21, 2003. The
23 boundaries of the area examined are as
24 follows:

25 "Half Hollow Road, between Bagatelle

1
2 Road and Chaves Drive, north and south L.I.E.
3 service roads, between Bagatelle Road and Half
4 Hollow Road, Burrs Lane between Half Hollow
5 Road and Rider Lane.

6 "The review found that we received
7 eight calls for police service, none of which
8 were crimes during the aforementioned time
9 period.

10 "Below, please find the listing of the
11 incidents, and other pertinent information
12 describing each incident. Although it is not
13 known if any of these reports involve
14 individuals who work at or attend the Five
15 Towns College, our records show that all but
16 one of the participants were residents of the
17 Hamlet of Dix Hills. In the one incident
18 where party was not a local resident, he was
19 the operator of a vehicle involved in an auto
20 accident, and was in the area making a
21 delivery for a local florist.

22 "The day is January 10, 2003, at 9:25
23 p.m. The incident was a suspicious person
24 called, remarks resident waiting for a taxi.

25 "On January 24, 2003, 12:25 p.m.,

1
2 family dispute, ages involved seventeen and
3 fifty. Individuals left prior to police
4 arriving.

5 "January 28, 2003, 2:56 p.m., car
6 accident. Age involved, twenty. Two cars, no
7 injuries.

8 "February 28, 2003, 10:09 p.m.,
9 suspicious person called. Age involved,
10 unknown. Dix Hills resident's car broke down.

11 "March 7, 2003, 11:04 a.m., car
12 accident. Age involved, nineteen. Car hit a
13 pole.

14 "March 10, 2003, 2:20 a.m., suspicious
15 person called. Age, fifty. Unknown. Related
16 to call on January 24, 2003. No police action
17 required.

18 "March 18, 2003, 2:05 --"

19 MR. CHAIRMAN: Dr. Bradley, rather
20 than reading to us each of these individual--

21 DR. BRADLEY: There is just two, and
22 I'm finished with it.

23 MR. CHAIRMAN: Just two, is part or
24 25? What is the just -- tell me -- would you
25 please tell us what is the point of this

1
2 want to pursue my dream, which is to have a
3 career in theater.

4 My parents and I were very attracted
5 to the fact that Five Towns College is a zero
6 alcohol tolerance campus. There are security
7 guards outside all night long, and so far, my
8 stay at campus is pleasurable, entertaining,
9 and enlightening.

10 I have come to meet a number of
11 overwhelmingly talented people and made great
12 friends, yet you don't want us here.

13 MR. CHAIRMAN: Are you Ms. Collita?

14 MS. COLLITA: Yes.

15 (Whereupon, the witness was duly
16 sworn.)

17 MS. COLLITA: Megan Collita, 305 North
18 Service Road, Dix Hills, New York 11746.

19 Mr. Semanski and I share a hallway and
20 also we share basically the same GPA average
21 and SAT scores, and many of the kids in our
22 hallway also share those things as well as the
23 ideals.

24 This hallway is full of middle-class
25 kids with responsible ideologies and amazing

1
2 talents, and it's sad and close-minded that
3 we're not wanted here because of these
4 ridiculous stereotypes that are being
5 entertained here.

6 We are not a party school or party
7 atmosphere. I never came across that in my
8 stay here thus far, and all we want as a
9 student body is to further our education and
10 goals, and that can't be done if we're not
11 given a place to live. I was given a letter
12 to read on behalf of several of the students
13 at Five Towns.

14 They say Five Towns College is an
15 asset to any community. These young people
16 are the future of America, and we must give
17 them a safe and comfortable environment to do
18 all their fabulous things that they will
19 achieve.

20 We should be proud that they have
21 chosen to stay in Dix Hills.

22 MR. SEMANSKI: Many of you in the room
23 tonight are parents, and some day your child
24 will be hours, miles away to further their
25 education. They will be apprehensive and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Thank you.

(Whereupon, the witness was duly sworn.)

MR. CHAIRMAN: Please state your name and address for the record.

MR. SPEED: Charles Speed. I live at 57 Grand Haven Drive in Commack 11723. Resident of Huntington Township, also known as Sunny Speed, for the record, but that might be more known in the community.

I'm here basically on behalf of an organization known as Island Summary Showcase. I happen to be the director of that organization, and we hold our meetings in Five Towns College. There is no drug addicts or criminals among us. We're a bunch of adults that look for a place to meet, and we found it there as well as other communities that are out there, and other people that support what goes on in the community as Dave does with his college. He supports many organizations to make sure that things grow and go in the right direction in the community.

He doesn't lend it out to, let's just

1
2 say, anybody that comes along.

3 I have here with I would like to
4 submit for entry into the record, 31
5 organizations on letterhead, explaining their
6 appreciation for what Dave does and the
7 college -- actually, for Long Island. Long
8 Island Associations for Vocational Educators,
9 Cancer Care of Long Island, Series Center,
10 Chestnut Hill PTA, Disabled Musicians, Dix
11 Hills Soccer Association, and I'm sure many of
12 our children go there.

13 I want to submit 31. I won't read
14 them all.

15 MR. CHAIRMAN: I take it for granted
16 that your offer of proof is with regard to one
17 of the special use permits criteria which is?

18 MR. SPEED: Well, I would like to
19 rebut --

20 MR. CHAIRMAN: Which will encourage an
21 appropriate use of land consistent with the
22 needs of the town. Is that your point?

23 MR. SPEED: Yes, that is my point.

24 MR. CHAIRMAN: Why don't you hand that
25 up.

1
2 MR. SPEED: I would also like to
3 submit 16 individuals that live in the
4 community that have support letters.

5 MR. CHAIRMAN: You have letters of
6 support, and we'll mark that 86 and letterhead
7 collection 85 in evidence.

8 MR. SLINGO: What is your relationship
9 to Five Towns College?

10 MR. SPEED: I'm the director of the
11 Island Showner Showcase (Phonetic). We
12 utilize one classroom once a month for 30
13 members for a meeting, and with that, I would
14 like to point to some of the environmental
15 issues.

16 During the day, I teach environmental
17 law for Con Edison in New York, so I have a
18 little understanding about some basic habits.

19 Basically, what I'm hearing is, we
20 have a lot of hearsay about people's personal
21 bathroom habits; that they are criminals if
22 they're artists; that anybody that is followed
23 on the grounds of Five Towns College is
24 assumed to be a criminal from a K-9 dog, and
25 they actually reside there.

1
2 This is all nice, and this is all
3 hearsay. There is no actual fact of that.
4 There are a large number of us today, and I'm
5 sure in this room we have not all used our
6 three gallons per person and overran your
7 sewer system outside.

8 All this is -- I wanted to point out,
9 there is a couple of things that came up on.
10 I have to address some of the issues I'm
11 hearing. There is no pub at Five Towns
12 College that I know of. I don't believe that
13 that is in the plans. Also, some of the
14 designs that you have seen and you have seen--
15 I have seen these exhibits are all in
16 compliance. I heard the statements that
17 they're under the height requirements. We may
18 not like how they look, but they're in
19 compliance.

20 Some of the other issues of
21 compliance, some of the things about the
22 bussing or the parking on that street, that
23 street parking that we have seen is adjacent
24 to a bus depot. Employees park there prior to
25 getting into their buses, and then leave the

1 bus, and leave the cars in the street. I
2 didn't see any pictures supporting any non-bus
3 time. It was basically saying it was in the
4 daytime. That is something that should be
5 looked at. You should look at the evidence in
6 both ways.
7

8 It's good to be passionate about what
9 we believe, and that's what this community is
10 all about, but as far as a community, how one
11 piece of property is going to destroy an
12 entire community, I doubt that very much.
13 But, I can speak about how the entire
14 community of Dix Hills and particularly the
15 House Beautiful Association, is destroying my
16 community, Commack, that supports all of Dix
17 Hills in the commercial endeavors, and that
18 would include multiple stores that are
19 redundant, that we don't need to support to
20 Dix Hills Association.

21 If they were a little more community-
22 minded, and shared their end of the things, it
23 would be a little less of an environmental
24 impact on my end.

25 MR. CHAIRMAN: I'm going to redirect

1
2 bus, and leave the cars in the street. I
3 didn't see any pictures supporting any non-bus
4 time. It was basically saying it was in the
5 daytime. That is something that should be
6 looked at. You should look at the evidence in
7 both ways.

8 It's good to be passionate about what
9 we believe, and that's what this community is
10 all about, but as far as a community, how one
11 piece of property is going to destroy an
12 entire community, I doubt that very much.
13 But, I can speak about how the entire
14 community of Dix Hills and particularly the
15 House Beautiful Association, is destroying my
16 community, Commack, that supports all of Dix
17 Hills in the commercial endeavors, and that
18 would include multiple stores that are
19 redundant, that we don't need to support to
20 Dix Hills Association.

21 If they were a little more community-
22 minded, and shared their end of the things, it
23 would be a little less of an environmental
24 impact on my end.

25 MR. CHAIRMAN: I'm going to redirect

1
2 your attention. There are two things that we
3 are here to hear about. The accuracy of the
4 draft environmental impact statement and
5 please direct, as I said when we began this
6 hearing back in July, please direct your
7 comments to the law and to the facts that we
8 must consider on these applications. You
9 understand that?

10 MR. SPEED: You are right. I will
11 stick to the environmental issues.

12 Having that said, I will keep it to the
13 point.

14 I don't believe that Five Towns
15 College requires a speedy permit as I heard
16 that Dowling College does. I would look into
17 that. They're two different scenarios, and
18 let's not compare one to the other. Let's
19 stay to the facts.

20 I heard the attorney mention that the
21 plan that they had was to design the maximum
22 amount of students to fit within the plan,
23 that is correct, and what is wrong with that?
24 Nothing is wrong with that. That's why it's a
25 plan. In that plan he says that he commended

1
2 them, and that they should design a launch to
3 the moon for their plan, so he agrees that
4 it's a good plan.

5 Also, in that he mentioned that there
6 was a sound business plan. Yes, if you're in
7 business, you should have a sound business
8 plan. I feel that they have done everything
9 adequate and met the requirements that they
10 needed to be met. They presented their case
11 in a good manner and I think you should
12 consider it and keep it -- consider all of the
13 options and we'll try to omit all of the
14 hearsay.

15 MR. CHAIRMAN: Kevin Rankin (Phonetic).

16 MR. RANKIN: Kevin Rankin, 305 North
17 Service Road, Dix Hills.

18 I would like to add that I am also an
19 artist. I have never smoked or used drugs.
20 I'm not a drinker, and I have done countless
21 hours of community service before I moved here
22 at a community service center.

23 I did not come here prepared with a
24 speech, but I was inspired by my surroundings
25 today to share my voice on the matter at hand.

1
2 I do -- I don't know if I speak for
3 all of my fellow students, many of which are
4 here today, living on the campus of Five Towns
5 but I hope very much that I do.

6 I feel that I have been given a great
7 opportunity from Five Towns College and Town
8 of Huntington to live here and I am committed
9 to being a productive member of the community
10 now and hopefully in the future.

11 Without this chance to live on the
12 campus of this school, I would not be able to
13 be here today studying a unique topic, and
14 preparing for my future in the way I feel is
15 best.

16 I recently applied for jobs around the
17 town, and I am committed to becoming a work
18 part of the work force in the town. These are
19 all things that I would not be able to do if I
20 do not live here.

21 From the people that I met since
22 living and attending Five Towns College, I see
23 a group of bright, young and also
24 multi-talented people that will eventually
25 graduate and go on to do great things.

1
2 When I look outside my window and see
3 the unfinished dorm buildings every day, I am
4 sad to see there are more people that can't
5 have the same opportunity that I am lucky
6 enough to have right now. Although there are
7 other students attending the school and not
8 living there, I see a limit to the potential
9 students living all over the country or even
10 the world that will not be allowed the same
11 chance as I, to access the education and
12 experience that I believe they should.

13 I'm up here now to ask everyone here,
14 please keep this college, this town and the
15 education of youth continuing because I think
16 it will be something beneficial to everyone in
17 this room and the community.

18 Thank you.

19 (Whereupon, the witness was duly
20 sworn.)

21 MR. O'REARDON: Raymond O'Reardon, 46
22 East Main Street, Huntington.

23 I would like to say, Mr. Chairman, at
24 the outset what I have to say is what I put
25 together as a result of the knowledge of the

1
2 Article 11 of the Town Code as it was written,
3 and as it did grant the use of any property
4 half-acre, one acre, two acres for the use as
5 a college and dormitories.

6 I have a prepared speech here and I
7 will read it very carefully. I don't want to
8 be misquoted.

9 I'm here because I am a steadfast
10 advocate of education, and I have a strong
11 aversion to any effort to attempt to impair or
12 destroy our proud American educational system.

13 I have not been paid to be here
14 tonight, nor have I ever sought any payment to
15 be here tonight.

16 Concerning the phrase, special use, I
17 believe there isn't anything more special than
18 education. Its use has taken man from the
19 ignorance of the dark ages into the
20 enlightenment of the 21st century.

21 After a close examination of all of
22 the facts in this matter, I am convinced that
23 an approval of this special use permit by this
24 Board would be the fair, equitable and just
25 thing to do.

1
2 Huntington has been my hometown since
3 1918. I was most pleased in 2002 when
4 Huntington was designated as one of the ten
5 best cities in America. Evidently, generally
6 speaking, Huntington's officials over those
7 years must have done something good at leading
8 and guiding our town.

9 I truly believe that approving the
10 Five Towns College application for dormitories
11 will prove to be a continuation of such sound
12 decisions as in the past.

13 I am most understanding of this
14 Board's position and responsibility when
15 having to make decisions concerning changes in
16 the residential neighborhood. I served on
17 Huntington's Historic Preservation for 17
18 years. I was its chairman for 15 years. I
19 mention that only because those 17 years
20 taught me that more often than not, whenever a
21 property was proposed for historic
22 classification in any neighborhood, people's
23 anxieties and fears were far more imagined
24 than real.

25 I believe that is true in this case.

1
2 It has been widely said, when fear takes over,
3 logic and good reasoning flies out the window.

4 For the average person, the purchase
5 of a home is the biggest investment in a
6 lifetime. For anyone to use fear tactics to
7 accomplish a selfish, unwarranted goal has to
8 be reprehensible and outrageous. I recall,
9 Mr. Chairman, at the July 24th meeting, that
10 you stated the Zoning Board's decisions are
11 not determined by the number of people in an
12 audience. What really matters is the rule of
13 law.

14 I personally feel very comforted by
15 your statement. I believe that there are many
16 reasons why the opponents of this Five Towns
17 College application are wrong in their
18 efforts, and therefore, their position should
19 be rejected.

20 It is evident to me that plans in this
21 matter want the residents in the area to
22 conclude that Five Towns College is one of
23 those objectionable projects that deserve the
24 "not in my backyard" category. So-called
25 nimbies.

1
2 For anyone to suggest that is dead
3 wrong.

4 Five Towns College is not a nuclear
5 plant with the fears of cancer. It's not a
6 garbage dump with diseased rats running around
7 the neighborhood. It's not a gas station with
8 gasoline leaking into the ground poisoning our
9 water supply. It's not a high risk prison
10 with violent criminals that could break out
11 and terrify the neighborhood. It's not a
12 porno shop contaminate the minds of our young
13 children. It's an airport with the constant
14 noise and air pollution. It's not an electric
15 supply station spewing deadly toxins into the
16 neighborhood.

17 When it is obvious that Five Towns
18 College is not one of the feared nimbies, just
19 what is the best way to describe Five Towns
20 College. Five Towns is a well respected
21 institution of higher learning. It was one of
22 those good things that function to improve
23 mankind's position in the world. It advances
24 intellectually art, culture and civility.
25 Those very things required to make life a

1 success and a joy to live. It is a fact that
2 colleges with dormitories are generally built
3 in upgraded residential neighborhoods.

4 Evidently, they have proved to be an asset in
5 their neighborhood, not a detriment. That is
6 a historic fact right here on Long Island,
7 there is two in Brookville with C.W. Post.
8 There is two in Oakdale with Dowling College,
9 and also Stony Brook with New York University.

10 I do not believe that Five Towns
11 College with its dormitories will in any way
12 be damaging to the health, welfare and safety
13 of that community. It's a good neighbor.

14 Its policy has prevailed for 12 years
15 already. There is no justifiable reason to
16 believe that it won't continue that way in the
17 future.

18 Colleges and dormitories just
19 naturally go together. That is true
20 throughout America. Students throughout
21 America go to colleges outside of their home
22 states. That has to do with our American
23 freedom of choice.

24 Furthermore, should Five Towns have
25

1
2 the right to grow and be successful? Why not.
3 I have been a licensed broker in real estate
4 for 53 years, since 1950. During those 53
5 years, I have sold every type of real estate
6 known. I state with absolute certainty that
7 the most difficult to sell is a school. In
8 fact, schools are known as white elephants in
9 the marketplace. They often remain for sale
10 for years, and often don't get sold at all.

11 It is my conclusion that District 5
12 was more than just lucky when they sold that
13 school to Five Towns College. The District
14 had to know that the school was in very poor
15 condition, which is evidenced by the fact that
16 they sold it in an as-is condition.

17 Nevertheless, Five Towns College was
18 the most agreeable buyer. They paid
19 \$3,400,000 for that white elephant, and it was
20 an all-cash sale. Five Towns even agreed to a
21 time is of the essence commitment, which, of
22 course, then would mean Five Towns would
23 forfeit their down-payment in the event that
24 they did not show at closing with all cash
25 exactly on the day and the hour agreed to in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the contract.

Five Towns was on time with \$3,500,000 all cash. It is my understanding that the vast number of property owners in the school district worked in a democratic fashion, given the opportunity to vote for or against the sale. They voted for the sale.

MR. CHAIRMAN: Mr. O'Reardon, I have to remind you, and this is not to diminish your skills, but I have to remind you and redirect you the way I have other witnesses. We are here to consider two finite things for tonight. One is the sufficiency or lack of sufficiency of the draft environmental impact statement. Two, whether or not the applicant has made out his proof necessary in order for us to grant a special use permit, keeping in mind, this is a conditionally permitted use.

All right? That is what we're really-- that's what we're talking about here.

You are taking us back into historical items that have no bearing, quite frankly, on the things that we must consider in accord with tonight's hearing.

1
2 So, if you could just redirect your
3 remarks to that portion of either the DEIS or
4 the special use permit criteria that you wish
5 to address and have us consider.

6 MR. O'REARDON: Mr. Chairman, does
7 that mean I should be responding to all of the
8 things that were said by the experts that
9 came?

10 MR. CHAIRMAN: No, Mr. O'Reardon, I'm
11 not going to tell you what to say. But, I'm
12 going to tell you this: What we don't do here
13 is a zoning see-saw. We don't go back and
14 forth about what she said and he said, and
15 what he said. There are criteria under which
16 the Court of Appeals told us, if they make out
17 their proof under the criteria in the statute,
18 we have no choice but to grant them the
19 special use permit. Why? Because this is a
20 conditionally permitted use. This is not a
21 variance. It's conditionally permitted. The
22 Legislature made a determination about this
23 use that it essentially belongs here, but for
24 the fact that the Zoning Board of Appeals'
25 action as a check on it, and there are

1
2 literally little check boxes that we have to
3 make. If they have made out their proof, we
4 have to grant it, and if they haven't, we have
5 to deny it.

6 The other question is the adequacy of
7 the environmental impact statement. So, we
8 would like you to keep your comments and your
9 criticisms on to whether or not the proof has
10 been made out under 198.66 of the Huntington
11 Town Code, or if you feel that the impact
12 statement is adequate or inadequate, based on
13 factual information, not just a feeling or an
14 opinion because unlike some of the other
15 witnesses that we have heard from, both for
16 the applicant and against the applicant,
17 you're not testifying as an expert, and
18 neither are most of the other folks that we're
19 going to hear from tonight.

20 MR. O'REARDON: I would think, Mr.
21 Chairman, that there is unfair advantages in
22 this whole process then because the average
23 citizen that has a right at a public forum to
24 speak from the standpoint of how they
25 understand the law, and in accordance with --

1
2 I refer to the article, that is the limitation
3 of my knowledge.

4 If I'm to respond in hopes to make a
5 successful presentation to you based on all of
6 the things that the experts have said here
7 tonight, I would say to you that I first say
8 to the Board, I would look for accuracy and
9 when all of those things are supposed to
10 become law because I listened to things that
11 were endless, I got the feeling this was a
12 quagmire to destroy the college. That's what
13 it appears to me.

14 MR. CHAIRMAN: Mr. O'Reardon, no one
15 was qualified as an expert. We may have heard
16 opinions tonight, but no one was qualified as
17 an expert. Nobody provided the expert opinion
18 testimony to us.

19 Your opinion is valuable, but what I'm
20 telling you is, you should direct yourself to
21 the proof in the statute and the sufficiency
22 of the impact statement. That's what we're
23 here for.

24 MR. O'REARDON: All right. I will say
25 in conclusion that I would think that the

1
2 approval of this whole presentation by the
3 opponents to this permitted use, if it were
4 enforced, would be an injustice to the whole
5 Five Towns.

6 Now, the Zoning Board has been
7 empowered with the unique authority to correct
8 any situation brought before you. You have
9 the power to turn wrong into right. Five
10 Towns College's application deserves to be
11 approved. By doing that, I truly believe you
12 will have done what is fair, equitable and
13 just.

14 MR. CHAIRMAN: Dennis Fields.

15 (Whereupon, the witness was duly
16 sworn.)

17 MR. CHAIRMAN: Please state your name
18 and address for the record.

19 MR. FIELDS: Dennis Fields, 15
20 Swathmore Lane, Dix Hills, 11746.

21 This is a letter from the Suffolk
22 County Department of Economic Development.

23 Long Island is experiencing a drain of
24 its best high school students that go to
25 college off of the Island and never return.

1
2 If this drain continues, industry on Long
3 Island will not be able to find or recruit the
4 work force it requires to stay competitive and
5 grow.

6 All of the higher education institutes
7 on Long Island are committed to slowing this
8 down and hopefully reversing it.

9 If this trend by the students to leave
10 is not slowed, industry will relocate to where
11 there is an available work force. This would
12 seriously impact the Island's economy.

13 Five Towns College is helping to
14 reverse this off-the-island migration. There
15 is some concern among the residents that the
16 college and the dormitories cannot co-exist
17 with the residential community. Are not all
18 of the colleges and university centers on Long
19 Island surrounded almost entirely by
20 residential communities? For example,
21 Dowling, Southampton, C.W. Post, New York
22 Institute of Technology, Adelphi, SUNY at
23 Stony Brook, SUNY at Westbury, Hofstra. These
24 institutions have co-existed with the
25 respective communities for several years, and

1
2 have contributed to the cultural, educational
3 and economic well-being of the communities.

4 We all have attended a concert, craft
5 fair or taken a continuing educational course
6 at one of the institutions.

7 Five Towns College and the other
8 institutions contributed to the economic and
9 social well-being of Huntington. Suffolk
10 County Department of Economic Development
11 supports Five Towns College's petition before
12 the Zoning Board of Appeals signed by Judith
13 McAvoy and James Harnett.

14 Thank you.

15 MR. CHAIRMAN: You want to hand that
16 up and we'll mark that as Exhibit Number 87.

17 That completes the list of folks that
18 signed in to speak either for or against.
19 But, I will entertain anyone else from the
20 audience that wishes to be heard who has
21 relevant testimony to give on the issues of
22 special use permit and the criteria under
23 198.66 and the sufficiency of the draft
24 environment impact statement.

25 (Whereupon, the witness was duly

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

sworn.)

MR. CHAIRMAN: Please state your name and address for the record.

MS. HOFFMAN: Susan Hoffman. I reside at 12 Faulkner Lane, Dix Hills, New York.

Thank you for the opportunity to speak with you this evening.

On C-Span today I heard a senator say that our rights revolve around one concept and that is the sense of common good for the community at large.

I stand before you as a member of the Dix Hills community for almost thirty years. During this time, I have raise my family here. I have been a substitute teacher in the Half Hollow Hills School District, and worked as a private voice teacher at Five Towns College for close to two years during the mid-90's.

During this time, I taught approximately thirty students on a one-to-one basis. Most of the students commuted from their homes daily, but several of them were using off-campus dorm facilities in local motels while attending the college.

c:
2:

1
2 The college arranged for their living
3 situations by renting out rooms at the
4 Plainview Plaza Hotel, which was then located
5 at Exit 46 of the Long Island Expressway, and
6 the Ramada Inn in Woodbury.

7 My students would tell me about
8 occurrences at the two motels. One student
9 was a model for the piercing parties. Various
10 parts of the students' anatomies were pierced,
11 and when infection set in, the students had to
12 allow the piercings to close.

13 The students also told me of incidents
14 where fire ensued following an attempt at
15 free-base cocaine. Alcohol was being used, but
16 not as much as other drugs with other forms of
17 drugs, and other students who lived in the
18 other facilities told me similar stories.

19 The teachers heard, the teachers at
20 Five Towns College, along with me, heard that
21 both the Plainview Plaza Hotel and the Ramada
22 Inn told the school they would no longer
23 house Five Towns College students due to,
24 first, the physical damage to the motel rooms,
25 and the use of drugs in their motels.

1
2 Furniture had been broken and some of the
3 rooms had been trashed. I heard this directly
4 from one of the guidance counselors.

5 Teachers were told that students would
6 be housed at SUNY Farmingdale, which would be
7 better equipped to deal with these situations.
8 Is there any wonder in your minds as to why I
9 am opposed to the Five Towns College
10 dormitories in our area? Why I am fearful for
11 our community, our children, our homes, our
12 very lifestyles?

13 Most recently, one of my baby-sitter's
14 cars -- I have a brain-damaged son that
15 resides at home, so I still have sitters that
16 come in. One of my baby-sitters' tires was
17 slashed around the same time I had to talk to
18 the police and I advised them that one of our
19 sprinkler system hoses was slashed as well.

20 When I recorded the incident, the
21 policewoman relayed the story to me that there
22 had been an increase in theft and vandalism
23 recently in the area.

24 This is an area where people were
25 never locking their doors. The police are

1
2 worried themselves, and she related to me
3 about how they keep us safe with the current
4 situation. The numbers are against both few
5 policemen and women and us. They told me
6 about a house, the policeman, that was being
7 rented and used by Five Towns College people
8 on Burrs Lane.

9 Your responsibility is grave indeed.
10 Usually, when colleges have dormitories, they
11 have their own police forces for a reason.
12 How much supervision do your own teens and
13 young adults require, even within your own
14 homes? How much more does this population
15 require in extensive services?

16 I fear they require more than one
17 community can bear.

18 I feel for this common good that the
19 senator spoke of today and we should be most
20 protective of. I fear for our safety, our
21 lifestyle, our security and frankly, our
22 future lives here.

23 When I spoke to a guidance counselor
24 from Five Towns College this past Monday, I
25 said to her, make me feel better about what is

1
2 going on here, please. This guidance
3 counselor told me that a drug rehab center was
4 just placed around her home, and she had to
5 get used to it. We will have to get used to
6 this, she said.

7 I don't think that is the answer here.
8 I hope not. When I further asked her about
9 other conditions that might make me feel more
10 comfortable, she said that the students will
11 not be allowed to have cars.

12 I said, but their friends will. At
13 that point, she said, you can't stop people
14 from living, and they can't be watched at all
15 times.

16 This is exactly the point that I am
17 most concerned about. It is my deepest hope
18 that this Board will consider the well-being
19 of our community, our common good. There is a
20 danger here to those of us that live here that
21 own homes here, who have raised families here.
22 To those of us raising children at this time,
23 former students of mine were removed from
24 facilities as contracts with the college were
25 severed because of deviant behavior and

1
2 property damage.

3 This is a fact that all of the
4 teachers were told, and were talking about to
5 each other. This is why no other place would
6 rent to them. Does that mean that we must
7 have young people from outside of our
8 community with a history of this type of
9 behavior residing within the heart of it?

10 We are a giving community, a trusting
11 community, a multi-ethnic community with
12 churches, synagogues, mosques and ashrams
13 existing side by side in harmony. We are
14 trying to live in that harmony.

15 What is being proposed here is unfair
16 to any community. The sanity and quiet nature
17 of our blocks are now being changed as houses
18 are being rented out to students from this
19 establishment. The police know it; ask them.

20 Now is the time, not next year, not
21 the year after. Now. We need help from you.
22 Now is the time to stop this before it
23 spreads. Later will be too late.

24 Thank you for your time. I just want
25 to add, I have been a voice teacher for many

1
2 years in our community. I am not opposed to
3 Five Towns College itself. I gave my all to
4 the students I taught there, and I give my all
5 to my students now.

6 I have students on Broadway. I have
7 students in the movies. I have students in
8 opera, but the dormitory setting is going to
9 pose a major problem for our community, and I
10 hope that you will address this.

11 Thank you.

12 MR. CHAIRMAN: All right. Do you have
13 something to say that addresses the special
14 use permit?

15 MR. LANDON: Yes.

16 (Whereupon, the witness was duly
17 sworn.)

18 MR. CHAIRMAN: Please state your name
19 and address for the record.

20 MR. LANDON: Jordan Landon, 257
21 Flatbush Avenue, in Brooklyn, New York.

22 I grew up on Half Hollow Road in Dix
23 Hills for the first seventeen years of my
24 life, and I think I have a unique perspective
25 here this evening in that I'm a young adult

1
2 that grew up in this community. This was as
3 Five Towns College was here.

4 I also attended a small music school.
5 It was in a dry town, and by this I mean,
6 there was no alcohol to purchase there. There
7 as one local supermarket that sold beer before
8 midnight.

9 This parallel to Dix Hills is
10 inevitable. We are all college kids and plan
11 on drinking every Friday and Saturday night.
12 No matter how academic or musical a school is,
13 there is no question that college students are
14 going to have a social life. This is, in
15 fact, the purpose of the dormitories.

16 Now, I have no doubt that the students
17 here tonight abstain from all of all of these
18 types of activities, but I hope to give you a
19 little more of a general perspective about
20 what actually goes on at college dormitories.

21 MR. CHAIRMAN: No, that is it. I want
22 to hear from you if you want to say something
23 about 198-66, you can use my Code book, and I
24 will give it to you. You can address those
25 criteria, or you can talk about the draft

1
2 environmental impact statement. But, we are
3 not going to spend another hour, less than
4 hour, forty-five minutes tonight and maybe
5 more time at an adjourned hearing just talking
6 about who's a drunk and who is a drug addict.

7 If you want to address the criteria,
8 if you want to talk about the applicant and
9 the applicant's failure to make out the proof
10 under the statute, we'll hear you. If you
11 want to address the draft environmental impact
12 statement and any differences you see in it,
13 but this is not a referendum on whether or not
14 college students are drug addicts or drunks.
15 You understand me, sir?

16 MR. LANDON: Yes, I understand.

17 MR. CHAIRMAN: Having that said, do
18 you have anything to say with regard to the
19 criteria in the statute or the draft
20 environmental impact statement?

21 MR. LANDON: No, I do not. I thank
22 you for your time.

23 MR. CHAIRMAN: You want to talk to the
24 draft environmental impact statement in the
25 draft of 198-66?

(Whereupon, the witness was duly sworn.)

MR. CHAIRMAN: Please give your name and address for the record.

MS. REISS: Christy Reiss, 2 Prince Street, Hicksville, New York.

Okay. Obviously, it's going to be brief because I don't know about know very much about the whole DEIS thing, but this is the facts that I have to give.

I was an R.A. on the Five Towns College -- residence assistant, in case anyone was unaware.

In regard to the amount of students in the building, there was a question to that as far as the amount of rooms that there are in each building and the allowable space that there is for students.

There are thirty-two buildings -- I'm sorry, thirty-two rooms in each building, and that adds up to sixty-four which is definitely more than the fifty-two allowed. However, if the math is done correctly as per the resident's office, in each building there are

1
2 eight singles, which brings the number of
3 thirty-two rooms, subtract eight from that,
4 and that brings you own to twenty-four rooms.
5 Three of those rooms are safe rooms, which is
6 for, in the case of if any roommates have
7 disputes or if there is anything wrong with
8 the plumbing, the students can move into those
9 rooms. So, that is subtracted three more off
10 of that, that gives you twenty-one.

11 Twenty-one times two students in each of the
12 left over rooms gives you forty-two students
13 with -- I'm sorry, gives you forty-two
14 students also with the eight students that
15 will be in the single rooms, give you a total
16 of fifty students, which includes the R.A., if
17 anyone wasn't aware.

18 In addition to the two staff members
19 which will reside in the apartment, which is
20 on the second floor of each building in the
21 lounge for the residents' directors, who are
22 in charge of the R.A.'s and underneath the
23 direction of the Dean of residence life, which
24 would add to give a total of fifty-two
25 students, and that's all I have to say.

1
2 MS. GAUGHRAN: I have one very quick
3 question for you. How many semesters were you
4 an R.A.?

5 MS. REISS: Two semesters.

6 MS. GAUGHRAN: In your time as an
7 R.A., in those semesters, were there ever any
8 doubles used as triples, or singles used as
9 doubles?

10 MS. REISS: No -- I'm sorry, there
11 were some of the singles that were used as
12 doubles because the R.A. -- this was before
13 me, before I was an R.A. -- but the R.A.'s
14 were doubled up because they didn't want to
15 have them spread out all over the building.
16 So, they had them more concentrated in one
17 wing or another.

18 MS. GAUGHRAN: So, in the time that
19 you were at Five Towns College, singles were
20 used as doubles?

21 MS. REISS: Yes.

22 MR. CHAIRMAN: Mr. Goldstein, you get
23 the last word.

24 (Whereupon, the witness was duly
25 sworn.)

1
2 MS. TAFT: Alyssa Sue Taft, 11
3 Equestrian Court, Huntington.

4 Thank you for letting me speak.

5 When the Five Towns College was sold,
6 when Burrs Lane was sold to Five Towns
7 College, there was tremendous objection from
8 the community and legal action as taken to try
9 to stop the sale. There was never a
10 referendum and one of the reasons that the
11 community wanted to stop the sale was, there
12 was tremendous growth in the area of homes.

13 I'm relating it to 198 --

14 MR. CHAIRMAN: Please, are you going
15 to get to the criteria on the statute?

16 MS. TAFT: Yes, I am, and the impact
17 on the community was never studied. So, this
18 impact statement is sort of what never took
19 place when the community objected.

20 The area where the Five Towns
21 College-- someone talked about parking not
22 being from the Five Towns College. The bus
23 depot has a tremendous parking lot for
24 employees. So, any parking taking place must
25 related to the Five Towns College, on the

C-
2

streets in the area and not from the employees of the bus depot, and not from Half Hollow Hills employees.

So, the traffic congestion and street parking is related to the Five Towns College.

9,600 students are serviced by buses that go in and out of Burrs Lane, and that area is impacted by all of the excess traffic from Five Towns College as it grows.

The impact on the community when you have dormitories, but you don't have a college life town around it, and what the community is concerned about is the quality of life, their lifestyle. They are worried about students going in and out while drinking and so forth because there is no bus service from the college. Where many colleges -- I know my daughter went to Cornell, and they have bus service, so they don't drive. They go into a college town. Many of the communities where there are colleges, there are restaurants, pubs, services, and none of that exists in the Dix Hills area, and that is probably why you are getting more of an objection to that in

1
2 that it is a direct impact on a community when
3 there are no other services, and what is the
4 outlet for the students? Where are they
5 going? They are going in and around the
6 neighborhood, outside of the neighborhood.
7 More traffic and more uncontrolled conditions
8 when they drive, and that is what the
9 objection is, and that is a direct impact on
10 family lifestyle in the neighborhood.

11 Also, in the statement that you have
12 and I think it was the application for IDA
13 funding, and I'm not sure if it was on the
14 draft environmental impact statement, but it
15 might be. There was a statement that
16 Farmingdale University -- that the 100 rooms
17 that are used there will no longer be up for
18 usage. I personally called the office of the
19 president at Farmingdale University. They
20 have not told Five Towns College to leave.
21 It's a false statement given in your
22 documents. They are welcomed there. There is
23 not hurry for them to leave. Over a ten-year
24 period of time, they will be redoing the
25 dorms, but they don't anticipate less space,

1
2 if anything, more.

3 So, there was no -- in the statement
4 that 100 students or 100 rooms have to be
5 vacated by Five Towns College is a falsehood,
6 according to what I was told when I spoke to
7 Farmingdale University directly.

8 MR. CHAIRMAN: Mr. Goldstein.

9 MR. GOLDSTEIN: Mr. Chairman, Members
10 of the Board and Mr. Matthews, you know you
11 have emphasized this a number of times that
12 this is not only a special exception, but it
13 is an educational use, and I will leave it to
14 Mr. Matthews. I will make a few brief
15 comments about that later, but Mr. Matthews,
16 I'm sure has or will explain the significance
17 of that to you as well as all of the members
18 of the Board that know the issues concerning
19 and the rights and significance of the special
20 exception or conditional use permit, and the
21 meaning of an educational use.

22 I do want to comment on a few items
23 and put some other documents in evidence in
24 rebuttal to those things which have been
25 stated. This is -- it is a difficult rebuttal

1
2 because it's kind of a catch-all. You had
3 this Mr. Baden that testified as a chemical
4 engineer and environmentalist as a traffic
5 expert and various other capacities, a
6 mathematician doing all these various areas of
7 expertise, but one fact remains, he was not
8 qualified as an expert in any of them.

9 The first thing I want to make -- the
10 comment I want to make is to put in the
11 evidence concerning the dormitories, which is
12 really a really -- there is no polite way to
13 put it other than a bogus issue. This permit
14 and your grant will be for fifty-two people,
15 people occupying that facility. Now, they
16 have been in there since the year 2000. They
17 have never abused that and never exceeded
18 that.

19 With respect to the mailboxes, they
20 come up with this testimony that there is
21 seventy mailboxes. Well, I said to my client,
22 why were there seventy mailboxes, and there is
23 always a reason that you think you are smart
24 as a lawyer, and you never know. I found out
25 and what happens is that they sell the

1
2 mailboxes in units of -- it comes out to be
3 fifty-eight or five times six. I don't have
4 Mr. Baden's qualifications, but five times six
5 is thirty and there are two banks of those.
6 So, two of them, the boxes are for the use of
7 keys or whatever. This is a picture of the
8 mailboxes. So, that's how they ordered it.
9 They have fifty-eight mailboxes. Four of them
10 are not used and two of them are used for the
11 ancillary use when you have a key or you pick
12 up the mail.

13 I would like to put this in Evidence.

14 MR. CHAIRMAN: Why don't we mark that
15 in together. You have a draft, and what is
16 the other document?

17 MR. GOLDSTEIN: I have -- they're all
18 photographs.

19 MR. CHAIRMAN: You have other
20 photographs.

21 MR. GOLDSTEIN: It's all photographs.

22 MR. CHAIRMAN: We'll put in a single
23 photograph in evidence as Exhibit Number 88.

24 MR. SLINGO: So, there are sixty
25 mailboxes not seventy?

1
2 MR. GOLDSTEIN: Fifty-eight. It's
3 sixty, but I guess -- yes, whatever it is.

4 Now, the next item I would like to
5 address is Mr. Elder made a comment -- the
6 next thing I would like to talk about is one
7 of the -- someone testified about coming off
8 of the Long Island Expressway. Now, we have a
9 letter from -- you can have all of the traffic
10 studies in the world that you want, but the
11 Department of Transportation refuses to allow
12 the access from the Expressway.

13 I would like to put this letter dated
14 July 23rd into Evidence from the Department of
15 Transportation where they feel -- and, I'm not
16 the judge of that. I couldn't have been and
17 even Mr. RMS, the expert can't say the
18 Department of Transportation -- we think it
19 would be a good idea. They don't like it and
20 they're worse than the Zoning Board to try to
21 convince them. I would like to put this in
22 evidence, please.

23 MR. CHAIRMAN: We'll mark that Exhibit
24 Number 89.

25 MR. GOLDSTEIN: Now, the next thing

1
2 with Mr. Elder. Mr. Elder made the statement
3 in his report that there was nothing from the
4 archeological New York State Office of Parks
5 and Recreation which I gather, and Historic
6 Preservation, which is the area of
7 archeological. I don't know why Mr. Elder
8 didn't see this in the record, but it was part
9 of the record.

10 I would put this into evidence as the
11 next exhibit. It's the letter from the
12 Department of Parks & Recreation saying that
13 there is no archeological significance.

14 MR. CHAIRMAN: Mr. Goldstein, your
15 point is you are calling that to our
16 attention, but the point is, it's already part
17 of the DEIS.

18 MR. GOLDSTEIN: Yes, but his testimony
19 is that there was no such thing.

20 MR. CHAIRMAN: We'll mark it in,
21 again. It's already in Evidence as part of
22 another exhibit, we'll mark it Exhibit Number
23 90 in Evidence.

24 MS. GAUGHRAN: My note says his
25 comment said New York State Parks & Recreation

1
2 and Historical Preservation felt that the
3 property was archaeologically sensitive, not
4 that there was no report.

5 MR. GOLDSTEIN: There is a report on
6 it. The report controverts that.

7 The next item I would like to put in
8 Evidence, with your permission is the
9 testimony with respect to -- Mr. Elder made
10 the statement that he made the calculations,
11 presumably for the Suffolk County Department
12 of Health, and when he testified, I was really
13 kind of shocked, and you can't object, as you
14 know. He said that he called someone in the
15 Department of Health, the Health Department,
16 to find out what their requirements were, and
17 it seems to me that the requirements probably
18 overlapped, without my knowing anything about
19 it, but it seems that we didn't need the
20 component satisfied for each one.

21 If you had a kitchen and dormitory and
22 somehow they probably figured this in the
23 overall figure, and they didn't isolate it
24 out. So, I asked Nelson & Pope to confer with
25 the Health Department and they, indeed did --

1
2 and, I'm sorry, this document is in Evidence,
3 I believe it's document number 63 so I can
4 refer to that. I think it was 63, if I'm not
5 mistaken.

6 It's a letter from Nelson & Pope, but
7 that's the letter I intended to refer to.

8 MR. CHAIRMAN: We'll put it in.

9 MR. GOLDSTEIN: It's the same letter.

10 So, what they stated there is, indeed, the
11 calculation was correct as they made it, but
12 the best proof in the world is that they
13 issued the permit. That permit was issued by
14 that. That permit has never been revoked by
15 them, and if I made some comments about the
16 Department of Transportation and Zoning Board,
17 the Department of Health is pretty damn
18 stringent as to observing their regulations,
19 and those of you that had experiences in
20 dealing with them either as lawyers or
21 builders, you know that they know what is
22 going on with respect to that issue of sewage
23 generation.

24 Now, they come up with these phantom
25 numbers of projecting out and extrapolation

1
2 and fantasies of what might be. My mother had
3 two expressions, one is, if my grandmother had
4 something and she met my grandfather, but the
5 cleaned up version of that is, if my
6 grandmother had wheels, she would be a trolley
7 car, and that's what this reminds me of.
8 There is nothing.

9 You asked me something about a
10 specific plan for a library. No such plan for
11 a library exists. No such plan whatsoever.
12 So, how do you, for the world of me, it's very
13 tough to refute something that someone casts a
14 specter out of what might be.

15 There is no testimony that we're going
16 to put a 7-Eleven or a -- I guess these things
17 are bad. For my own choice, I would like to
18 see them in this residential area, but they
19 haven't put proof of a 7-Eleven or CVS or
20 whatever. That's not what we're talking
21 about. That never came in to play.

22 Now, when -- in order to corroborate
23 the information from the Health Department, I
24 specifically asked that we ascertain -- and,
25 you all know that the way the Health

1
2 Department calculates these numbers -- excuse
3 me -- the effect on the soil is that they
4 figure out there is a certain water usage, and
5 water generation and blah, blah, blah, and
6 they figure all that out, and they have a
7 calculation, and I think the number is
8 something like 20,163 gallons or whatever it
9 is. They have it all figured out.

10 If you figure out what we're allowed
11 and what the calculations of what we're
12 allowed to generate, it would be about seven
13 million gallons a year. Seven million gallons
14 a year. In fact, that is the way their
15 calculation is predicated. In fact, the
16 consumption of the Five Towns College from the
17 Dix Hills Water District is two million.
18 One-third of what the allowable generation
19 would be. So, there is some sense, a lot of
20 sense to what the Health Department concluded
21 makes sense, because that is actually what
22 happened, because there isn't this duplication
23 of use, and they assume, if you have a
24 college, you have people attending there.
25 They assume there is theater or they know what

1
2 goes on in a college.

3 The people that do these numbers know
4 that the college doesn't just mean people
5 going to school and going home. That there is
6 not a show or gym or locker room, it's all
7 figured in.

8 With your permission, I would like to
9 put in a letter from the Dix Hills Water
10 District showing the actual generation of
11 water on a yearly basis.

12 MR. CHAIRMAN: Mr. Goldstein, we'll
13 mark that Exhibit Number 91 in Evidence.

14 MR. GOLDSTEIN: Now, in Mr. Elder's
15 report, Mr. Ethan Elder's report, he said he--
16 he criticized the report because it compared
17 the conditionally permitted use to the
18 permitted use. That is the specific statement
19 in his report. What right did they have --
20 why are they comparing it to a specifically
21 permitted use? A very, very good reason. The
22 Appellate Division of the Court and the Court
23 of Appeals has said that that is the way to
24 make the assessment.

25 What can you do as a matter of right

1
2 and what can you do with respect to the
3 conditional use permit? If the things that
4 you can do as a matter of right are even less
5 stringent or more stringent, possibly, and you
6 compare that to what you can do this way, and
7 this winds up to be a better use, certainly
8 that is a factor that you can do as a matter
9 of right. As a matter of right, you can put
10 up the same building exactly as they are. You
11 can put whatever you want in there including a
12 library, if you wanted to, and you can put
13 classrooms in there and they can occupy those
14 buildings and I remind you again, as I did
15 before, this plan and indeed this environmental
16 assessment form, this whole process, and I did
17 voice my disagreement with your attorney's
18 conclusion of this, that we had to go this
19 route, but he said we did. Notwithstanding
20 and having gone that route, there is still a
21 judicatory effect of a site plan approval and
22 SEQRA review by the Planning Board.

23 You know, we all disagree and you said
24 that you had the prerogative to review it, and
25 the Appellate Division viewed in your favor.

1
2 But, with respect to the SEQRA review, this
3 site plan was reviewed for all purposes. For
4 all purposes by the Planning Board, and was
5 found to be satisfactory.

6 MR. MATTHEWS: But, this Board can
7 impose additional conditions.

8 MR. GOLDSTEIN: I would agree with
9 that including the conditions that I think you
10 can impose, and I thank you for suggesting
11 that. There is certainly conditions that you
12 can impose, for example, I would expect that
13 you would limit the capacity of fifty-two
14 people and you have sense enough, I have no
15 doubt about it, to say, fifty-two people
16 including the R.A. or R.A. and if there is a
17 married person, including -- I mean, it's
18 implicit you would say that. I agree with
19 that as a condition.

20 I also suggest to you, if I were you,
21 I call it, try to call it as I see it. I
22 would think you would probably want to say
23 that all parking has to be on the college
24 campus. So that, I mean, there are other ways
25 of controlling the Burr Road situation, put up

1 no parking signs, but the neighbors might not
2 want that. But, one of the conditions
3 appropriate would be all parking on the
4 campus, and we certainly are prepared to live
5 with that, and as I told you, we're prepared
6 to live with this agreement that they will not
7 have any expansion of any kind for a five-year
8 period.
9

10 Now, there is only one statement in
11 both hearings that I will acknowledge to you
12 has some merit. I think it's irrelevant, and
13 I think we can get around it in any number of
14 ways. There is one statement, and that is
15 with respect to the elevator. The elevator is
16 shown in two of the buildings. It was going
17 to be shown in the other two buildings, but
18 they were threatened by the civic association
19 that they want to restart the process all over
20 again. So, the elevators consumed an area of
21 eight by nine. I think that is a de minimis
22 addition, and I think, I would request any
23 granting you give, allow them to install nine
24 by ten elevator shafts, not to intrude on
25 anybody.

1
2 MS. GAUGHRAN: In order for them to
3 get a C.O., they would have to have an
4 elevator to meet the ADA.

5 MR. GOLDSTEIN: They don't need that
6 for the C.O.

7 MS. GAUGHRAN: They need for the
8 American Disabilities Act.

9 MR. GOLDSTEIN: I found out that as
10 far as the Building Department is concerned,
11 they issue the C.O., but then you will be in
12 violation of the ADA. So, I mean, I don't
13 know if you would need it for the C.O. As a
14 matter of fact, Mr. Haft submitted, I think
15 Exhibit Number 59 in Evidence, says that Mr.
16 Haft reviewed all of the plans and he knows
17 what he is doing, and he told me and I
18 actually checked it out, that the Building
19 Department, they have no authority to withhold
20 it for the ADA, and unfortunately, it's not as
21 tabled. So, when you come in with a permit,
22 if they know it, I guess they will call it to
23 your attention, but it's not his job to call
24 that kind of a thing to the applicant's
25 attention. But, the applicant must comply

1 with the ADA.

2
3 MS. GAUGHRAN: These buildings were to
4 be built or completed with elevators to comply
5 with the ADA.

6 MR. GOLDSTEIN: That's correct, and
7 what I'm suggesting is that could be another
8 condition that they put the elevators in the
9 other two buildings.

10 MR. MATTHEWS: But, are these elevators
11 a use question that the Zoning Board should be
12 concerned with?

13 MR. GOLDSTEIN: No, it's part of the--
14 no. If we get a plan, mr. Matthews, you know
15 better than I, what we're just concerned about
16 is when you -- I think it's appropriate to
17 condition it upon, since the people raised it.
18 I didn't want to see it ignored, and I prefer
19 you say it can be conditioned. We have to do
20 it anyway, and I think they should do it, and
21 that they do it, that's my feeling. I agree
22 with you. You probably are not required to
23 enforce the ADA requirements either.

24 MR. ROUSSILLON: It has nothing to do
25 with the special use permit.

1
2 MR. GOLDSTEIN: Except when a plan
3 gets approved.

4 MR. ROUSSILLON: We're concerned with
5 the five criteria for the special use permit
6 and the SEQRA and that's it.

7 MR. GOLDSTEIN: Except, I need your
8 approval for the -- I need your approval. I
9 don't want to have to come back to put the
10 elevator shaft in. I don't need another two
11 nights like this.

12 So, you see my point, I would like to
13 avoid having to come back for the nine by ten
14 elevator shaft. That's my point.

15 I think it's appropriate for you to do
16 it or leave it to the -- I guess we have to
17 amend the C.O., amend the site plan. We
18 probably have to go back to the Planning Board
19 for another site plan review. Whatever it is.
20 I would just suggest that you make note of it,
21 and I have no objection, I have no objection
22 to your conditioning it on them putting in the
23 elevator.

24 Now, we covered the student rooms and
25 the fact that they double up or whatever they

1 do. The fact is, they haven't had any more
2 than fifty-two people in these rooms, and now
3 you will have to believe, let's face it, we're
4 all realistic. We know this is not a silent
5 group in this civic association. You have to
6 believe that there were many, many calls to
7 find out any violations you could find. You
8 have to know that Code compliance was called.
9 You have to know that and this is not
10 speculation of what went on within a broad
11 precinct of Babylon. You have to know and
12 common sense will tell you that they must have
13 requested there be careful scrutiny as to this
14 fifty-two limit be adhered to and you have to
15 believe in the two-year period, if there were
16 a violation ever, you would have heard about
17 it, and they have not had one. Not one
18 violation from Code compliance with respect to
19 this facility. Not one.

21 Now, the law -- I'm not going to go
22 into the law. The law is pretty clear as to
23 what the criteria are for the special use
24 exception. It's presumptively consistent with
25 the residential area. The Dowling College

1
2 thing with the wet water and the sweeties
3 permit is totally irrelevant. It has nothing
4 to do with this. This is a permitted use.

5 The use of the college is a permitted
6 use. They can have college, they can have
7 dances, whatever they want to have in the
8 college. If they didn't have the dormitories,
9 they could have any of these things. So, it's
10 only as it relates to the dormitories that you
11 can have this testimony, and Mr. Modelewski,
12 if you had the power someday, if I ever had
13 the power to amend the Legislature, I would
14 give the Chairman the power to rule on
15 objections of relevancy, and probative value,
16 and you would cut down your hearings, and you
17 would have a decent job. You wouldn't be here
18 until 11:00 on all these nights. You would
19 streamline this hearing considerably, believe
20 me.

21 So, the proof is here. I respectfully
22 state to you that the proof has been made.
23 This is a conditionally permitted use, and
24 it's presumptively allowed. Substantial
25 evidence in this record warrants the granting

1
2 of this permit, the environmental assessment
3 form was more than adequate, and I don't say
4 that the lay witness can't make an
5 observation, but it seems to me that you have
6 to have some minimum level, some very low
7 barrier of having some expert testimony to
8 refute expert testimony.

9 I forget the expression but -- I hope
10 I remember. I remember in law school they
11 said, bats, presumption of like bats that
12 disappear in the light of day, and in the
13 light of day these arguments are so
14 speculative that they are not worth all of the
15 time that we have had to spend, and I
16 respectfully request that this application be
17 granted.

18 I presume that you will afford us time
19 to submit memorandums or whatever, and
20 whatever the process you want to work out with
21 that or I can work it out with Mr. Matthews.

22 MR. CHAIRMAN: Let's talk about that
23 on the record because Mr. Jurman said he
24 wanted to put comments in. But, I was talking
25 with him at that point just with respect to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the public comment; right?

What are you suggesting is that I think, Mr. Jurman, why don't you pop up, too. Is it that you want to make legal arguments? Correct?

MR. GOLDSTEIN: I don't mind him fleshing it out and my fleshing it out.

MR. CHAIRMAN: Why don't we do this: Two weeks for you, and this is legal memorandum only. The record is closed with respect to proof. No proof. No exhibits. Just legal arguments.

How about two weeks for you?

Mr. Jurman, how much do you need in order to respond?

MR. GOLDSTEIN: How are we going to respond? We have the comments on the SEQRA?

MR. ROUSSILLON: We're not talking about the SEQRA. This is just special legal memorandum, should you wish to submit it.

MR. GOLDSTEIN: On the special use aspect of it --

MR. CHAIRMAN: Mr. Goldstein, do you need the transcript, the entire transcript of

1
2 these proceedings in order to prepare your
3 memorandum?

4 MR. GOLDSTEIN: No.

5 MR. CHAIRMAN: How about you, mr.
6 Jurman?

7 MR. JURMAN: No.

8 MR. CHAIRMAN: What do you need in
9 time?

10 MR. GOLDSTEIN: I did agree, so my
11 client knows, because someone, Mrs. Lawrence
12 was not here for one of the hearings. I did
13 agree to pay for the transcript.

14 MR. CHAIRMAN: She'll read the
15 transcript so she can vote, but --

16 MR. GOLDSTEIN: I don't need the
17 transcript for the special use memorandum.

18 MR. CHAIRMAN: With respect to the
19 briefing schedule, two weeks for yourself,
20 and, Mr. Jurman, how much do you want to
21 respond to Mr. Goldstein?

22 MR. JURMAN: The same thing.

23 MR. CHAIRMAN: Do you want to reply to
24 his papers? Do you want that right? I mean,
25 at some point in time, we have to cut it off.

1
2 You realize that.

3 MR. GOLDSTEIN: That's fine, I will
4 submit mine and two weeks fine, and then give
5 me a week. What do you suggest?

6 MR. CHAIRMAN: Two weeks for you in
7 the first instance.

8 How much do you want after that,
9 Mr. Jurman?

10 MR. JURMAN: Two weeks.

11 MR. CHAIRMAN: Two weeks for Mr. Jurman
12 after he seems your memorandum.

13 Do you want to put in -- we don't want
14 to get into, sur, sur, sur, sur-reply. You
15 want to put in anything after you see Mr.
16 Jurman's memorandum?

17 MR. GOLDSTEIN: Yes, if you would give
18 me a week.

19 MR. CHAIRMAN: How about that, we have
20 a five-week briefing schedule.

21 Counsel, just for the record, the
22 State Environmental Quality Review Act
23 requires us to leave the public comment open
24 for ten days. So, a point of fact, there can
25 be additional submissions with respect to that

1
2 one issue. Not with respect to the special
3 use permit, but with respect to SEQRA.

4 Having said that, if anybody wants to
5 put in anything at all in writing with respect
6 to the State Environmental Quality Review Act
7 and sufficiency of the DEIS, you may do so in
8 writing to the Zoning Board of Appeals. But,
9 that's separate and apart from the briefing
10 schedule that we worked on.

11 MR. MATTHEWS: And, one other thing.
12 Mr. Goldstein, we need your consent to extend
13 the Board's time to make a decision, the 62
14 days starts from the time the briefs are
15 finally filed, so we can begin our review
16 after that.

17 MR. GOLDSTEIN: So consent. The client
18 is here, and on their behalf, in his presence,
19 I so consent.

20 MR. CHAIRMAN: All right. Anything
21 else, gentlemen?

22 MR. GOLDSTEIN: No, I will get the
23 exhibits tomorrow.

24 MR. CHAIRMAN: Hearing closed.

25 MR. MC TAY: Before you close the

1 meeting, in order to prepare the final impact
2 statement, we need the minutes, and Mr.
3 Goldstein and his client is going to pay for
4 the minutes. We agreed to that, so as soon as
5 we can get that, we can start preparing the
6 document.
7

8 MR. CHAIRMAN: You understand that,
9 Mr. Goldstein?

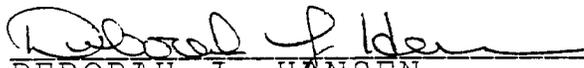
10 MR. GOLDSTEIN: Yes. Thank you,
11 Mr. McTay.

12 (Whereupon, the meeting was
13 concluded.)

14 * * *

15 CERTIFICATION

16 I, DEBORAH J. HANSEN, Official Court
17 Stenographer, do hereby certify that the above is
18 a true and accurate transcription of my
19 stenographic notes taken this date.
20

21 
22 DEBORAH J. HANSEN
23
24
25

APPENDIX D
CORRESPONDENCE





NELSON & POPE
ENGINEERS & SURVEYORS

VICTOR BERT, P.E. • ROBERT G. NELSON, P.E., L.S. • ARTHUR J. KOERBER, P.E.
ROBERT G. NELSON JR., P.E. • JOSEPH R. EPIFANIA, P.E.
PAUL M. RACZ, P.L.S. • THOMAS F. LEMBO, P.E.

August 18, 2003

Mr. Doug Feldman
Suffolk County Department of Health Services
Bureau of Wastewater Management
Suffolk County Center
Riverhead, New York 11901

Re: Five Towns College
SCDHS Ref # C04-99-15
N&P Job No. 91170

Dear Mr. Feldman:

This letter is a follow up to our discussion on Wednesday, July 30, 2003 with regard to the sanitary disposal issues for the above referenced project.

As I explained to you previously, the issue of counting the kitchen design waste of 2.5 gallons per day per capita for the cafeteria usage at the College is in question.

You indicated that when calculating the population density equivalent for a project, only the sanitary waste is considered. This population density will be utilized to determine the maximum amount of sanitary discharge that will be allowed for a given parcel of land, and that kitchen waste is not considered within this calculation. This calculation is performed to determine the nitrogen loading a given parcel will have. As nitrogen is a byproduct of human waste, and not kitchen wash water, the sanitary design flow rates are the only rates applied.

Therefore, if the sanitary calculations for Five Towns College counted 75 gallons per day per dorm room capita and 5 gallons per day per capita for the remaining students and faculty, this would be correct for use in calculating the population density equivalent for this project. As you indicated, the only time the 2.5 gallons per day per student for cafeteria use would be applied is if we were, in fact, designing a waste disposal system for the kitchen.

As I noted to you, the population density equivalent was indicated on and approved by the Health Department as part of the submission for the new sanitary disposal system for the dormitory buildings.

Thank you for your time in clarifying this issue.

Very truly yours,

NELSON & POPE,
ENGINEERS & SURVEYORS

James C. Milliken

JCM/sr
cc: Arthur Goldstein



TOWN OF HUNTINGTON

Frank P. Petrone, Supervisor



Dix Hills Water District

July 30, 2003

David Cohen
Five Towns College
305 No. Service Road
Dix Hills, NY 11746

Dear Mr. Cohen:

As per our conversation the following is the water consumption information you requested on your Dix Hills Water District accounts. I have also enclosed their billing histories for further inspection.

Campus account - #152206

The consumption was taken from the meter readings encompassing the calendar dates 1/30/02 to 1/24/03. The total consumption for that period was 935,000 gallons.

Dorm account on Burrs Lane - #876706

The consumption was taken from the meter readings encompassing the calendar dates 1/18/02 to 2/4/03. The total usage for that period was 674,000 gallons.

Dorm account on the Half Hollow Road side - #876806

The consumption was taken from the meter readings encompassing the calendar dates of 1/18/02 to 2/4/03. The total usage for that period was 308,000 gallons.

The totals for this year to date are as follows:

Account #152206 - from 1/24/03 to 7/29/03 - total usage 497,000 gallons

Account #876706 - from 2/4/03 to 7/29/03 - total usage is 500,000 gallons

Account #876806 - from 2/4/03 to 7/29/03 - total usage is 105,000 gallons

I hope this information meets your needs. If you have any other questions or need further information please do not hesitate to call the office.

Sincerely,

THE DIX HILLS WATER DISTRICT



TOWN OF HUNTINGTON
DEPARTMENT OF ENGINEERING SERVICES
DIVISION OF BUILDING & HOUSING
Interoffice Memorandum

To: Richard Machtay, Director of Planning & Environmental

From: Gerard Haff, Building Permit Coordinator



Date: September 17, 2003

Re: ZBA #17318

Five Towns College

Premises.....Burrs lane, Dix Hills
SCTM #.....0400-261-03-001.002
Zoning.....R 40

Subject: Inspection of Buildings 1,2 3 & 4

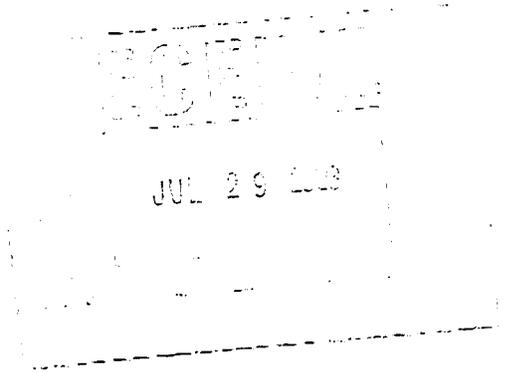
Buildings #1 and #2 have received certificates of occupancies, # 0130578 and 0130623 respectfully. All inspections were performed by the building inspector and approved. Therefore, the buildings conform to the plans submitted and approved by this department for size, height shape and layout.

Buildings #3 and #4 have not been completed to date. Foundation inspections were performed and approved on Buildings #3 and #4. The foundation for building #3 was approved on October 16, 2001 and building #4 was approved on March 7, 2002. Therefore, the size and shape of the foundations conform to the plans submitted and approved by this department.

If you have any questions regarding the information provided please contact me at 351-3131.



State of New York
Department of Transportation
State Office Building
250 Veterans Memorial Highway
Hauppauge, NY 11788-5518



Subimal Chakraborti, P.E.
Regional Director

Joseph H. Boardman
Commissioner

July 23, 2003

Mr. Wayne A. Muller, P.E.
RMS Engineering
355 New York Avenue
Huntington, NY 11743

Our July 21, 2003 Meeting
Five Towns College
Long Island Expressway (I-495 North Service Road
Dix Hills

Dear Mr Muller :

On Monday July 21, 2003 at the NYS Office Building, a meeting was held in Traffic & Safety conference room to discuss the subject project. The following is a list of attendance.

Mr. Wayne Muller, RMS
Mr. Shaik Saad, NYSDOT - Traffic & Safety
Mr. George Beierling, NYSDOT - Planning
Ms. Karen Taylor, NYSDOT - Traffic & Safety

The meeting was held to discuss the proposal of access to the Five Towns College via the North Service Road of the Long Island Expressway. Currently the College has access by the local street Burrs Lane. The proposal is to eliminate the entrance and exit from the local street and provide access off the LIE north service road.

At this time, the NYSDOT will not allow access to the Five Towns College via the North Service Road of the Long Island Expressway. Maintaining the access via Burrs Lane will reduce the amount of circulating traffic on adjacent roads including the Long Island Expressway.

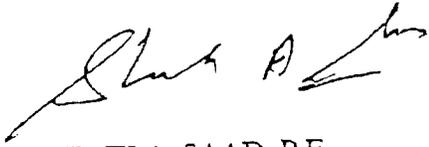
The meeting adjourned at 11:00 AM.

Review of this case is being coordinated by Ms. Karen Taylor. She can be contacted at (631) 952-6014 if you have any questions regarding this matter. Please send all correspondence to her attention.

Mr. Wayne A. Muller, P.E.
July 23, 2003
Page 2

Thank you for your cooperation concerning this matter.

Very truly yours,



SHAIK A. SAAD, P.E.
Civil Engineer III
Traffic Engineering and Safety

cc: Mr. William Naughton, Superintendent of Highways, Town of Huntington
Mr. Richard Machtay, Director of Planning and Development, Town of Huntington
Mr. Peter Walpensinger, Department of Engineering Services, Town of Huntington

Archeology

MAY-01-2000 09:23 FROM PLANNING DEPT.

942191ZZ P.01



New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peoples Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

Bernadette Casio
Commissioner

April 20, 2000

Charls Bolton, AICP
Town of Huntington Planning Board
100 Main Street
Huntington, New York 11743-6991

Dear Ms. Bolton:

Re: SEORA
Proposed Development/Half Hollow Road/Burns
Lane/Dix Hills
Huntington, Suffolk County
99PR3770

The Office of Parks, Recreation and Historic Preservation (OPRHP) has reviewed the information submitted for this project. Our review has been in accordance with Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law and relevant implementing regulations.

Based on the additional information submitted, the OPRHP has determined that no further archeological testing is needed for the project. However, we cannot accept the material as submitted. The OPRHP will need a bound Addendum Phase IB report. Also, the photographs should be keyed on the site map in such a way that they are readily distinguished from shovel test locations (use of something other than an arrow for both tests and photos).

It is the opinion of the OPRHP that the project will have No Impact on historic properties in or eligible for inclusion in the State and National Registers of Historic Places with the condition that we receive the bound copy of the report.

If you have any questions, please contact Cynthia Blakemore at (518) 237-8643, extension 3288.

Sincerely,

Ruth L. Pierpont

Ruth L. Pierpont
Director

RLP:bsd

cc: Ray Ladd

RECEIVED

APR 26 2000

TOWN OF HUNTINGTON
DEPARTMENT OF PLANNING
AND ZONING

To: Arthur Goldstein

Per form. 5-1-00

421-9822

Z.B.A. # 1738

EX #90

An Equal Opportunity/Affirmative Action Agency
Printed on recycled paper



NELSON, POPE & VOORHIS, LLC
ENVIRONMENTAL • PLANNING • CONSULTING

CHARLES J. VOORHIS, CEP, AICP • ARTHUR J. KOERBER, P.E. • VICTOR BERT, P.E.
JOSEPH R. EPIFANIA, P.E. • ROBERT G. NELSON, JR., P.E.
PAUL M. RACZ, P.L.S. • THOMAS F. LEMBO, P.E.

February 25, 2004

Doug Mackey
New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island
PO Box 189
Waterford, NY 12188-0188

**Re: Five Towns College FEIS
NPV #91170
99PR3770**

Dear Mr. Mackey:

Regarding our conversations of February 23, 2004 concerning correspondence from your office to the Town of Huntington Planning Board, which noted that the proposed project would have no impact on cultural resources. The letter stipulated that a bound copy of the Addendum Phase IB Cultural Resources Assessment (CRA) be forwarded to your office and that changes should be made to the way in which photographs and shovel test locations were depicted on a site map used in another section of the CRA Phase IA report. Please note that we did not prepare this report and the company that did does not exist anymore. In our February 2004 conversation, you pointed out that a bound copy of the Phase IB CRA would be sufficient to satisfy OPRHP needs. To that end, please find enclosed a bound copy of the Phase IB CRA. We, therefore, respectfully request that your office provide a new confirmation that the proposed project will not impact cultural resources.

Please do not hesitate to call if you have any questions regarding this correspondence. Thank you.

Sincerely,

NELSON, POPE & VOORHIS, LLC

A handwritten signature in black ink, appearing to read 'Marissa Da Breo'.

Marissa Da Breo
Environmental Analyst

enc.: Phase IB Report

APPENDIX E

**RESPONSE TO STAFF COMMENTS ON THE DRAFT
ENVIRONMENTAL IMPACT STATEMENT**

Five Towns College

NP&V, LLC

July 2003



**RESPONSE TO STAFF COMMENTS ON THE
DRAFT
ENVIRONMENTAL IMPACT STATEMENT**

**FIVE TOWNS COLLEGE
LIVING/LEARNING CENTER**

Special Use Permit Application #17318

**305 North Service Road
Dix Hills, Town of Huntington
Suffolk County, New York**

SCTM # 400-261-3-1.2

NP&V Project No. 91170

July 2003

**Response to Staff Comments on the
Draft Environmental Impact Statement**

**FIVE TOWNS COLLEGE
LIVING/LEARNING CENTER
Special Use Permit Application #17318**

**305 North Service Road, Dix Hills
Town of Huntington, New York**

SCTM #400-261-3-1.2

Prepared for:

Five Towns College
305 North Service Road/LIE Exit 50
Dix Hills, NY 11746
(631) 424-7000
Contact: David Cohen, Dean of Administration

Lead Agency:

Town of Huntington, Zoning Board of Appeals
c/o Department of Planning and Environment
Town Hall, 100 Main Street
Huntington, NY 11743
(631) 351-3196
Contact: Richard Machtay, Director of Planning

Prepared by:

Goldstein, Rubinton, Goldstein &
DiFazio PC
18 West Carver Street
Huntington, NY 11743
(631) 421-9051
Contact: Arthur Goldstein, Esq.

Nelson, Pope & Voorhis, LLC
Nelson and Pope, LLP
572 Walt Whitman Road
Melville, NY 11747
(631) 427-5665
Contact: Charles J. Voorhis, CEP, AICP

Copyright © 2003 by Nelson, Pope & Voorhis, LLC



NELSON, POPE & VOORHIS, LLC
ENVIRONMENTAL • PLANNING • CONSULTING

TABLE OF CONTENTS

	<u>Page</u>
COVER SHEET	i
TABLE OF CONTENTS	ii
INTRODUCTION	1
RESPONSES TO DEPARTMENT OF PLANNING AND ENVIRONMENT COMMENTS	2
 APPENDICES:	
A	Acceptance of DEIS, Town ZBA, March 18, 2003
B	Huntington Town Department of Planning and Environment Staff Report, January 20, 2003
C	Updated DEIS Figures
D	(Approved) Parking Expansion Alignment Plan, Nelson and Pope, LLP, revised 10/19/99
E	As-Built South Parking Field, Nelson and Pope, LLP, 4/1/02
F	Approved Plans, Nelson and Pope, LLP, stamped May 24, 2000 Overall Site Plan (revised 1/3/00) Grading and Drainage Plan (revised 10/19/99) Alignment Plan (revised 10/19/99)
G	Grading and Drainage Plan, Nelson and Pope, LLP, revised 2/8/02
H	(Approved) Landscape Plan, Nelson and Pope, LLP, revised 8/24/99



INTRODUCTION

This document is a Response to comments provided by the Town Department of Environment and Planning staff on the Draft Environmental Impact Statement (DEIS) for the Five Towns College (FTC) Special Use Permit application. The DEIS was submitted to the lead agency, the Town Zoning Board of Appeals (ZBA), in January 2003, and was accepted as complete for public review on March 14, 2003 (see **Appendix A**). The public hearing on the DEIS and application will be held on July 24, 2003. This document has been prepared and submitted at this point in the review process to provide the ZBA with the additional information and clarifications determined by the Town as necessary and appropriate for its consideration regarding the characteristics of the proposed project and its potential impacts. In this way, the applicant is being proactive, by enabling the ZBA to have all pertinent information at-hand prior to the public hearing, so that the Board can reach an informed decision on the application. This information will be incorporated into the Final EIS, together with the responses to substantive comments on the DEIS received by the ZBA during the public hearing of July 24, 2003 and subsequent comment period.

Five Towns College is an institution of higher education located on the east side of Burrs Lane, north of the LIE North Service Road and south of Half Hollow Road, in Dix Hills, Town of Huntington. The Five Towns College property is a roughly rectangular 33.60-acre site. Adjacent to the eastern border of the property are the rear lot lines of eight homesites along Lone Hill Place and Broadoak Lane. The site is zoned by the Town of Huntington as R-40 (Residence), in which detached, single-family dwellings are the primary use permitted. However, the present institutional use is also allowed as-of-right. As a result, no zoning change is required for the proposed action. There are a number of differing land uses that are complementary to that of the college represented in the vicinity, though the dominant land use is residential in nature. The proposed project will increase the amount of building area on the campus, by adding four dormitory buildings (designated the "Living/Learning Center"), which will enable the residency of 208 individuals.

Plans for the project were reviewed and approved by the Town; insofar as construction has proceeded, these Approved Plans (stamped May 24, 2000) depict the project as it has been built. At present, the first two of these dormitories have been completed and are currently occupied, while the remaining two are in different stages of construction. As discussed in detail in the DEIS, though the Town Planning Board has reviewed the project and had issued a Negative Declaration and a Site Plan approval, the project now requires a Special Permit. The ZBA is empowered by Town Code Section 198-68(A)(12) to issue the special use permit.



RESPONSES TO DEPARTMENT OF PLANNING AND ENVIRONMENT COMMENTS

The applicant, Five Towns College, submitted the DEIS to the Town Department of Planning and Environment on January 21, 2003. The comments italicized below were noted in a staff memo dated January 30, 2003 (see **Appendix B**), and received by the applicant's environmental consultant on April 4, 2003. Each comment is listed below, followed by the applicant's response.

- 1. The document should specify the Suffolk County Tax Map number of the subject property on its cover, which is District 0400, Section 261, Block 03, Lot 001.2.*

The Suffolk County Tax Map number for the subject property (District 400; Section 261; Block 3; Lot 1.2) has been included on the cover and the cover sheet of this document, and will be included on the cover and cover sheet of the Final EIS, when it is prepared.

- 2. The DEIS included an aerial photograph of the subject property that is dated 1999. This 1999 aerial photo depicts the subject site prior to any development of the four proposed dormitory buildings and prior to any proposed changes to the parking field for said buildings. A more recent aerial photo (dated April 2001) of the subject property on file in the Planning and Environment Department office reveals the approximate volume of clearing necessary to construct the four dorm buildings (as two of those buildings are already shown on the photo) and that the southern-most gravel lot south of that which is depicted on the May 24, 2000 Planning Board approved plans has already been installed. The DEIS should be revised such that a current aerial photograph is included (even more recent than the April 2001 aerial photo) to depict current site conditions. Said photo should label the area of disturbance where the buildings are (or will be) located and where the parking lot is (or will be) expanded.*

The above-noted aerial photograph was obtained from the Town of Huntington Department of Planning and Environment, and was used to revise Figures 1-2, 1-3 and 2-2 of the DEIS (copies of these revised figures are contained in **Appendix C** of this document). The figures now depict the area of disturbance and overall site conditions as of April 2001. It should be noted that this photograph was taken approximately one year before construction was halted. As a result, the photograph and the above-noted figures do not fully reflect current (July 2003) site conditions.

At present and as described in the DEIS, there are four structures at varying stages of completion in the development area, of which the southerly two are completed and in use; landscaping along these two completed structures is in place as well. The current parking area conditions, however, are accurately reflected by the April 2001 photograph.

3. *Correct the area outlined as the Living/Learning Center on Figures 1-2 and 1-3 (pages 1-15 and 1-16) of the document to accurately reflect that noted in #2 above.*

See Response to Comment #2, above; as shown in **Appendix C**, the area cleared for the proposed project is included in the revised figures.

4. *The parking counts as indicated on pages S-4 (last paragraph), S-5 (first paragraph), and 1-21 (first paragraph) of the DEIS do not reflect that which was approved by the Planning Board on May 24, 2000. The April 2001 aerial photo of the subject property on file in the Planning and Environment Department office also reveals that the southern-most gravel lot south of that approved by the Planning Board has already been installed. The text of the DEIS should clarify the parking counts as approved by way of the May 24, 2000 Planning Board approved plans and the site's current parking counts as shown via a current aerial photograph as identified in #2 above. Any inconsistencies between that which was approved by the Planning Board and that which has been constructed on-site (to include asphalt paved parking and gravel lots) should be made crystal clear in the text of the document.*

Section 1.3.9 of the DEIS (Parking) addressed the issue of parking on the FTC site; this material appeared on page 1-21 of the document, and was also presented on pages S-4 and 5. That text has been revised to reflect the parking counts required in the **(Approved) Parking Expansion Alignment Plan** (stamped May 24, 2000; see **Appendix D**), as follows:

Parking on the FTC campus is available primarily in one parking lot, located south of the classroom building. This lot is accessed through the two driveways off Burrs Lane. Prior to the onset of construction, this lot was divided into paved and unpaved sections, and provided 198 paved spaces and 166 unpaved spaces (364 total). When construction began and in conformance with the Approved Plans, a small 9-space parking strip was installed adjacent to the dormitory structures, and the gravel section was paved. However, at this time a new gravel parking area was installed abutting the southerly edge of the recently-paved section, resulting in a capacity of 528 spaces (374 paved and 154 unpaved; see **Appendix D**). The southerly portion of the lot (the new gravel surface) was added by the applicant as an emergency overflow lot and was not submitted to the Town for approval. In total, therefore, there are presently 537 parking spaces on the FTC campus. **Table 1-1** [revised to reflect this comment and presented in Response to Comment #10 below] indicates that, as two of the dormitories are incomplete and unoccupied, the minimum number of parking spaces required by the Town is 260; when construction is complete and these two buildings are occupied, the parking requirement will be increased to 330 spaces. The site currently contains sufficient spaces to satisfy both parking requirements.

5. *Although essentially the same in layout configuration, grade, and design, the plans submitted with the DEIS are not the same plans that were approved by the Planning Board on May 24, 2000. [The plans included with the DEIS have much later revision dates than the May 24, 2000 Planning Board approved plans. The DEIS plans also depicts a larger parking area (asphalt and gravel parking areas combined) than that shown on the Planning Board*

approved plans]. The last paragraph on page 1-20 of the document (under Comparison of Approved Plan) should be corrected to reflect this. [Also, see #2 above.]

For comparison purposes, **Appendix F** contains those sheets of the approved plans (stamped May 24, 2000) that correspond to the sheets contained in the DEIS.

Section 1.3.8 of the DEIS (Comparison to Approved Plan) has been revised to state as follows:

Construction of the project was generally conducted in conformance with the plans approved by the Town Planning Board, for which the Town Department of Engineering Services issued all appropriate building permits. However, FTC installed an emergency overflow parking area abutting the southerly border of the previously-gravel parking area (which had been paved as shown in the Approved Plan). There are no other differences between the proposed project and the approved Site Plans.

- 6. Of the plans included with the DEIS (i.e. the Overall Site Plan, Alignment Plan, Grading & Drainage Plan, and the Proposed Expressway Service Road Entrance Plan), the plans are inconsistent. One plan (i.e. the Grading & Drainage Plan) shows a future library and future courtyard while the other plans (i.e. the Overall Site Plan, Alignment Plan, and the Proposed Expressway Service Road Entrance Plan) do not. This should be corrected to reflect the overall development proposal.*

It should be noted that the Approved Plans uniformly show a “Future Library” and “Future Court Yard”. However, as stated in the DEIS:

...FTC has at present no plans for new buildings on its campus, although it has considered, for master planning purposes only, the possibility of a free-standing library at some point in the future. Such consideration was given only with respect to master site planning for the Living/Learning Center. There are no current plans to undertake a library improvement project.

As a result, the Grading and Drainage Plan has been revised; it no longer depicts the “Future Library” and “Future Court Yard”, see **Appendix G**.

- 7. The first full paragraph on page S-2 discusses something that is “a matter of right”. Please justify the “matter of right” issue of increasing the number of commuter students by 1,582 to yield a total commuter student population to 2,370. Does the terminology “matter of right” or “as of right” relate to what is permitted (without any variances, conditional or special use permits, or special exceptions) under the current zoning? Would such an alternative result in exceeding maximum building occupancy limits for fire fighting and/or result in increased fire safety concerns? Although the number of commuter students versus the number of resident students is explained in the document from a traffic generation and sanitary wastewater generation standpoint, please explain the number of commuter students versus the number of resident students relative to compliance with state (i.e. such as the state*

building code requirements) and town (i.e. such as town permits, town building permits, etc.) requirements.

Section 1.1.2 of the DEIS (Benefits of the Project), under the subheading, “Social Benefits” (also presented on page S-2), discusses this issue. That text has been revised as follows to further clarify the student population numbers:

The public in general and the adjacent community in particular will benefit in a number of ways from the proposed action. These include the incremental increase in educational opportunities, reduction in traffic-related impacts due to the reduction in traffic on area roadways (due to on-site housing) and increased capacity of on-site parking, employment opportunities, and ancillary services and cultural opportunities provided by a performing arts-oriented college.

It should be noted that under applicable sanitary code regulations, the entire FTC property is permitted to generate 20,160 gallons of sanitary wastewater per day (gpd). If FTC were to remain as presently configured (with 104 resident and 859 commuter students), it would have the sanitary system capacity to add 1,511 new commuter students and 20 additional faculty/staff (each generating 5 gpd of sanitary wastewater), raising its total commuter student population to 2,370. Under the current plan, FTC would almost completely eliminate this potential impact. Specifically, when the current construction program is completed (with 208 resident and 808 commuter students, and 102 faculty/staff), FTC will still have capacity for only an additional 2 commuter students.

It must be emphasized that, inasmuch as resident students generate significantly more sanitary wastewater than commuter students, FTC’s decision to institute on-campus housing means that the maximum allowable capacity of the wastewater system determines how many and what type of students can be accommodated at the College. Thus, the proposed project represents a significant reduction in potential impacts to the character of the community and its roadways, by significantly reducing the potential increase in the number of commuter students.

Based on the allowed occupancies for FTC’s auditorium (658 capita), gymnasium (1,190 capita) and classrooms (850± capita, total), 2,698 people may occupy the campus at any one time (no Town-imposed limits for occupancy have been discerned by FTC). This estimate does not include capacities for the library and lunchroom, which would tend to increase this estimate even further. Thus, the total number of people allowed on-campus is well in excess of the number anticipated as a result of the proposed project. Finally, it should be noted that, as all students are not on-campus at any one time, the actual number of people on the site would not approach, much less exceed, the maximum number allowed.

8. *The third paragraph on page S-2 indicates that landscaping (i.e. a Landscape Plan) has been included in the DEIS document. Review of the document reveals that no Landscape Plan was included.*

The approved Landscape Plan for the proposed project is included in **Appendix H** of this document.

9. *The last paragraph on page S-6 states that “Based upon the above discussion regarding the use of public bus routes 23 to the campus,...”, however, there is no prior discussion in the document regarding the use of public bus route 23 to the campus. This should be corrected in the document through adequate reference of another document section or appendix.*

The sentence on page S-6 has been revised to state as follows:

Based on information presented in the TIS regarding public bus usage, it is not anticipated that the proposed project will significantly increase or decrease use of this form of transit.

Section 2.2.3 of the DEIS (Public Transportation), under the subheading, “Potential Significant Impacts”, presents the discussion of the potential significant impacts of the proposed project on the existing ridership of the S-23 bus route.

10. *On page 1-18 Table 1-1 Site and Project characteristics the amount of units of classrooms and administrative offices should be more definitive as buildings 1 & 2 have already been constructed and buildings 3 and 4 have received Building Permits. Site and buildings plans were very specific relative to the number of units, and the text of the document should be revised accordingly.*

Table 1-1 of the DEIS has been revised to reflect the same breakdown of residential units as specified in the Approved Site Plan, and is reprinted in total on page 7 of this Supplement.

11. *On page 4-1 as alternatives are listed one alternative that should be evaluated is the potential for utilizing all 4 of the Living/Learning Center buildings as classrooms or administrative offices.*

Such an alternative was not included in the Final Scope approved by the ZBA for the proposed project (see Appendix A-8 of the DEIS). In addition, 6 NYCRR Part 617.9(b)(5)(v), states that all DEIS's must include:

...a description and evaluation of the range of *reasonable* [emphasis added] alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor.

As indicated by the applicant, such an alternative would not be reasonable or appropriate, because FTC does not need additional classrooms or offices, and therefore would not be interested in implementing such an alternative. Alternative 3 of the DEIS assumed that only one of the four structures was utilized for classroom space. Analysis of that alternative indicated that, as a result, a substantial increase in commuter students could be achieved, with consequent increases in on-campus activity, and associated adverse impacts on community character, while not satisfying FTC's needs or goals:



**TABLE 1-1
SITE AND PROJECT CHARACTERISTICS**

Parameter	Existing Conditions (1)	Proposed Action
Use	Main Bldg./classrms. & admin. Bldg. 1/35 units (2) Bldg. 2/35 units (2) Bldg. 3/35 units (2, 3) Bldg. 4/35 units (2, 3)	Main Bldg./classrms. & admin. Bldg. 1/35 units Bldg. 2/35 units Bldg. 3/35 units Bldg. 4/35 units
Yield	Main Bldg./120,000 SF Bldg. 1/17,022 SF Bldg. 2/17,020 SF Bldg. 3/18,110 SF (3) Bldg. 4/18,110 SF (3)	Main Bldg./120,000 SF Bldg. 1/17,022 SF Bldg. 2/17,020 SF Bldg. 3/18,110 SF Bldg. 4/18,110 SF
Total Floor Area	190,262 SF	190,262 SF
Coverages:	---	---
Building (acres)	3.56	3.56
Pavement (acres)	5.32	6.66
Gravel Parking (acres)	1.34	0
Lawn/Landscaping (acres)	12.63	12.63
Natural (acres)	10.75	10.75
Water Resources:	---	---
Wastewater Grnrtn. (gpd)	12,505	20,150
Recharge Volume (MGY)	28.48	31.53
Nitrate Conc. (mg/l)	5.48	8.51
Trip Generation:	---	---
AM Peak Hour (vph)	216	268
PM Peak Hour (vph)	206	258
Saturday Peak Hour (vph)	---	52
Miscellaneous:	---	---
Total Enrollment (capita)	963	1,016
Commuter (capita)	859 (4)	808 (5)
Residential (capita)	104	208
Residential Capacity (beds)	104	208
Faculty/Staff (capita)	82	102
Solid Waste (lbs/day)	2,889 (est.)	3,048 (est.)
Parking Spaces Required	260	330
Parking Spaces Provided	537	537

(1) Based on 2002-03 academic year.

(2) Per Approved Site Plan; each Building has 18 one-resident units and 17 two-resident units.

(3) Building is unfinished and units are unoccupied.

(4) An additional 1,511 commuter students and 20 faculty/staff could be accommodated, based on wastewater system regulations.

(5) An additional 2 commuter students could be accommodated, based on wastewater system regulations.

The project sponsor does not consider this alternative to be an acceptable option to address the educational needs and goals of FTC inasmuch as the current structure cannot be readily modified to meet an alternative non-residential need. More importantly, it would leave the College ill prepared to address the lack of available housing for its students. It must be noted that if the College were unable to implement this Living/Learning Center program as proposed, the campus would face an immediate shortage of safe housing, which would force residential students to seek private housing in neighborhoods adjacent to the College. The College seeks to avoid having students reside in the adjacent community by making adequate plans for on-campus housing now. Various studies by higher education professionals have concluded that colleges that fail to make adequate plans for student housing are more likely to have a greater impact upon host communities than colleges which make adequate housing plans and have facilities available. This application is consistent with the College's effort to be a "good neighbor."

This new alternative, wherein all 4 buildings are utilized for classrooms or offices, would result in even more substantial increases in on-campus activity (and associated impacts on community character) than that of Alternative 3 of the DEIS. An estimate of possible commuter enrollment based on sanitary wastewater flow (as there would be no resident students in this new alternative) suggest that there could be up to approximately 3,800 students on-campus, which is not only well in excess of the number of students FTC foresees for itself, but would represent nearly quadruple the number of commuter students which presently pass through the community (in comparison, the proposed project would represent a small reduction in the number of commuter students).

It should be noted that this substantial increase in commuter students would also increase the level of traffic in the area, with associated substantial negative impacts on area roadway conditions.

Finally, the staff memo (see Comment #10) noted that the Town has issued building permits for specific room configurations and uses. Thus, as consideration of this alternative would require an assumption that rooms would be combined to provide classrooms or office space, this alternative would require new or revised building permits to be issued.

Therefore, as such an alternative was not included in the Final Scope for the DEIS (as approved by the ZBA), and would not be reasonable or appropriate for inclusion in the DEIS (as established by the requirements for alternatives in the SEQRA regulations), and such an alternative would result in substantial negative impacts to the community, such an alternative is not addressed in this document.



APPENDICES



APPENDIX A

ACCEPTANCE OF DEIS

Town ZBA
March 18, 2003





TOWN OF HUNTINGTON

FRANK P. PETRONE, *Supervisor*

ZONING BOARD OF APPEALS

CHRISTOPHER MODELEWSKI, Chairman

ROBERT F. SLINGO, Vice-Chairman

PAUL W. ROUSSILLON, Secretary

MEMBERS

CAROL GAUGHRAN

RA B. KURTZBERG

ALICIA LAWRENCE

STEVEN N. SCHNITTMAN

March 18, 2003

SPECIAL COUNSEL

JAMES F. MATTHEWS

Town of Huntington Planning Board

100 Main Street

Huntington NY 11743

RE: Five Towns College Special use permit
to allow Dormitories - ZBA # 17318

I am sending this letter along with the Draft Environmental Impact Statement on behalf of the Town of Huntington Zoning Board of Appeals. All comments, in writing should be submitted no more than 10 days after the close of the scheduled public hearing cited below.

At the Town of Huntington Zoning Board of Appeals meeting of March 14, 2003 a motion from the table was made by Mrs. Carol Gaughran to accept as complete for public review a Draft Environmental Impact Statement (DEIS) for the above referenced application. Said motion was seconded by Board member Mr. Paul Roussillon and thereupon voted where Mr. Christopher Modelewski, Mr. Paul Roussillon, Mrs. Carol Gaughran, Ms. Alicia Lawrence and Mr. Ira Kurtzberg voted to accept the document. Mr. Robert Slingo was absent and Mr. Steven Schnitman recused himself from the vote.

At the same time the Zoning Board of Appeals scheduled simultaneous public hearings on the adequacy of the DEIS and the special use permit, for July 24, 2003. The board also indicated in their vote that the time to complete the Final Environmental Impact Statement (FEIS) shall not start to run until the transcript of the public hearing is delivered to the Board and the Planning Department.

This vote and the conditions therein were recorded in the minutes of the meeting.

Sincerely

Richard Machtay
Director of the Department of
Planning and Environment

APPENDIX B

**HUNTINGTON TOWN DEPARTMENT OF PLANNING
AND ENVIRONMENT STAFF REPORT**

January 20, 2003



HUNTINGTON TOWN
DEPARTMENT OF PLANNING AND ENVIRONMENT

Date: January 30, 2003

To: Zoning Board of Appeals

From: Staff - Department of Planning and Environment
For Richard Machtay, Director

Re: Five Towns College Living Learning Center- ZBA#17318
n/e/c (#305) North Service Rd. & Burrs Ln., Dix Hills, 11746
SCTM# 0400-261.00-03.00-001.002

In order to assist the Zoning Board of Appeals in determining whether "to accept the DEIS as complete" as per SEQRA §617.9, attached are Planning Department in-house comments to the applicant's DRAFT 'Draft Environmental Impact Statement' (dated January 2003 and received on January 21, 2003) for the above referenced application. Please note that this office has not yet received comments on the Document from the following in-house reviewers:

- Peter Wolpensinger, Assistant Director of Engineering Services
- William Naughton, Highway Department
- Joy Squires, Conservation Board

Staff of the Planning and Environment Department reviewed the above noted Draft Environmental Impact Statement for Five Towns College (DEIS document dated January 2003) and finds that the document reflects the Zoning Board of Appeals adopted scope and is therefore considered acceptable as complete for public review.

It should be noted however, that the following below noted items should be addressed either in a revised DEIS (assuming the ZBA as Lead Agency does not accept the current DEIS as being acceptable as complete for public review), or in the FEIS (assuming the ZBA as Lead Agency does accept the current DEIS as being acceptable as complete for public review). In either case, the following items should be incorporated into the Environmental Impact Statement review process:

1. The document should specify the Suffolk County Tax Map number of the subject property on its cover, which is District 0400, Section 261, Block 03, Lot 001.2.
2. The DEIS includes an aerial photograph of the subject property that is dated 1999. This 1999 aerial photo depicts the subject site prior to any development of the four proposed dormitory buildings and prior to any proposed changes to the parking field for said buildings. A more recent aerial photo (dated April 2001) of the subject property on file in the Planning and Environment Department office

reveals the approximate volume of clearing necessary to construct the four dorm buildings (as two of those buildings are already shown on the photo) and that the southern-most gravel lot south of that which is depicted on the May 24, 2000 Planning Board approved plans has already been installed. ~~The DEIS should be revised~~ such that a current aerial photograph is included (even more recent than the April 2001 aerial photo) to depict current site conditions. Said photo should label the area of disturbance where the buildings are (or will be) located and where the parking lot is (or will be) expanded.

3. Correct the area outlined as the Living/Learning Center on Figures 1-2 and 1-3 (pages 1-15 and 1-16) of the document to accurately reflect that noted in #2 above.
4. The parking counts as indicated on pages S-4 (last paragraph), S-5 (first paragraph), and 1-21 (first paragraph) of the DEIS do not reflect that which was approved by the Planning Board on May 24, 2000. The April 2001 aerial photo of the subject property on file in the Planning and Environment Department office also reveals that the southern-most gravel lot south of that approved by the Planning Board has already been installed. The text of the DEIS should clarify the parking counts as approved by way of the May 24, 2000 Planning Board approved plans and the site's current parking counts as shown via a current aerial photograph as identified in #2 above. Any inconsistencies between that which was approved by the Planning Board and that which has been constructed on-site (to include asphalt paved parking and gravel parking lots) should be made crystal clear in the text of the document.
5. Although essentially the same in layout configuration, grade, and design, the plans submitted with the DEIS are not the same plans that were approved by the Planning Board on May 24, 2000. [The plans included with the DEIS have much later revision dates than the May 24, 2000 Planning Board approved plans. The DEIS plans also depicts a larger parking area (asphalt and gravel parking areas combined) than that shown on the Planning Board approved plans.] The last paragraph on page 1-20 of the document (under Comparison of Approved Plan) should be corrected to reflect this. [Also, see #2 above.]
6. Of the plans included with the DEIS (i.e. the Overall Site Plan, Alignment Plan, Grading & Drainage Plan, and the Proposed Expressway Service Road Entrance Plan), the plans are inconsistent. One plan (i.e. the Grading & Drainage Plan) shows a future library and future courtyard while the other plans (i.e. the Overall Site Plan, Alignment Plan, and the Proposed Expressway Service Road Entrance Plan) do not. This should be corrected to reflect the overall development proposal.
7. The first full paragraph on page S-2 discusses something that is "a matter of right". Please justify the "matter of right" issue of increasing the number of commuter students by 1,582 to yield a total commuter student population to

Five Towns College

memorandum continued

- 2,370. Does the terminology "matter of right" or "as of right" relate to what is permitted (without any variances, conditional or special use permits, or special exceptions) under its current zoning? Would such an alternative result in exceeding maximum building occupancy limits for fire fighting and/or result in increased fire safety concerns? Although the number of commuter students versus the number of resident students is explained in the document from a traffic generation and sanitary wastewater generation standpoint, please explain the number of commuter students versus the number of resident students relative to compliance with state (i.e. such as the state building code requirements) and town (i.e. such as town use permits, town building permits, etc.) requirements.
8. The third paragraph on page S-2 indicates that landscaping (i.e. a Landscape Plan) has been included in the DEIS document. Review of the document reveals that no Landscape Plan was included.
 9. The last paragraph on page S-6 states that "Based upon the above discussion regarding the use of public bus route 23 to the campus, ...", however, there is no prior discussion in the document regarding the use of public bus route 23 to the campus. This should be corrected in the document through adequate reference of another document section or appendix.
 10. On page 1-18 Table 1-1 Site and Project characteristics the amount of units of classrooms & administrative offices should be more definitive as Buildings 1 & 2 have already been constructed and buildings 3 and 4 have received Building permits. Site and building plans are very specific relative to the number of units, and the text of the document should be revised accordingly.
 11. On page 4-1 as alternatives are listed one alternative that should be evaluated is the potential for utilizing all 4 of the Living/Learning Center buildings as classrooms or administrative offices.

It is therefore recommended that the DEIS (to include all Town in-house comments as part of the DEIS) be accepted as complete per SEQRA §617.9 and a Public Hearing on the DEIS scheduled. Procedure for the DEIS hearing process is as follows:

SEQRA section 617.9 (a)(4)(i) states that "the lead agency must prepare and file a notice of hearing in accordance with subdivisions 617.12(a) and (b) of this part [SEQRA Part 617]. Such notice may be contained in the notice of completion of the draft EIS. The notice hearing must be published, at least 14 calendar days in advance of the public hearing, in a newspaper of general circulation in the area of the potential impacts of the action."

SEQRA section 617.9 (a)(4)(ii) states that "the hearing will commence no less than 15 calendar days or no more than 60 calendar days after filing the notice of completion of the draft EIS by the lead agency pursuant to subdivision 617.12(b) of this part [SEQRA Part 617]. When a SEQRA hearing is to be held, it should be conducted with other public hearings on the proposed action whenever practicable"

SEQRA section 617.9 (a)(4)(iii) states that "comments will be received and considered by the lead agency for no less than 30 days from the first filing and circulation of the notice of completion, or no less than 10 calendar days following a public hearing at which the environmental impacts of the proposed action are considered, whichever is later."

APPENDIX C
UPDATED DEIS FIGURES



FIGURE 1-2

AERIAL PHOTOGRAPH OF SITE AND VICINITY



Source: Town of Huntington Aerial Photographs, April 200, Annotated to depict July 2003 Conditions
Scale: 1" = 400'

NORTH



FIGURE 1-3

AERIAL PHOTOGRAPH OF SITE



Source: Town of Huntington Aerial Photographs, April 2001, Annotated to depict July 2003 Conditions
Scale: 1" = 400'



FIGURE 2-2

LAND USE MAP



Source: GeoMaps Aerial Photography 1999
Scale: 1" = 1200'



APPENDIX D

**(APPROVED) PARKING EXPANSION ALIGNMENT
PLAN**

Nelson and Pope, LLP
Revised 10/19/00

