

Appendix K-4
Special Public Hearing

Carolyn Zenk, Esq.

November 7, 2016

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"HILLS AT SOUTHAMPTON" CLEAN'S STATEMENT

Citizens for Clean Drinking Water Clean Air and Clean Bays

Southampton Town Board Public Hearing at E. Quogue Elementary School
6 Central Avenue, East Quogue, NY

November 7th, 2016 at 6:00 p.m.

2016 NOV 14 AM 11:21
TOWN OF SOUTHAMPTON
TOWN CLERK OFFICE

In Opposition to a Proposed Change of Zone from five acre residential and
Aquifer Protection Overlay District to Planned Development District PDD

[INTRODUCTION]

- Carolyn Zenk, Attorney at law
- I represent **CLEAN**-*Citizens for Clean Drinking Water, Clean Air, and Clean Bays*.

[POSITION]

- **CLEAN** opposes the *last* of the Planned Development Districts.
- At 600 acres, "The Hills" is the largest *and most important* tract of natural woodland remaining in the Pine Barrens.
- *This* Board, in its wisdom, declared a moratorium on *every other* PDD in Town. **WHY??**
- Because *you* and the public recognized that the PDD law is *fatally* flawed.
- Because *you* recognized that playing "*Let's make a deal*" with developers, at the public's expense, *just* doesn't make sense.
- Because *you* recognized that the public was simply not getting the "public benefits" promised by developers.
- The "Hills at Southampton" is no exception. It was a **BAD IDEA** from the beginning.



Carolyn A. Zenk
Attorney at Law
143 West Montauk Highway
Hampton Bays, New York 11946
Phone/fax: 631-723-2341

"Like the proverbial child in the Hans Christian Anderson tale, I must *shout out*:

'THE EMPEROR HAS NO CLOTHES!!!' Vote a resounding 'No!' to this grossly ill-conceived project."

- *The Emperor has no clothes* because a golf course *use* in the Pine Barrens, is *radically* at odds with decades of scientific study & comprehensive planning.
- *Current zoning* does not allow a golf course *use* here for good reason!
- This development would sit nearly atop the "*Groundwater Divide*".

[Show and reference United States Geological Survey Maps. Explain that groundwater divide is near Sunrise Highway.]

- The *Groundwater Divide* is the *beginning* and highest point of the water system.
- Water and pollutants flow down this "water hill" right into the wells at Spinney Road and right into Shinnecock Bay.
- The top of the "water hill" needs to be covered by natural pine barrens forest-*not* a highly polluting golf course *use*, which needs tons of pesticides and nitrogen to stay green.
- As the saying goes, "*Jack and Jill went up the hill to fetch a pail of water.*" ***Exactly!*** Let's make it a clean bucket of water!

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Attorney at Law
143 West Montauk Highway
Hampton Bays, New York 11946
Phone/fax: 631-723-2341

[CURRENT ZONING IS THE MOST PROTECTIVE IN TOWN]

- The "Hills" is currently covered by the *most protective zones* in Southampton Town, Suffolk County, *and* New York State. **WHY CHANGE THAT?**
- The Five acre *residential zone only* allows the least intensive use - *residential, not commercial uses like a golf course and a club house.*
- It *only* allows one house and one septic system every five acres.
- The *Aquifer Protection Overlay District* severely restricts fertilized vegetation or turf, which generate polluting nitrogen.
- According to "*The Cornell Study, which serves as the scientific basis for Southampton's five acre zone*", **Fertilized vegetation contributes over 85% of the nitrogen pollution in the five acre zone. Only 15% comes from septic systems!!!**
- **THIS IS SO IMPORTANT, let me repeat it, "Fertilized vegetation contributes over 85% of the nitrogen pollution in the five acre zone. Only 15% comes from septic systems!!!**
- **WHAT DO THESE FIGURES MEAN?**
- *They mean* that the Town Board should be *primarily* concerned with limiting fertilized vegetation or turf because they overwhelming contribute to nitrogen pollution.
- The *Aquifer Protection Overlay District* **DECLARED A WAR ON FERTILIZED VEGETATION!!!!**

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143 West Montauk Highway
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[CONCLUSION]

THE BOTTOM LINE IS THAT THE MAIN POINT OF CURRENT ZONING IS TO LIMIT USES, WHICH DEPEND ON FERTILIZED VEGETATION.

THERE IS NO SINGLE USE THAT IS MORE DEPENDANT ON FERTILIZED VEGETATION AND TOXIC PESTICIDES THAN A GOLF COURSE!!!!

Your decision has been a "no brainer" from the get-go.

- Admit that the Emperor has no clothes.
- Stick with *your* good judgment. Send the last of these horrible PDD developments packing!!!

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- **ONE LAST POINT: The State Environmental Quality Review Act** would allow you to limit fertilized vegetation more than current zoning for a residential housing development, so long as you have a *rational basis*.
 - Since Shinnecock Bay is blooming periodically in Brown Tide, which is the result of too much nitrogen, you have the *rational basis* you need.
 - If the Board is interested in aggressively protect the public's interest, it can easily do so by limiting the fertilized vegetation allowed on this site.

Carolyn A. Zenk
Attorney at Law
143 West Montauk Highway
Hampton Bays, New York 11946
Phone/fax: 631-723-2341
E-mail: CarolynZenk@netscape.net

WHY THE "HILLS AT SOUTHAMPTON" PDD IS ONE OF THE WORST IDEAS
IN THE HISTORY OF SOUTHAMPTON TOWN 11/7/16

KEY FACTS WHY A CHANGE OF ZONE FROM *FIVE ACRE RESIDENTIAL
AND AQUIFER PROTECTION OVERLAY DISTRICT*
TO *PLANNED DEVELOPMENT DISTRICT* IS A BAD IDEA

1. The developer has no right to a change of zone by law. The Town Board has absolute discretion to deny a change of zone.
2. The parcel currently has the most protective zoning in the Town of Southampton, which is five acre residential and *Aquifer Protection Overlay District*. There is no valid reason to destroy this protective zoning.
3. *Residential* zoning only allows single family houses to be built. It is the least impactful and polluting of the Town's zones. The PDD would unnecessarily introduce *commercial* development into these protective zones- a golf course & club house.
4. Residential *five acre* zoning is the least impactful of the Town's residential zones. It allows *only* one house per five acres and one septic system to be built.
5. The purpose of the *Aquifer Protection Overlay District*, Town Code 330-68, is to severely limit *fertilized* vegetation (max. 20,000 sq. ft/tract & max. 15%/residential lot), along with the nitrogen pollution and pesticide pollution, which comes with fertilized vegetation. Introducing a golf course into this zone is radically at odds with the zone's purpose because a golf course is highly dependent on fertilized turf, which pollutes.
6. The APOD zone also severely restricts the removal of *natural* vegetation to 15% of a tract and house lot. Natural vegetation is critical to ecosystems; it promotes the entry of clean water into the underground aquifer system. See Town Code 330-67A.(4)
7. The Town's five acre zone and APOD are based on studies conducted by Cornell University *on this very parcel*. That Study concluded that Suffolk County's **10 mg/liter of nitrogen** (a pollutant) standard for drinking water would lead to the deterioration of the drinking water supply. It adopted a **2 to 3 mg/liter maximum standard** by combining low density with strict turf restrictions. It also concluded that restricting turf was the best way to *prevent* groundwater contamination because Towns are legally allowed to restrict turf. It advised against nitrogen/pesticide monitoring programs because they are too difficult to track. Yet, "The Hills" proposes a *monitoring* plan to replace the existing *prevention* pollution plan. Town Code 330-63 G officially adopts the findings of *The Cornell Study*.



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8. The *Cornell Study* also concluded that golf courses generate three times the nitrogen pollution as residential developments with turf controls.(7.5 v. 2-3 mg/l)
9. The change of zone would set a negative precedent for Southampton Town's five acre zone because it ignores the *Cornell Study*.
10. There is no valid reason to replace the science contained in the not-for-profit *Cornell Study* with the "science" by private developers.
11. "The Hills at Southampton" **DESTROYS THE TOWN'S 2-3 MG/LITER MAXIMUM NITROGEN STANDARD BY REPLACING IT WITH THE OLD 10 MG/LITER SUFFOLK COUNTY NITROGEN STANDARD**, which was expressly rejected by the Town as a legal and policy matter.
12. "The Hills at Southampton" takes the job of protecting the Town's drinking water from Town officials through their use of the five acre zone & *Aquifer Protection Overlay District*, and puts it into the hands of private golf course developers, who promise they will protect the public's drinking water supply, despite the fact they propose to use chemicals containing carcinogens, pesticides, and polluting nitrogen on the course.
13. The current groundwater protection zoning system relies upon *prevention*. By limiting commercial uses, residences, septic systems, fertilized turf, & removal of natural vegetation *in the first instance*, pollutants don't get in the aquifers.
14. The system of "protection" proposed for the PDD is not a *prevention* system. It allows the application of carcinogens, probable carcinogens, pesticides, and polluting nitrogen in the first instance, then proposes to *monitor* them with a system of complex monitoring wells and lycimeters. ***Monitoring is not the same as prevention; it is only measuring!*** Once these pollutants get into the aquifers, there's no getting them out.
15. Existing zoning leaves the natural pine barrens in place and allows little fertilized turf. The natural pine barrens will do a better job cleaning up nitrogen because it won't allow it in the first place; rainwater will flow uncontaminated into the aquifer below. Golf courses are highly polluting uses that are currently not allowed in this sensitive zone.
16. The Town has hired experts to help it critique the developer's draft environmental impact statement. Martin Petrovic has advised the Town's that the "rain garden" technology, which the developers propose is virtually untested.

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17. Martin Petrovic has also advised the Town that the developers plan to use carcinogens, probable carcinogens, and **highly risky** pesticides on the course.
18. New York's Attorney General advised against golf courses above Long Island's sole source aquifer because many of the pesticides proposed for use cause serious human health problems.
19. The project risks the public's health. It would place carcinogens, probable carcinogens, & toxic pesticides in the "area of influence" for public wells at Spinney Road, which pump 180 million gallons of drinking water to Southampton's residents a year.
20. Weesuck Creek runs through "The Hills" parcel; it is south of the proposed golf course. Weesuck Creek is a direct conduit into Shinnecock Bay. Shinnecock Bay is already frequently blooming in Brown Tide. Brown Tide blocks the light from the bottom of the bay, resulting in the death of eel grass-the foundation of the food chain. Nitrogen causes Brown Tide to bloom. Shinnecock Bay suffers from problems with an acute neuro-toxin and shellfish closures. A golf course, with its extensive toxins, virtually on top of Weesuck Creek, is simply a bad idea.
21. Experts who worked for Discovery Land in the Bahamas have written letters and given statements. They state that Discovery did not keep its promises in the Bahamas, and ignored the conditions it promised to impose to protect the fragile coral reefs there. As a result, the marine environment has been seriously eroded and the coral reefs have significantly deteriorated. Lawyers hired by Discovery Land subsequently threatened one of the scientists with a lawsuit if she continued to openly speak about what happened at other Discovery projects.
22. The "Hills" parcel is currently protected by the Town's Open Space Law, 247-8 H, which **mandates** that a **minimum** of 65% natural "open space" must be preserved onsite and can require more open space. Yet, Discovery has been claiming that its provision of open space constitutes the "public benefit" required for the change of zone to PDD.
23. Discovery Land Company has radically misled the public by stating that the PDD and residential subdivision would have the *same* density. This has been a consistent lie. The PDD **adds** a highly polluting *commercial* golf course use and clubhouse *in addition* to the housing.
24. New York State's PDD law does not recognize an *alleged* increase in tax dollars to be recognized as a "community benefit." Community benefits include elder housing, affordable housing, parks, & open space. The developers have not offered elder housing, affordable housing, or a park. Open space can already be provided by Southampton's Open Space Law or cluster law, which requires houses to be pushed to one side to save a **minimum** of 65% open space in this zone.

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25. Discovery Land misrepresented to the public that it could keep school children out of the East Quogue School District. However, New York Law allows any child who lives in a school district, and whose family intends to stay, to go to school. It would be a Constitutional violation if the developers attempted to keep children out of the school district.
26. The State Environmental Quality Review Act can be used to protect the environment more than the existing protective zones. Conditions can be imposed on the development in addition to the current highly protective zoning, which: 1) Eliminate or virtually eliminate polluting turf, solving about 80% of the nitrogen input problem, which is mainly a turf problem, not a septic system problem; 2) Save additional open space above the *mandated* 65%; 3) Save additional natural vegetation above the 15%/tract and 15%/lot already required; 3) Keep both septic systems and polluting turf out of the "zone of influence" for public wells onsite and Weesuck Creek; and 4) Require advanced technologies to clean up groundwater.
27. The East Quogue Elementary School, East Quogue Main Street, the East Quogue Marine Park, and the East Quogue Village Park are within several blocks of "The Hills at Southampton" PDD development. New York State's Attorney General has concluded that golf course pesticides become airborne & are deposited great distances from their original application point. Thus, poisons will be blown about & deposited on the children's playing fields, downtown East Quogue, & East Quogue parks.
28. Every major environmental group is against this change of zone, including The Pine Barrens Society, the Group for the East End, and the East Quogue Civic Association, among others. These not-for-profit organizations do not stand to make a profit by opposing this change of zone, unlike the developers who stand to make millions upon millions of dollars by changing the zone and have hired PR firms to help them do so.
29. These environmental and civic groups are well respected organizations who have initiated the major environmental protection programs, which keep the quality of life high for residents and tourists, and make life on the East End worth living.
