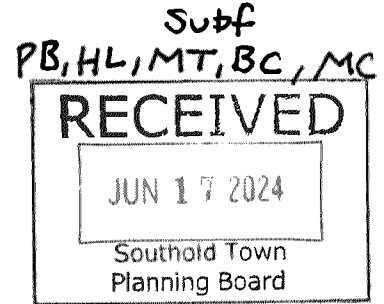


# SUPER LAW GROUP, LLC

June 17, 2024

*Via email*

Jennifer Casey, Chair  
and Members of the Suffolk County Planning Commission  
Suffolk County Department of Economic Development & Planning  
P.O. Box 6100  
Hauppauge, NY 11788-0099



Re: **Strong's Yacht Center Boat Storage, Town of Southold**

Dear Chair Casey and Commissioners:

This office represents Save Mattituck Inlet<sup>1</sup> regarding the Strong's Yacht Center Boat Storage site plan application ("Proposed Project"), which was referred to the Suffolk County Planning Commission ("SCPC") by the Town of Southold Planning Board ("Planning Board") pursuant to General Municipal Law § 239-m and Suffolk County Administrative Code § A14-25. Our June 4, 2024 letter to you is attached hereto and hereby incorporated by reference.

## **EXECUTIVE SUMMARY**

As recommended in your Staff Report, the SCPC should **Disapprove** the site plan application that was referred to you from the Planning Board. That site plan would cause significant adverse environmental impacts—due to excavation and removal of a 50-foot slope containing 135,000 cubic yards of earth, among many other things. The Planning Board's FEIS determined that these impacts have not been and cannot be avoided or mitigated to the maximum extent practicable by any of the proposed mitigation measures. Your staff also explained that these environmental impacts are in conflict with the Suffolk County Planning Commission Guidebook's policies on the environment and climate change. As your staff also noted, the FEIS determined that the information provided in the DEIS "is insufficient to consider the presented alternatives as viable." In these circumstances, the SCPC can and should Disapprove the referred site plan application. Indeed, under State and County law—*i.e.*, SEQRA, the General Municipal Law, and the Suffolk County Administrative Code—neither the SCPC nor the Planning Board could legally approve an alternative site plan at this juncture that has not been fully evaluated in the DEIS and FEIS and that has not been referred to the SCPC.

## **THE SITE PLAN**

The proposed site plan would radically transform the upland topography and ecology by destroying a mature forest which provides valuable habitat for endangered species and other species of special concern; excavating a 4.6-acre hillside; dropping the grade from 50+ feet above sea level to ~10 feet; erecting a 900-foot-long retaining wall over 30 feet high to hold back the slope cut in the newly created flood "bowl"; and trucking 135,000 cubic yards of excavated earth in 8,000+ truck trips (both ways) through local roads in Southold and Riverhead.

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<sup>1</sup> Save Mattituck Inlet, established in 2020 by a group of local residents, seeks to protect and preserve Mattituck Inlet and the surrounding ecosystem. See <https://savemattituckinlet.com/>

**ACTION BY THE SCPC ON THE REFERRED SITE PLAN**

As discussed in the Draft and Final Environmental Impact Statements (DEIS and FEIS) accepted by the Planning Board on May 6, 2024, and summarized in your Staff Report:

- 1) [I]t is evident that the proposed project as currently designed will result in significant negative environmental impacts. These impacts include traffic and noise generation from the trucks required to remove approximately 134,000 cubic yards of excavated materials; the significant excavation area directly adjacent to Mattituck Creek that will result in significant slope disturbance and tree removal; and the potential impacts to Mattituck Creek particularly during the construction phase of the project due to stormwater runoff and erosion. The above noted environmental impacts are in conflict with the Suffolk County Planning Commission Guidebook's policies on the Environment.
- 2) The proposed development will result in significant land alterations and development in an area that is vulnerable to storm surge flooding. . . . This type of development is in conflict with the Suffolk County Planning Commission Guidebook's Site Specific Policies for Climate Change.

SCPC Staff Report 6/20/24 at 11.

For those reasons, the SCPC should Disapprove of the proposed site plan that was referred to the SCPC. With respect to possible alternative development plans that might allow for additional boat storage without excavating the existing slope, the Planning Board determined in the FEIS, and your Staff Report also noted, that the DEIS provided insufficient information to consider such alternatives viable. SCPC Staff Report 6/20/24 at 11.

The new "truck staging" variation raised by the applicant for the first time on June 5, to the SCPC without having ever presented it to the Planning Board, is not only too late (and thus unreviewed under SEQRA and never referred to the SCPC), but it would also do nothing to reduce the main environmental impacts identified by the Planning Board and SCPC staff (and by Commissioners at the June 5 meeting). Temporally dividing the same slope excavation and 8000+ truck trips into two 5-month periods over two consecutive years does not reduce the magnitude of the massive slope excavation or the excavation material hauling in the slightest.

Any new or unstudied alternative that might attempt to actually address the excavation would require, first, further SEQRA review by the Planning Board, and, second, a new referral from the Planning Board to the SCPC, as explained in the Staff Report. *See* SCPC Staff Report 6/20/24 at 12 ("It is also noted that pursuant to General Municipal Law and the Suffolk County Planning Commission Guidelines a substantively revised site plan would be required to be submitted to the Suffolk County Planning Commission for review.")

Legally, the SCPC *cannot* recommend approval of a new alternative at this juncture that has not been subjected to full environmental review by the Planning Board under SEQRA and

referred to the SCPC under General Municipal Law § 239-m and Suffolk County Administrative Code § A14-25. Those laws provide that the SCPC can: Approve a referred site plan that does not have objectionable environmental and/or intermunicipal land use impacts; or Approve a referred site plan with recommended changes or conditions that will address those impacts; or Disapprove an objectionable referred site plan on that basis. Those laws do *not* authorize the SCPC to redesign the proposal and approve a different site plan that was neither fully vetted at the municipal level nor referred to the SCPC.

Indeed, as a recent example, at your most recent meeting you and your staff had environmental concerns with a another referred proposal, the proposed Oak Street at Port Jefferson Station project (Town of Brookhaven). In the staff report for that referral, staff recommended Disapproval for reasons given in the report. The staff report also made the suggestion that the applicant consider changes to the proposal. You then voted to Disapprove the application for the reasons stated in the Staff Report and your Resolution. *See* Resolution No. ZSR-24-32. Naturally, you did *not* attempt to wholly redesign the project or approve an alternative that was not referred to you.<sup>2</sup> Your action on the Oak Street referral was consistent with State and County law for land use referrals, and with your own practice and policy.

Thank you for your consideration. Please vote to Disapprove the referred site plan for Strongs Yacht Center.

Sincerely,



Reed Super

Attachment: June 4, 2024 letter to SCPC and attachment thereto

cc: Sarah Landsdale, Department of Economic Development and Planning  
Joseph Sanzano, Division of Planning and Environment  
Jackie Gross, Counsel to SCPC  
Town of Southold Planning Board & Planning Department  
Save Mattituck Inlet

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<sup>2</sup> Resolution No. ZSR-24-32 states at the very end that, if the Oak Street project were to be redesigned, “the Applicant is encouraged to resubmit a referral.” Respectfully, since it is not the applicant who refers proposed land use actions to the SCPC, that suggestion should have instead been directed to the municipality.