

REQUEST FOR JUDICIAL INTERVENTION

UCS-840 (7/2012)

SUPREME

COURT, COUNTY OF SUFFOLK

Index No: 16-021051

Date Index Issued: 3/11/16

CAPTION: Enter the complete case caption. Do not use et al or et alio. If more space is required, attach a caption rider sheet.

IN THE MATTER OF THE APPLICATION OF

HENRY R. DITTMER, AS ADMINISTRATOR
OF THE ESTATE OF RICHARD C. DITTMER,

UR
R.J.I. FEE PAID
Judith A. Pascale
Suffolk County Clerk

FOR AN ORDER PURSUANT TO ARTICLE 78
OF THE CIVIL PRACTICE LAW AND RULES,

+Plaintiff(s)/Petitioner(s)

-against-

JOHN PAVACIC, EDWARD ROMAINE, STEVEN BELLONE, SEAN M. WALTER, AND
ANNA E. THRONE-HOLST, IN THEIR CAPACITY AS MEMBERS OF THE CENTRAL PINE
BARRENS JOINT PLANNING & POLICY COMMISSION, AND THE CENTRAL PINE BARRENS
JOINT PLANNING & POLICY COMMISSION, BASIL SEGGOS, ACTING COMMISSIONER,
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AND THE NEW YORK
STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE STATE OF NEW YORK,

=Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING:

Check ONE box only and specify where indicated.

MATRIMONIAL

Contested

NOTE: For all Matrimonial actions where the parties have children under the age of 18, complete and attach the MATRIMONIAL RJI Addendum.
For Uncontested Matrimonial actions, use RJI form UD-13.

COMMERCIAL

Business Entity (including corporations, partnerships, LLCs, etc.)

Contract

Insurance (where insurer is a party, except arbitration)

UCC (including sales, negotiable instruments)

Other Commercial:

(specify)

NOTE: For Commercial Division assignment requests [22 NYCRR § 202.70(d)], complete and attach the COMMERCIAL DIV RJI Addendum.

TORTS

Asbestos

Breast Implant

Environmental: _____

(specify)

Medical, Dental, or Podiatric Malpractice

Motor Vehicle

Products Liability: _____

(specify)

Other Negligence: _____

(specify)

Other Professional Malpractice: _____

(specify)

Other Tort: _____

(specify)

REAL PROPERTY:

How many properties does the application include?

Condemnation

Mortgage Foreclosure (specify): Residential Commercial Property Address:

NOTE: For Mortgage Foreclosure actions involving a one- to four-family, owner-occupied, residential property, or an owner-occupied condominium, complete and attach the FORECLOSURE RJI Addendum.

Tax Certiorari - Section: _____ Block: _____ Lot: _____

Tax Foreclosure

Other Real Property: _____

(specify)

OTHER MATTERS

Certificate of Incorporation/Dissolution [see NOTE under Commercial]

Emergency Medical Treatment

Habeas Corpus

Local Court Appeal

Mechanic's Lien

Name Change

Pistol Permit Revocation Hearing

Sale or Finance of Religious/Not-for-Profit Property

Other: _____

(specify)

SPECIAL PROCEEDINGS

CPLR Article 75 (Arbitration) [see NOTE under Commercial]

CPLR Article 78 (Body or Officer)

Election Law

MHL Article 9.60 (Kendra's Law)

MHL Article 10 (Sex Offender Confinement-Initial)

MHL Article 10 (Sex Offender Confinement-Review)

MHL Article 81 (Guardianship)

Other Mental Hygiene: _____

(specify)

Other Special Proceeding:

STATUS OF ACTION OR PROCEEDING:

Answer YES or NO for EVERY question AND enter additional information where indicated.

YES NO

If yes, date filed: _____ / _____ / _____

If yes, date served: _____ / _____ / _____

If yes, judgment date: _____ / _____ / _____

Has a summons and complaint or summons w/notice been filed?

Has a summons and complaint or summons w/notice been served?

Is this action/proceeding being filed post-judgment?

Received

MAR 14 2016

Grant Family Services

NATURE OF JUDICIAL INTERVENTION:

Infant's Compromise
 Note of Issue and/or Certificate of Readiness
 Notice of Medical, Dental, or Podiatric Malpractice
 Notice of Motion
 Notice of Petition
 Order to Show Cause
 Other Ex Parte Application
 Poor Person Application
 Request for Preliminary Conference
 Residential Mortgage Foreclosure Settlement Conference
 Writ of Habeas Corpus
 Other (specify): _____

Check ONE box only AND enter additional information where indicated.

Date Issue Joined: ____ / ____ / ____

Return Date: ____ / ____ / ____

Relief Sought: _____

Relief Sought: _____

Relief Sought: _____

Relief Sought: _____

Return Date: 4 / 13 / 16

Return Date: ____ / ____ / ____

RELATED CASES:List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases.
If additional space is required, complete and attach the RJI Addendum. If none, leave blank.

Case Title	Index/Case No.	Court	Judge (if assigned)	Relationship to Instant Case

PARTIES: For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in space provided.
If additional space is required, complete and attach the RJI Addendum.

Un-Rep	Parties:	Attorneys and/or Unrepresented Litigants:	Issue Joined (Y/N):	Insurance Carrier(s):
	List parties in caption order and indicate party role(s) (e.g. defendant; 3rd-party plaintiff).	Provide attorney name, firm name, business address, phone number and e-mail address of all attorneys that have appeared in the case. For unrepresented litigants, provide address, phone number and e-mail address.		
<input type="checkbox"/>	Name: HENRY R. DITTMER Role(s): PETITIONER	RICHARD I. SCHAYER, ESQ. 110 LAKE AVENUE SO., SUITE 46 NESCONSET, N.Y. 11767 (631) 265-8500 (631) 265-8558	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: CENTRAL PINE BARRENS JOINT PLANNING & Role(s): POLICY COMMISSION RESPONDENTS	JOHN MILAZZO, ESQ. 4060 SUNRISE HIGHWAY OAKDALE, N.Y. 11769	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: 3 / 9 / 16

SIGNATURE

RICHARD I. SCHAYER, ESQ.

ATTORNEY REGISTRATION NUMBER

PRINT OR TYPE NAME

1539196

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X

In the Matter of the Application of

**HENRY R. DITTMER, As Administrator
of the Estate or Richard C. Dittmer,**

Petitioner,

For an Order Pursuant to Article 78
of the Civil Practice Law and Rules,

-against-

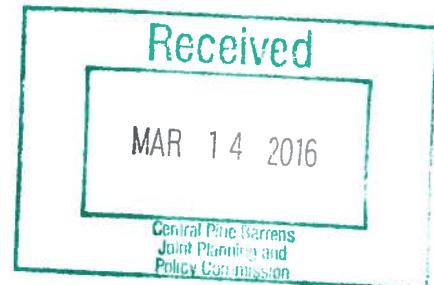
**JOHN PAVACIC, EDWARD ROMAINE,
STEVEN BELLONE, SEAN M. WALTER,
AND ANNA E. THRONE-HOLST, in their
capacity as Members of the Central Pine
Barrens Joint Planning & Policy Commission,
and the CENTRAL PINE BARRENS JOINT
PLANNING & POLICY COMMISSION,
BASIL SEGGOS, ACTING COMMISSIONER,
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION, and
the STATE OF NEW YORK,**

Respondents.

**NOTICE OF
PETITION**

Index No. 16-02657

F,kd 3/11/16



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S I R S :

PLEASE TAKE NOTICE that on the Petition of **HENRY R. DITTMER**, the Petitioner, in the above captioned matter, verified **March 7, 2016**, and the Affidavit of **RICHARD I. SCHEYER, ESQ.**, sworn to **March 9, 2016**, and upon all the proceedings heretofore had herein, an application will be made to this Court at a Special Term thereof, to be held at the Courthouse located at One Court Street, Riverhead, New York, on **April 13, 2016**, at 9:30 o'clock in

the forenoon of that day or as soon thereafter as counsel can be heard for an Order, pursuant to Article 78 of the CPLR, granting the relief demanded in the Petition, and that a verified Answer to the Petition, and supporting affidavits, if any, must be served at least five (5) days prior to the return date of said Petition.

PLEASE TAKE FURTHER NOTICE that pursuant to Subsection 7804 of the Civil Practice Law and Rules, you are directed to file with the Clerk of the Court your Answer, answering Affidavits, together with a certified copy of the Transcript of the record of the proceedings, together with the entire official file containing the application, exhibits and findings pertaining to the application herein which is the subject of this proceeding.

SUFFOLK COUNTY is designated as the place of trial on the basis of the location of the subject matter and the residence of the Petitioners and Respondents.

Dated: Nesconset, New York
March 9, 2016

Yours, etc.



RICHARD I. SCHEYER, ESQ.
Attorneys for Petitioner
110 Lake Avenue So., Suite 46
Nesconset, NY 11767
(631) 265-8500

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-x

In the Matter of the Application of

VERIFIED PETITION

**HENRY R. DITTMER, As Administrator
of the Estate of Richard C. Dittmer,**

Petitioner,

For an Order Pursuant to Article 78
of the Civil Practice Law and Rules,

-against-

**JOHN PAVACIC, EDWARD ROMAINE,
STEVEN BELLONE, SEAN M. WALTER,
AND ANNA E. THRONE-HOLST, in their
capacity as Members of the Central Pine
Barrens Joint Planning & Policy Commission,
and the CENTRAL PINE BARRENS JOINT
PLANNING & POLICY COMMISSION,
BASIL SEGGOS, ACTING COMMISSIONER,
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION, and
the STATE OF NEW YORK,**

Respondents.

-x

S I R S:

The undersigned, **HENRY R. DITTMER, Administrator of the Estate of
Richard C. Dittmer**, the Petitioner, by his attorney, **RICHARD I. SCHEYER,
ESQ.**, complaining of the Respondents, alleges:

1. The Petitioner, **HENRY R. DITTMER**, is the owner of a parcel of
property of approximately 100 x 100 feet in size located in the Central Pines

Barrens Core, Town of Brookhaven. Attached hereto as Exhibit "A" is a survey of the property.

2. The Respondents constituting the **CENTRAL PINE BARRENS JOINT PLANNING AND POLICY COMMISSION** exists pursuant to the **NEW YORK LONG ISLAND PINE BARRENS ACT** passed in July of 1993 codified in the New York Environmental Conservation Law as Article 57 which has been amended several times. The goal of the statute was to preserve vast ecological and hydrological resources, this act inter alia sterilized 50,000 acres known as the Core Preservation Area and set forth strict development restrictions on another approximately 50,000 acres known as the Compatible Growth Area. The Act further created the Pine Barrens Commission, the Respondents herein, which is comprised of the Suffolk County Executive and the Town Supervisors of Brookhaven, Riverhead, and Southampton Towns and one member appointed by the Governor, which is JOHN PAVACIC. The Commission was established to create and implement a Comprehensive Land Use Plan pursuant to Section 57-0119 of the Comprehensive Law of the Central Maritime Reserve Act (hereinafter referred to as the "Pine Barrens Act", or for the purposes of this Complaint, "the Act". The plan was adopted in 1995.

3. The Respondent, **NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION** is a Governmental Entity created by the State of New York, and the Respondent, **STATE OF NEW YORK**, is the Agency that created the Respondent.

THE GENESIS OF PINE BARRENS CERTIFICATES

4. The Pine Barrens Plan essentially had two parts each of critical importance. The first part involved the preservation sterilization of 100,000 acres of land. The second was compensation that the landowners and other citizens whose land was sterilized were entitled to receive NYS and Federal Constitutional requirements that any taking of private property be consummated with the property owners receiving just compensation for the land and the property they lost.

5. The just compensation component was the central theme of the legislative process which led to the Act, and consequently, the Land Use Plan adopted by the Legislature; and the Commission specifically indicates the manner and method by which landowners were required to be compensated.

6. The government did not compensate the landowners from whom it took the 100,000 acres by writing them a check or money order, nor did it compensate them by giving them substitute properties of equal and fair market value for the land that they lost. Instead they created and provided these landowners with transferable development rights called "Pine Barrens Credits".

7. In short, if a person had a building lot that was taken, the person was provided with a Certificate which entitled them to have that building right redirected to another parcel usually in the same Town that the original one came from to increase that parcel's density by one housing unit. In this manner, the State and Town could preserve property if felt had environmental significance, without having to spend cash dollars.

8. The Petitioner owned this property before the Pine Barrens was created, to wit: 1971. The Petitioner herein went to the Pine Barrens Clearing House, a subdivision of the Central Pine Barrens Joint Planning and Policy Commission which did an interpretation of this property, which interpretation was that the property would be entitled to 0.10 of a Pine Barrens Credits. A copy of that interpretation is attached as Exhibit "B".

9. The property value is far in excess of the .10 Credit to be issued, and was not accepted by the Petitioner herein. An application was then made to the Pine Barrens Commission for a Hardship Waiver to allow the property to be developed for a single-family residential home.

10. The Petitioner herein then made this application to the Pine Barrens Commission and a Hearing was held on December 16, 2015 before the Commission. At which time, the Petitioner, through his attorney submitted documentary, evidence, and testimony to support the application together with numerous precedents.

11. After the Hearing on December 16, 2015, the matter was put aside for a decision. It was heard again by the Commissioner at a Meeting, February 17, 2016 in which the Commission by unanimous vote denied the application in a six page Decision which is attached hereto as Exhibit "C". This Article 78 Proceeding is being commenced to challenge the Decision of the Commission as arbitrary, capricious, and not in keeping with the evidence and incorrect in many of its conclusions which will be reviewed below.

ARGUMENT

12. The Commission was aware that this parcel of property is 300 feet from the Compatible Growth Area of the Pine Barrens and essentially is just inside the Pine Barrens Core and had it been 300 feet closer, it would be exempt from this entire argument.

13. The applicant since they could not obtain Pine Barrens Credits anywhere near the value of the property, decided that it would be more appropriate to construct a single-family residential home on this site.

14. The subject Decision itself is replete with errors which we will discuss before we go into precedent. The Decision, Exhibit "C", stated that there are approximately 55 of the old parcels in the filed Map of Flower City in which this parcel is located. That is not true. There are approximately 7 parcels that were developed on the Map, and only 7 vacant parcels left. One of which is a Core Road Frontage Exempt Parcel which is buildable. Therefore, the Eighth "WHEREAS", of their Decision is absolutely untrue. No evidence was ever submitted by way of documents or cases at the Hearing that justified this position. The Minutes of the Hearing are attached as Exhibit "D", and will be referred to if necessary.

15. They acknowledge that this is a Type II Action for a Residential Home which is Exempt from SEQRA. They acknowledge that we submitted exhibits and materials, copies of which will be attached in their Return, but part of which was in Book Form and is a verbatim statement what was testified to the Board and cases

were submitted which are in the Cases portion to be discussed.

16. According to the Pine Barrens Act, the Pine Barrens has to find that there is a Hardship involved in the property for it to be granted. The hardship here is simple, without the Pine Barrens Commission the property cannot be used at all. In fact, it has been sterilized and Clearing House wishes to pay almost nothing for the property which in the argument of the applicant which we discussed also, would constitute a taking under the United States Constitution which says, you cannot take property from individuals without just compensation. If you cannot build on it, and they are only offering the equivalent of approximately \$6,000.00, the equivalent of taking the property without any compensation.

17. Respondents also indicated that any grant would not result in a substantial impairment of the resources of the Pine Barrens Area. As discussed in all the cases below that have been granted, it is hard to believe that one 100 x 100 parcel of land is going to have a substantial impact on the resources of an area of over one hundred thousand acres. It was never alleged at this Hearing that there are any endangered species or anything of that nature on site. It is basically a wooded upland parcel of property untouched and only 153 feet from the Main Road on a Paper Street on a filed Map.

18. It is further important to note, that this parcel is held in single and separate ownership. A copy of the single and search from the Title Company is attached as Exhibit "E", and under the ordinances of the Town of Brookhaven where the property is located, any parcels held in single and separate ownership that

is at least 6,000 feet and 62 feet in width, are buildable as a matter of right provided they are built within the terms of what is known as the Small Lot Ordinance, Section 85-883 (D) (2) and (D) (3A) having to do with setbacks and house size. Therefore, if it were not in the Pine Barrens, this would be a buildable lot as a matter-of-right. There is no indication in the record or evidence on either side, that this is a substantial impairment of the resources of the Pine Barrens.

19. In their statement, in the Eighth "WHEREAS", they find that the project does not affect any other properties in the immediate area since the only one in the immediate area is a developed residential home.

20. The next "WHEREAS", is absolutely untrue. They indicate that the property is not unique and the provisions of the section apply in effect to at least 50 other privately owned undeveloped properties in a Study Area, to the immediate vicinity of the project site. As indicated above, in Exhibit "F". There are six lots in the Radius developed with single-family residences, and ten others immediately outside the radius, all marked in yellow. The 50 lots they talk about are all owned by County of Suffolk or one of its Agencies. The attached Ownership List lists 51 parcels, of which 39 lots are owned by the County of Suffolk in one form or another and cannot be built on. One of the lots is the subject parcel. The remaining eleven lots, the majority of which are too small to build on and are only 40 feet. Lots 3, 12, 30, 37, 44, are the only privately owned parcels which are only 40 x 100 and are not necessarily buildable. Therefore, the 50 lots they refer to in their Decision as creating a precedent, is totally untrue. There are actually no lots that would be

buildable and as indicated above, almost 39 of these lots are owned by the County, and the majority of the remaining lots are too small to build on. The applicant's parcel here is the only 100 x 100 parcel that is buildable within this radius.

21. They further state, that the development of any of these parcels would result in significant adverse environmental impact on the resources of the Central Pine Barrens affecting the groundwater, ecological resources, existing habitat, publicly owned open space, and would create an adverse precedent and may help to induce other types of development in the area. The issue of precedent will be discussed in the next section of this Petition, but there is no specific evidence that was put in the record other than conclusions that the development of this parcel of property would have any affect on the ecological resources. There was no expert testimony presented. In fact, there was no testimony presented on those issues, other than conclusions put in the decision.

22. They then say that in addressing this, the application states, the project does not arise out of a personal situation of the applicant. It does not, in the extent, he inherited this piece of property which has been in the family since 1971, and the Pine Barrens did not exist until 1993. This does not arise out of any situation that was created by the applicant, it was created by having the Pine Barrens superimposed over this piece of property which was owned by this family since 1971.

23. The Court is aware that all rights and privileges having to do with property ownership runs with the land, not the individual which is clearly set forth by the Supreme Court of the United States of America in the case of Palazzola v. Rhode Island, et al., 533 U.S. 606, 121 S.Ct. 2448, 150 L.Ed.2d 592 (2001) and reinforced in Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning

Agency, 122 S.Ct. 1465, 152 L.Ed 2d 517 (U.S.,2002), that it does not matter how you acquire property before, or what you knew when you acquired it. The rights that run with property, run with it regardless of who the ownership is, and the implication here, that there is any personal situation cannot be true. This property was a single and separate parcel prior to 1954.

24. They then in the next "WHEREAS", again, did not tell the truth. Indicating the property is not unique because it is similar to 50 other privately owned, substandard, undeveloped parcels in this map. We have already discussed it twice, there are not 50 parcels. There are 14, 7 are developed and 7 are vacant and not developed. One of them is exempt for being Core Frontage. That position and conclusion of the Board is simply not accurate nor is it backed up by anything in the record.

25. The Eighth "WHEREAS", again, indicate there are 50 other parcels with similar characteristics in the area which would be affected by the project and that has never been proven but does not have to be true. See our Exhibit "F".

26. They further indicate this would be precedent setting in nature which would induce additional development in the area which the public has desired to preserve. That is also not true since they have already created the precedent and have granted numerous applications to the immediate area which we will discuss in the precedent section below. Many of which cases have been submitted to the Commission at the time of the Hearing which they chose to ignore.

27. The Decision indicates that this application may adversely affect already preserved public land, is not explained on the record. Again, it is a conclusion. The entire Decision of six pages, is completely rife with conclusions and conclusory

decisions are not competent evidence upon which you can grant or deny anything.

28. Respondents again, state in the twenty-seventh "WHEREAS", Page 5, that the hardship would result in an adverse precedent as it had potential to result in additional development in the Core Preservation area. As will be indicated below, there already is substantial development in the Core Preservation Area. The patchwork basis granted by this Board without rhyme or reason over a period of years for lots as small as 40 feet and subdivisions in 10 acre zoning.

29. They indicate that we have not established the existence of single and separate hardship, see Exhibit "E". There is no evidence to indicate there was not.

30. They indicate that building this one house on one 100 x 100 lot would affect the ecosystem of the Pine Barrens which almost a million acres. It is an argument which borders on nonsensical. They say the waiver exceeds the minimum relief necessary to eliminate the hardship. The waiver requested does not exceed anything. It can only be used to build one house. What is the excessive nature of it. They are not asking to subdivide it or build multiple homes. One house, on a single and separately owned 1/4 of an acre.

31. The fact that it is on an unopened, undeveloped road, 150 feet from a main road, is not precedent setting as they said it is, as discussed below, numerous grants by them on unimproved roads and some that have no roads at all.

32. The entire decision is basically a large conclusion, rife with errors, that say, that in their opinion it does not meet the spirit and intent of the Pine Barrens. However, this is a statutory approach, and they are the ones who discussed the issue of precedent. Precedent was submitted to them at great length at the Hearing.

PRECEDENT

33. In the submission, copy attached, in Book Form, which was submitted to the Board together with arguments. In said Book submitted to the Respondents, discusses numerous cases, with copies of the decisions. All part of this exhibit. One of which is the application of Rita Kristiansen which was construction of a single-family dwelling for a single-family house on .2/10 of an acre or 8,700 square feet in an A-10 Residential Zone, bordered on one side by County land and contained fresh water wetlands associated with the Peconic River on the site.

Again, it was a Type II Action. It needed a Fresh Water Wetlands Permit. It needed a variance from Brookhaven Town Zoning Board of Appeals. It needed a Health Department Permit and a WSR River Permit. They were found to meet the Hardship Criteria, yet our parcel does not. There they found it would not have any impairment of the resources of the Core Preservation Area and the application was granted. Attached is an aerial photograph showing the property as development and the case, Exhibit "G".

34. Attached is the application of Dolores Blake a subdivision of 5.2 acres into three lots in an A-2 Zone, each of which would be substandard, found to be an unlisted application under SEQRA and was granted a clustered subdivision. Exhibit "H" (a) and (b).

35. In the application of Katherine Foster Screven also attached .9/10 of a parcel acre parcel in an A5 Zoning District for the building of a single-family home and was granted. Exhibit "I" (a) and (b).

36. The application of Evan Goldstein who wished to build on 3/4 of an acre on a parcel that was surrounded on all sides by a nature preserve and publicly

owned property with no residential property within at least a mile of the site. There was no development in the area and yet it was given an extraordinary hardship exemption to build. Upon information and belief, it is currently improved with a house. They found that would not result in any substantial impairment of the Core and would have no negative impact and was not inconsistent with the objectives and spirit of the Core, and found exactly the reverse in our parcel which has a house 150 feet from an improved road and a paper street. Exhibit "J" (a) and (b).

37. The Woodstock Company case is a more interesting case is only 40 x 100 lot which is classified 0.9/10 of an acre parcel in an A-5 Residential Zone. They were going to allocate a 1/10 of a credit and it was appealed. They determined that parcel was entitled to a full Pine Barrens Credit which is currently worth in today's market approximately \$75,000.00. A copy of the survey and aerial photograph are attached as Exhibit "K" (40 x 100).

38. All of those cases were submitted to the Board which made no comment about them and chose to ignore them. In addition, Exhibit "G", a copy of the subject parcel an aerial photograph showing that the street Yaphank Middle Island Road was improved with houses on both sides and shows the proximity of the site to the main road.

39. Applications for single-family homes are Type II and automatically do not need SEQRA.

40. In the application of Osleeb for a single-family home hardship was granted without a Hearing and without a review and was given a negative deck. A copy of that decision is attached as Exhibit "L".

41. A letter from the Pine Barrens Credit Clearing House for a single-family

dwelling on a lot was deemed non-development because it was a single and separate parcel and was granted and now has a house on it, is attached as Exhibit "L".

42. In the Marshall case and attached herein again. Marshall is on a paper street, such as our project, surrounded on three sides by Nature Preserve, the Water Authority and the County. There are only two houses within 500 feet in a vacant area. Core Hardship was granted for a single-family residential home. See Exhibit "M" (a) and (b).

43. In the Woodstock case, a 8,700 square foot lot in an A-5 Zone which received one-full Pine Barrens Credit by the Commission overruling the Clearing House. Exhibit "K".

44. In the Goldstein case which we cited before where they found that there was no beneficial use of the property and the owner had done nothing to affect the environment of change circumstances in an A-5 Zoning, the application was granted and a copy of the survey is attached hereto showing this is simply a parcel of vacant land. Exhibit "J".

45. An up-to-date single and separate search was submitted to the Town on May 13, 2015.

46. The Pine Barrens Core Exemption List, although, this site is not on it, at least one site on this road is on that list, and is only approximately 200 feet away. The purpose of the list was to show parcels in substantially developed area. They have by innuendo classified this as substantially developed area.

47. There was much discussion at the Hearing that this matter should be settled and a settlement discussion was had. However, it is interesting to note, that Mr. Freleng, on Page 63, indicates that there are half-a-dozen parcels that are within

153 feet to be developed. However, the decision of the Commission was that there were 50 parcels. This testimony contradicts their own findings on Page 62 of Exhibit "D".

48. There was discussed further in the record that several members were willing to settle the matter for a Pine Barrens Credit before it was adjourned, but no decision was made. Obviously, the Board did not agree with the proposed settlement of the Riverhead Supervisor.

CONCLUSION

49. That this 100 x 100 single and separate lot in the Pine Barrens Core was a buildable lot for at least 20 or 25 years before the Pine Barrens came into existence, held by one family, falls under all the provisions of the Brookhaven Town Ordinance and will be an as-of-right buildable parcel, were it not for the Pine Barrens.

50. It is clearly a hardship, the Clearing House offered almost nothing for the property. If the applicant cannot get paid for his property, he should be able to build it. Otherwise, under our Constitution, this would constitute a taking. You can either use or get paid for it. The Pine Barrens does not want to neither. Even though, it was suggested at the Hearing, that this should get a full credit, which would have been at least \$75,000.00 as compared to the approximate \$6,500.00 that the Commission had offered.

51. That much of their decision evolved around creating precedent. We have submitted at least eight cases together with copies and survey maps which are part of the submission to the Board of the cases that they granted in far more extreme circumstances. 40 foot lots on no road and other grants on unimproved

roads, subdivision parcels, parcels on a much more restricted zoning area such as creating substandard lots under an acre in 5 acre zoning. Their decisions are all over the place. However, the fact that they simply did not tell the truth in the decision, claiming this would create a precedent for 50 lots, when there are no 50 improved lots in the area. No more than 7 at best. They are not of the same size and shape as this, leaves one to believe that their decision is being made purely on the issue of conclusions. There was no competent evidence in the record submitted by the Pine Barrens.

52. In essence, the Pine Barrens Act is taking away a building parcel of land from the applicant who will not let him build on it and will not pay him for it. It is the argument of the Petitioner based on all the evidence, that this represents a taking.

WHEREFORE, your deponent respectfully requests:

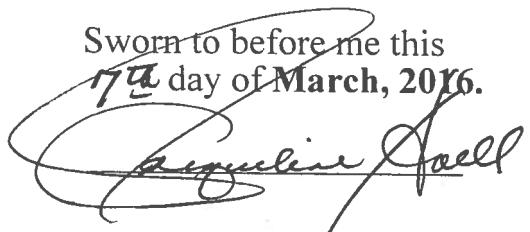
- (a) That the Court should reverse the Pine Barrens Decision and grant the application, and
- (b) A finding that the Decision of the Commission constitutes a taking under the U.S. Constitution, and
- (c) Violation of the Fourteenth Amendment of the Constitution Equal Protection Law, and

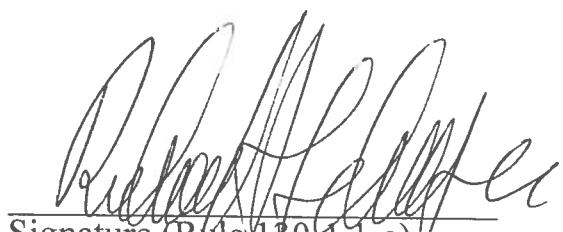
(d) For such other and further relief as to the Court may seem just and proper.

Dated: February 23, 2016.


HENRY R. DITTMER, Administrator
of the Estate of Richard C. Dittmer

Sworn to before me this
17th day of March, 2016.


JACQUELINE HOELL
Notary Public, State of New York
No. 01HO4826427
Qualified in Suffolk County,
Commission Expires Sept. 30, 2018


Signature (Rule 130-1.1-a)
RICHARD I. SCHEYER, ESQ.
3/7/16

VERIFICATION

STATE OF NEW YORK)

SS.:

COUNTY OF SUFFOLK)

HENRY R. DITTMER, being duly sworn, deposes and says:

That I am the Petitioner in the within action.

I have read the foregoing Petition and know the contents thereof; the same is true to my own knowledge, except as to those matters stated therein to be alleged upon information and belief, and as to those matters, I believe it to be true.

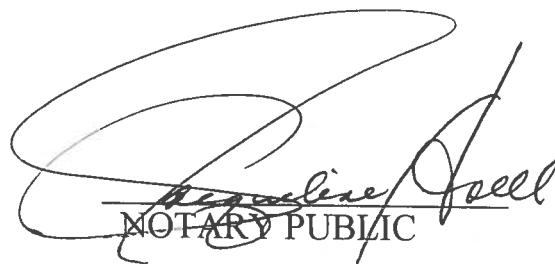

Henry R. Dittmer
HENRY R. DITTMER

STATE OF NEW YORK)

SS.:

COUNTY OF SUFFOLK)

On March 7th 2016, before me, the undersigned, a notary public in and for said State, personally appeared **HENRY R. DITTMER** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Jacqueline Hoell
NOTARY PUBLIC

JACQUELINE HOELL
Notary Public, State of New York
No. 01HO4826427
Qualified in Suffolk County
Commission Expires Sept. 30, 2018

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

In the Matter of the Application of

**HENRY R. DITTMER, As Administrator
of the Estate of Richard C. Dittmer,**

Petitioner,

-----X
**ATTORNEY'S AFFIDAVIT
IN SUPPORT
OF PETITION**

Index #

For an Order Pursuant to Article 78
of the Civil Practice Law and Rules,

-against-

**JOHN PAVACIC, EDWARD ROMAINE,
STEVEN BELLONE, SEAN M. WALTER,
AND ANNA E. THRONE-HOLST, in their
capacity as Members of the Central Pine
Barrens Joint Planning & Policy Commission,
and the CENTRAL PINE BARRENS JOINT
PLANNING & POLICY COMMISSION,
BASIL SEGGOS, ACTING COMMISSIONER,
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION, and
the STATE OF NEW YORK,**

Respondents.

-----X
STATE OF NEW YORK)

SS.:

COUNTY OF SUFFOLK)

RICHARD I. SCHEYER, being duly sworn, deposes and says:

1. That I am the attorney for the Petitioner in the above captioned matter, and make this Affidavit in support of the relief requested in the Petition submitted herewith.

2. I read the Petition of Mr. Dittmer and it is true and accurate to the best of my belief.

PRECEDENT

3. The Pine Barrens in its Decision indicated that granting this application would be precedent setting in nature and would induce additional development. This is clearly not true. The Pine Barrens itself has already created a precedent. The Pine Barrens has granted numerous applications in the immediate area, Many of which cases were submitted to the Commission which they chose to ignore. A list starting on Page of 11 of the Petition under Precedent. Almost all of which cases, are far more severely requests than are being made here.

4. There are eight cases and there are many more instances in which the Pine Barrens Commission has granted hardship exemptions on parcels smaller, parcels not on main roads, parcels with no roads, and greater violations of underlying zoning, remembering that this is a single and separate lot that complies with the requirements of the Brookhaven Town Code and is a building lot under their code at the present time and was at the time the Pine Barrens was created.

5. This property is 100 x 100 foot parcel or a 1/4 of an acre and complies with the minimum requirements of Brookhaven which requires 60 x 100 single and separate to be buildable.

6. As testified, the Commission approved at least all of the other houses shown on the Radius Map, Exhibit "F", and Aerial Photograph, Exhibit "G", and has approved all of the parcels listed in the Petition which was submitted to the

Court. Administrative Boards in general, are not allowed to ignore their own precedent which violates the doctrine of the Court as well as the Equal Protection Clause of the Constitution.

POINT I

ADMINISTRATIVE BOARDS SUCH AS THE PINE BARRENS COMMISSION MUST FOLLOW THEIR OWN PRECEDENT UNLESS THEY CAN SUBSTANTIALLY DISTINGUISH THE FACTS

7. Effective prior decisions before a Board must be followed or they must be differentiated. The Courts have held that failing to set forth the reasons for reaching different results on similar facts is arbitrary and capricious. See Robert T. Knight, et al. v. Amelkin, et al., 68 N.Y. 2d 975, 510 N.Y.S. 2d 550, Nov., 1986; Matter of Charles A. Field Delivery Service, Inc. v. Roberts, 491 N.Y.S. 2d 601, App. Div., 3rd Dept. (1985); Matter of Larkin Co. v. Schwab, 242 N.Y. 330 (1926); Matter of Pesek v. Hitchcock, 156 A.D. 2d 6909, 549 N.Y.S. 2d 164.

8. The above cases have all held, that a Board or Commission cannot ignore its own precedent unless they should show the subject application is substantially different, out of many of the prior applications that were granted.

9. In the case of Josephine Aliperti, Supreme Court decided on December 26, 2006, A.D. 2d NY Slip Op 10060 against the Zoning Board of Appeals of the Town of Brookhaven. The Supreme Court gave an absolute decision. The Supreme Court held, that a Board's finding of a different results on substantial similar applications, was arbitrary and capricious and would not remit the matter

back to the Zoning Board but reversed their decision. Annulled the Board's determination and granted the Petition. That decision was in June of 2005. .

10. It is also important to note, that the Appellate Court, decisions are more significant and more binding than any Supreme Court decision. The Appellate Division, Second Department, in the Matter of Campo Grandchildren Trust v. Zoning Board of the Town of Brookhaven, 39 A.D. 3d 746 in a decision dated April 17, 2007, in which the Appellate Division went into a long discussion of the issue of precedence and ordered that a Judgment of the Zoning Board of Appeals of the Town of Brookhaven be reversed and annulled and was sent back as approved, reversing the Supreme Court as well.

11. The finding of the Appellate Division was that the Zoning Board of Appeals failed to provide a rational explanation to reach a different result on substantially similar facts than it did on prior determinations. Decisions of a Board cannot be sustained if they lack rational basis and deemed to be arbitrary and capricious when it reaches a different result with essentially the same facts as prior cases.

12. It has long been held, that Boards in reaching a decision, different than any prior decisions they made, have the responsibility to substantially differentiate the applications. It should be noted in this case, that 100 x 100 foot lots are similar in size and shape to the many of the improved lots on the map.

13. In the case of Lucas v. Board of Appeals of Village of Mamaroneck 57 A.D. 3d 784, 870 N.Y.S. 2d 78, 2008 N.Y. Slip Op. 10003, N.Y.A.D. 2 Dept.

December 16, 2008 (No 2007-01034, 2007-05026, 10960/06). The Appellate Division in 2008 rejected reasons cited by the Village in attempting to differentiate the property of the developer's application from previously similar applications.

14. The Appellate Division reiterated in the case of Bassano v. Town of Carmel Zoning Bd. Of Appeals, 56 A.D. 3d 665, 868 N.Y.S. 2d 677 (2d Dep't 2008), that the decision of the Board was arbitrary and capricious and failed to explain the denial and essentially the same facts as three prior determinations and why such variance would produce an undesirable change in the character of the neighborhood.

15. More significantly, the Supreme Court of Suffolk County, on March 28, 2012, rendered a decision in the case of Toni Seaman v. The Zoning Board of Appeals of the Town of Islip is a decision by Justice Rebolini indicating that there were two cases that created precedent, basically, the same factual circumstances which constituted precedent by which the municipal authority was bound, the absence of a rational basis otherwise for varying their result. Granting the Petition of the applicant and annulling the determination of the Zoning Board of Appeals of the Town of Islip. This matter is in keeping with all the other cases cited herein.

16. As indicated earlier, the Lower Court decisions that allowed the municipality in extreme circumstances, especially where the land was primarily vacant, did not follow earlier decisions, all of which cases were overruled.

Enclosed in this discussion, are primarily Appellate cases, your author knows of no Appellate Division Decisions which allow Zoning Boards to ignore its prior decisions in property sites that are substantially similar.

17. The prevailing law in New York State which as stated above, Municipal Boards are bound to follow their own precedent, unless they can differentiate an application being substantially dissimilar to the one being proposed as precedent. Here, almost every case discussed is substantially similar.

18. The cases submitted to the Board by Petitioner show numerous instances of grants in the immediate area of similar sites which decisions are apparently without rhyme or reason.

POINT II

EQUAL PROTECTION

19. The actions of the Commission in this case is quintessential equal protection violation and the Plaintiff herein is being singled out and being treated differently than others, and by taking a building lot and denying it essentially any Pine Barrens Credit in payment and sterilizing the parcel in an area where it clearly indicates that it is developed with many houses and is extremely similar to numerous other grants. The actions of the Commission should be considered a violation of the Fourteenth Amendment to the United States Constitution Equal Protection Law and may be a taking under the Fifth Amendment to the Constitution by taking their property without just compensation. They are saying, it cannot be used, and Respondents are only offering an equivalent of three or four

thousand dollars for this building lot which is silly in today's world.

20. The Equal Protection Clause of the Fourteenth Amendment is "essentially a direction that all persons similarly situated be treated alike. "LaTrieste Rest. v. Vill. of Port Chester, 188 F. 3d 65, 69 (2d Cir. 1999) (quoting City of Cleburne v. Cleburne Living Ctr. Inc., 473 U.S. 432, 439, 105 S. Ct. 3249, 87 L.Ed. 2d 313 (1985)). In the land use context, a plaintiff can show an equal protection violation either under the selective enforcement standard, or the class-of-one standard articulated by the United States Supreme Court in Village of Willowbrook v. Olech, 528 U.S. 562, 120 S.Ct. 1073, 145 L. Ed 2d 1060 (2000). Courts vary as to whether selective enforcement and class-of-one constitute separate causes of action, or simply different ways of pleading a general equal protection cause of action. See, e.g. Fortress Bible Church v. Feiner, F.Supp 2d, 2010 WL 3199876, at *102 (S.D.N.Y. Aug. 12, 2010) (addressing selective enforcement and class-of-one as alternative ways to plead a land use equal protection claim); Sloup v. Loeffler, No. 05-CV-1766, 2008 WL 3978208, at * 14 (E.D.N.Y. Aug. 21, 2008) (addressing the selective enforcement and class-of-claims as two different equal protection causes of action).

21. In this case, there is both selective enforcement, and the applicant here, would be classified as class-of-one and complies with both standards.

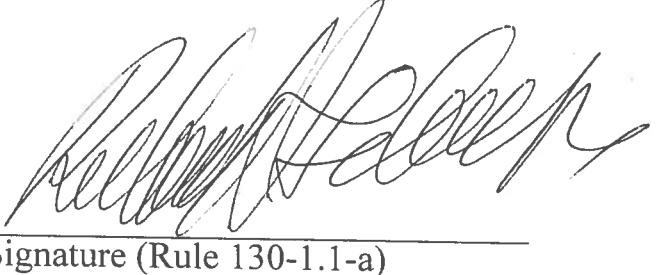
WHEREFORE, your deponent respectfully requests that the relief requested in the Petition be granted.

Sworn to before me this
16 day of March, 2016

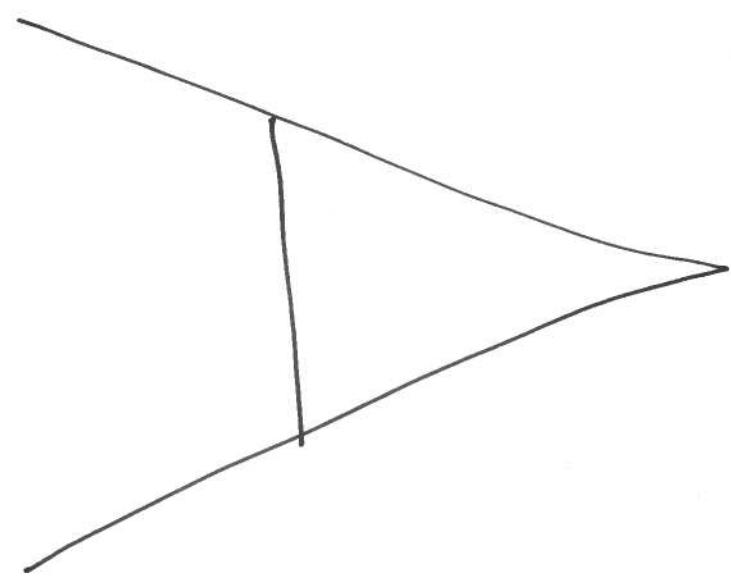
JACQUELINE HOELL
Notary Public, State of New York
No. 01HO4826427
Qualified in Suffolk County,
Commission Expires Sept. 30, 2018



RICHARD I. SCHEYER



Signature (Rule 130-1.1-a)
RICHARD I. SCHEYER, ESQ.
3/9/16



**YAPHANK & MIDDLE
ISLAND ROAD**

EXIST. 12" WATER MAIN
(66' WIDE)

LOT 57

N 06°57'00" E 100.00'

LOT 13

S 83°03'00" E

LOT 14

LOT 15

LOT 16

LOT 17

LOT 56

35.0'

LOT 55

35.0'

LOT 54

10,000 S.F.

LOT 53

35.0'

100.00'

S 06°57'00" W

LOT 51

PROPOSED
DWELLING

PROP. W.S.

20.0'

30.0'

PROP.
DRIVE

PROP.
EXP..

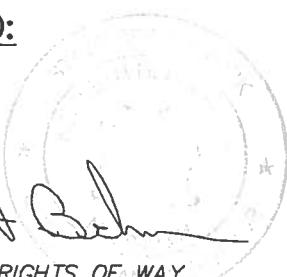
PROP.
S.T.

PROP.
L.P.

CHESTERFIELD AVENUE

(33' WIDE) (NOT OPEN)
PROP. 28' WIDE PAVEMENT

CERTIFIED TO:



THE EXISTENCE OF RIGHTS OF WAY
AND/OR EASEMENTS OF RECORD IF
ANY, NOT SHOWN ARE NOT
GUARANTEED.

UNAUTHORIZED ALTERATION OR ADDITION
TO THIS SURVEY IS A VIOLATION OF
SECTION 7209 OF THE NEW YORK STATE
EDUCATION LAW.

COPIES OF THIS SURVEY MAP NOT BEARING
THE LAND SURVEYOR'S INKED SEAL OR
EMBOSSED SEAL SHALL NOT BE CONSIDERED
TO BE A VALID TRUE COPY.

GUARANTEES INDICATED HEREON SHALL RUN
ONLY TO THE PERSON FOR WHOM THE SURVEY
IS PREPARED, AND ON HIS BEHALF TO THE
TITLE COMPANY, GOVERNMENTAL AGENCY AND
LENDING INSTITUTION LISTED HEREON, AND
TO THE ASSIGNEES OF THE LENDING INSTI-
TUTION. GUARANTEES ARE NOT TRANSFERABLE.

**SURVEY OF: LOTS 52 THROUGH 56 INCLUSIVE, BLOCK 2
MAP OF FLOWER CITY PARK - SECTION B**
FILED JANUARY 31, 1927 FILE No. 597

SITUATED IN: **YAPHANK**

TOWN OF: **BROOKHAVEN**

SUFFOLK COUNTY, NEW YORK

DATE: 11/12/2010 JOB NO. B10-13129 SCALE: 1" = 20'

S.C.T.M. NO.	DIST.	SEC.	BLK.	LOT
	0200	529	05	035

KENNETH H. BECKMAN, L.S.

Surveying and Land Planning

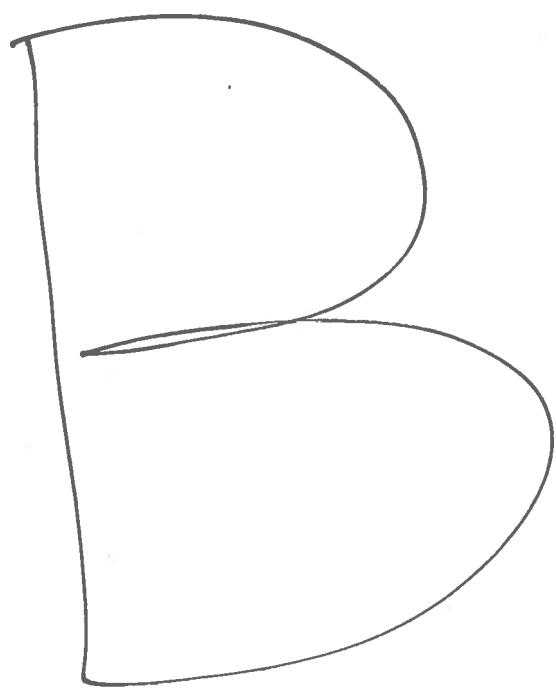
1814 Middle Country Road

Suite D

Ridge, N.Y. 11961

(631) 345-9427

FAX (631) 345-9429



PINE BARRENS CREDIT CLEARINGHOUSE

JAMES T.B. TRIPP, ESQ., *CHAIRMAN*
ANDREW P. FRELENG, *VICE CHAIRMAN*
RICHARD W. HANLEY, *MEMBER*
MITCHELL H. PALLY, ESQ., *MEMBER*
ROBERT ANRIG, *MEMBER*

LETTER OF INTERPRETATION

Re: Suffolk County Tax Map Number: 200-529-5-35
Applicant: Henry R. Dittmer

Date: January 12, 2015

Findings of Fact

The applicant applied for a Letter of Interpretation for the above-referenced .23 acre parcel. The parcel is in the Town of Brookhaven. It was in the A-5 District at the adoption of the *Central Pine Barrens Comprehensive Land Use Plan* (the "Plan") on June 28, 1995.

Conclusions

The Plan grants to every parcel of land in a sending area a use right, known as Pine Barrens Credits, that may be used to seek development density or intensity increases on lands identified as receiving areas within the same township.

The Plan establishes the formula for allocating Pine Barrens Credits. In sending areas within the A-5 District of the Town of Brookhaven, the number of Pine Barrens Credits allocated is equal to the parcel's size in acres multiplied by .16. Based upon this allocation formula, .0368 Pine Barrens Credits may be allocated to this parcel. Allocations are increased to the hundredth of a credit, therefore this parcel would receive .04 Pine Barrens Credits. There are no known conditions on the parcel which reduce the allocation of Pine Barrens Credits pursuant to Section 6.3.3 of the Plan. This allocation qualifies for the application of Section 6.7.6.7 of the Plan permitting the allocation of no fewer than 0.10 Pine Barrens Credits per parcel.

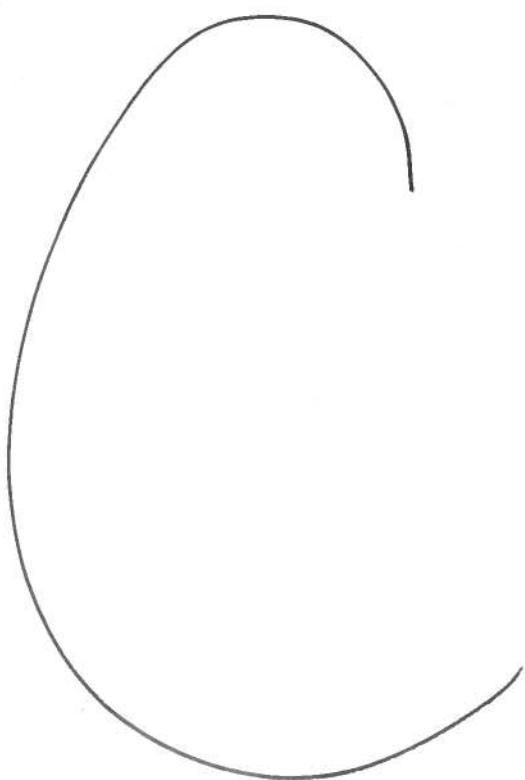
The total number of Pine Barrens Credits allocated for this parcel is .10

This Letter of Interpretation expires in three years from the above date. In order to obtain a Pine Barrens Credit Certificate you must complete the Pine Barrens Credit Certificate Application and follow the instructions contained in the Pine Barrens Credit Handbook.

If there is a mortgage or other lien on this parcel, the applicant will have to make an arrangement with the lender or other party holding the lien before the Clearinghouse can issue a Pine Barrens Credit Certificate for this tax map parcel.

Appealing your Allocation

Any person who is aggrieved by this determination may appeal the allocation within thirty (30) days of the date of this letter by giving notice, in writing, to the Central Pine Barrens Joint Planning and Policy Commission. The Commission address is 624 Old Riverhead Road (CR31), Westhampton Beach, NY 11978. Included with this notice shall be the name and address of the person requesting reconsideration and the reasons supporting the appeal as well as the number of Pine Barrens Credits requested. The Commission shall consider and decide the appeal within sixty (60) days of receipt of an appeal and will schedule a public hearing on the appeal.





**Commission Meeting of February 17, 2016
Town of Riverhead Town Hall, Riverhead, New York**

Present: Carrie Meek Gallagher (State of New York),
Sarah Lansdale (Suffolk County), Brenda Prusinowski (Town of Brookhaven),
Daniel McCormick (Town of Riverhead), Martin Shea (Town of Southampton)

**Adopted Resolution
Henry Dittmer Core Preservation Area Extraordinary Hardship
Yaphank, Town of Brookhaven, SCTM #: 200-529-5-35**

Carrie Meek Gallagher
Chairwoman

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

Sean M. Walter
Member

Whereas, on August 27, 2015, Henry Dittmer (the "Applicant"), by his attorney, Richard Scheyer, submitted to the Central Pine Barrens Commission office an application for a Core Preservation Area Extraordinary Hardship Waiver to develop a single-family residence with an individual sanitary system and related infrastructure including customary accessory uses on a 10,000 square foot wooded and vacant parcel with no frontage on an improved road identified as Suffolk County Tax Map Number 200-529-5-35, and to develop a 4,290 square foot portion of a paper street known as Chesterfield Avenue (taken together the "Project Site") to provide access to the Project Site from Yaphank Middle Island Road, an existing improved road, all as per the survey prepared by Kenneth H. Beckman, L.S. dated November 12, 2010 (the "Project"); and

Whereas, the Applicant submitted supplemental application materials on October 13, 2015; the Applicant submitted a request for an extension of time due to the Applicant's illness on November 2, 2015; and the Applicant submitted additional supplemental application materials on November 13, 2015 and January 28, 2016; and

Whereas, the Project Site contains natural pine barrens vegetation, is located within an old-filed subdivision map known as Flower City Park, and is approximately 153 feet east of the nearest paved, improved and developed road, Yaphank Middle Island Road, in the A-5 Residence Zoning District, in the hamlet of Yaphank, in the Core Preservation Area in the Town of Brookhaven; and

Whereas, the Project is proposed within a study area identified by the Commission in its review of the application containing approximately 450 acres of preserved public land owned and managed by Suffolk County to the north, east, south and west of the Project Site as identified in its Staff Report and Exhibits prepared for the public hearing on December 16, 2015. These County nature preserve properties and large, unfragmented open spaces include Suffolk County Parklands in the Core Preservation Area commonly known as Warbler Woods, Prosser Pines, and Cathedral Pines. Other environmentally sensitive resources in the study area include a Central Pine Barrens Critical Resource Area (CRA) Site B2 identified in Volume 1 Chapter 4

624 Old Riverhead Road
Westhampton Beach, NY
11978

Phone (631) 288-1079
Fax (631) 288-1367
www.pb.state.ny.us

of the Central Pine Barrens Comprehensive Land Use Plan (CLUP), as well as a Scenic Resource corridor, Yaphank Middle Island Road, identified in Volume 2, Chapter 8 of the CLUP; and

Whereas, the Project requires other permits and approvals including, but not limited to, a Town of Brookhaven building permit and road opening permit, approval from the Suffolk County Department of Health Services to construct a new sanitary system; and a permit from Suffolk County Department of Public Works for a curb cut onto Yaphank Middle Island Road; and

Whereas, there is limited development on Yaphank Middle Island Road in the study area; there are no improved intersecting streets emanating on the east side for a distance of approximately 3,700 feet, and there are no improved intersecting streets emanating on the west side for a distance of approximately 1,500 feet; and

Whereas, in addition, only seven residences and one commercial structure are developed in the study area; and

Whereas, the Town of Brookhaven Carmans River Conservation and Management Plan (2013) identifies the Project Site as being within the 10-year groundwater contributing area of the Carmans River watershed; and

Whereas, an estimated 50 privately owned parcels exist in old-filed Map of Flower City Park; the majority of these parcels, including the Project Site, are undeveloped, wooded, vacant, and substandard as per current zoning and are interspersed with publicly owned parcels that are also undeveloped, wooded, vacant, and substandard; a number of paper streets also exist on the Map; and

Whereas, the Applicant applied to the Pine Barrens Credit Clearinghouse for a Letter of Interpretation (LOI) on the Project Site and on September 3, 2010 received an LOI allocating 0.10 Pine Barrens Credit (PBC) for the Project Site; the Applicant did not appeal the LOI allocation; and

Whereas, the Project is a Type II Action pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act, SEQRA); and

Whereas, on December 16, 2015, the Commission held a public hearing on the Project; at the hearing the Commission reviewed the Staff Report and eight Exhibits prepared for the hearing; the Commission also heard testimony from the Applicant, its attorney and representatives and the public and received the Applicant's submission of Exhibit materials; a stenographic transcript was made of the hearing; and

Whereas, Section 4.5.1 of the CLUP, states, “[t]he [Long Island Pine Barrens Protection] Act requires the prohibition or redirection of development in the Core Preservation Area and sets forth the jurisdiction of the Commission over, and certain requirements for processing, hardship exemptions. The Act authorizes the Commission, by majority vote, to waive strict compliance

with this Plan upon finding that such waiver is necessary to alleviate hardship according to the conditions and finding of extraordinary hardship" pursuant to subdivision 10 of Section 57-0121 of the Act; and

Whereas, pursuant to the Act, in reviewing a Core Preservation Area Hardship exemption application, the Commission shall consider the criteria set forth in ECL §57-0121(10)(a) (i), (ii), and (iii) and Sections 57-0121(10)(c)(i), (ii), and (iii) and determine whether or not the requested relief is consistent with the purposes and provisions of the Act and if granted, would not result in a substantial impairment of the resources of the Central Pine Barrens area, and

Whereas, in its application, the Applicant addressed the Core Preservation Area Hardship exemption criteria; and

Whereas, the Commission has considered the application, the Staff Report and Exhibits, and the hearing transcript; and

Whereas, to establish the existence of an extraordinary hardship, an Applicant must demonstrate the elements set forth in ECL §57-0121(10)(a); and

Whereas, pursuant to ECL §57-0121(10)(a)(i), in addressing this element, the application states, the Project "does not affect any other properties in the immediate area since the only other immediate area is a developed house;" and

Whereas, the Commission finds the Applicant has not satisfied the element in ECL §57-0121(10)(a)(i), because the subject property is not unique and the provisions of the CLUP apply to and affect at least 50 other privately-owned and undeveloped properties in the study area, in the immediate vicinity of the Project Site, and the development of the Project Site or some or all of these parcels would result in significant adverse environmental impacts on the resources of the Central Pine Barrens including adverse impacts on groundwater and ecological resources, fragmentation of the existing habitat and publicly-owned open space, and establishment of an adverse precedent in that it may help to induce and promote similar types of development applications to be submitted in the area of the Project Site and in other hamlets in the Core Preservation Area where low-density development and expansive public land holdings exist; and

Whereas, pursuant to ECL §57-0121(10)(a)(ii), in addressing this element, the application states, the Project "does not arise out of the personal situation of the Applicant;" and

Whereas, the Commission finds the characteristics of the subject property are not unique because the property is similar to at least 50 other privately owned, substandard and undeveloped parcels in the old filed map of Flower City Park in the study area surrounding the Project Site and also in other hamlets of the Core Preservation Area; and the proposed development may be applied to all said 50 or more parcels in the Core Preservation Area; and

Whereas, pursuant to ECL §57-0121(10)(a)(iii), in addressing this element, the application states, the “property was single and separate long before the pine barrens was created;” and the application states, “The problem is not the result of any inaction by the applicant who has no transfer of contiguous land and we were not in common ownership on or after June 1, 1993. Section (a) of that code is completely met. This is an old single and separate lot that the client owns within the Pine Barrens. There is a house nearby, it has road on the map. We would have to improve the road which is classified as nondevelopment to put in a road and it would be an environmental benefit because if this road should be cleared, it would act as a fire brake in an area that is prone to fires. All issue here arise out of the character of the property, single and separate search its location, the nearness to other properties, the road, etc;” and

Whereas, the Commission finds that the Applicant took controlling interest of the undeveloped, wooded, substandard Project Site pursuant to Letters of Administration dated October 7, 2004; and

Whereas, the Applicant alleges that the Project Site is held in single and separate ownership as defined by the Town of Brookhaven Code and thus entitled to a Hardship Exemption, and

Whereas, the Commission finds that even if the Applicant can establish that the Project Site is held in single and separate ownership, such status alone, does not exempt the Project Site from complying with other ordinances implemented for resource protection purposes such as the Act or create special rights under the Act such as entitlement to a hardship waiver exemption if development is proposed for the Project Site; and

Whereas, pursuant to ECL §57-0121(10)(c)(i), in addressing this element, the application states, the Section “requires that there would be no material detriment or injury to other property improvements in the area, which it would not, since the only development in the area is another residential home. It would not increase the danger of fire, but in fact, it would be a safety issue, building a fire brake on the road. Would not endanger public safety and certainly would not impair the resources of the Core Preservation Area with the development of one 100 x 100 single and separate lot;” and

Whereas, the Commission finds the Project will be materially detrimental or injurious to other property or improvements in the area because there are at least 50 other parcels with similar characteristics and conditions in the area near the Project which would be affected by the Project, and the Project would result in the endangerment of public safety or substantial impairment of the resources of the Core Preservation Area since it has growth-inducing impacts and is precedent setting in nature in that it would induce and promote additional development in an area which the public has desired to protect and preserve, where limited development density exists and expansive public lands exist and may adversely affect the already preserved public lands; and additional development in an area with expansive undeveloped land may increase the risk of fire danger to public and property;

Whereas, pursuant to ECL §57-0121(10)(c)(ii), granting of the waiver would not be consistent with the purposes, objectives or general spirit and intent of this title as the Project does not redirect development from the Core Preservation Area or support the preservation of Core Preservation Area lands, preserve existing natural vegetation, ecologic, and hydrologic functions of the Pine Barrens; and

Whereas, an approval of the hardship waiver would result in an adverse precedent as it has the potential to result in significant additional development in the Core Preservation Area not only on the Project Site and in the study area of the Project Site but in other areas of the Core Preservation Area of the Central Pine Barrens and has the potential to result in substantial development in the Core Preservation Area and thus substantial impairment of the resources in the Core Preservation Area, particularly in remote areas where less development exists and where significant expanses of public lands and nature preserves are present; and now therefore be it

Resolved, the foregoing recitals are incorporated herein and made a part hereof; and be it further

Resolved, the Commission finds that the Applicant has not demonstrated extraordinary hardship exists for the reasons set forth above; and be it further

Resolved, that Applicant has not established the existence of an extraordinary hardship by alleging the Project Site is held in single and separate ownership; and be it further

Resolved, the Commission finds that the Project is not consistent with the purposes and provisions of the Act, including but not limited to, the goals and objectives to “[p]reserve the functional integrity of the Pine Barrens ecosystem, protect the quality of surface water and groundwater, discourage piecemeal and scattered development, [to] accommodate development in a manner consistent with the long-term integrity of the Pine Barrens ecosystem and to ensure that the pattern of development is compact, efficient, and orderly;” and be it further

Resolved, the Commission finds that, the requested waiver exceeds the minimum relief necessary to relieve hardship; the development of a vacant, privately owned Project Site on an unopened, undeveloped road is precedent setting and will result in adverse growth inducing impacts in the study area and in other hamlets in the Core Preservation Area, and if approved would be inconsistent with ECL Article 57, in particular ECL §57-0121(10)(c)(iii), and be it further

Resolved, that the Commission hereby determines the application, as submitted, does not meet nor satisfy the criteria for a Core Preservation Area Extraordinary Hardship Waiver pursuant to New York State ECL Article 57 §57-0121(10) for the reasons set forth in this resolution; and be it further

Resolved, that the application for a Core Preservation Area Extraordinary Hardship exemption is denied.

Henry Dittmer Core Preservation Area Extraordinary Hardship SCTM #: 200-529-5-35

Record of Motion:

Motion by: B. Prusinowski

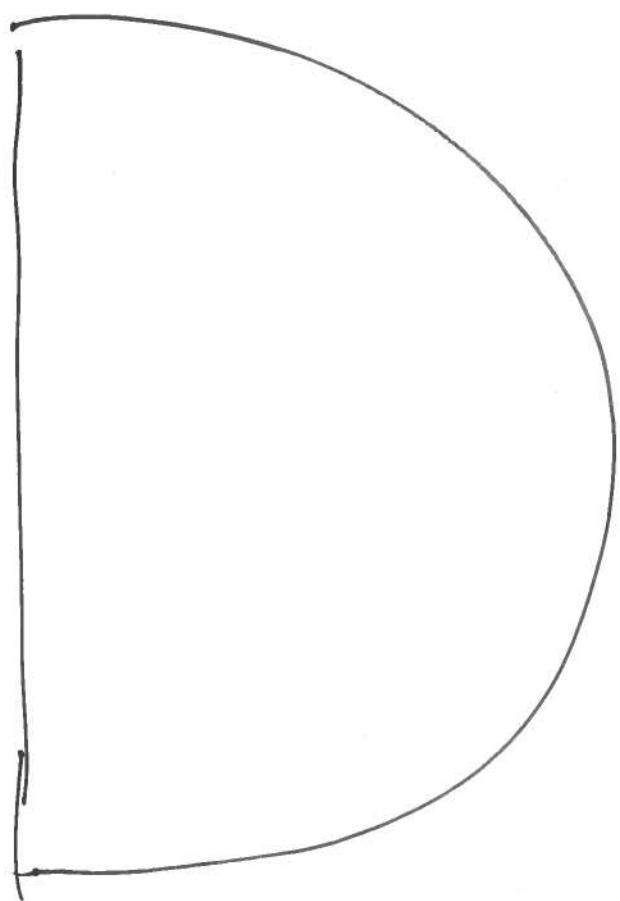
Seconded by: M. Shea

In Favor: 5

Opposed: 0

Abstention: 0

cc: Town of Brookhaven Divisions of Planning and Building
Town of Brookhaven Board of Zoning Appeals
New York State Department of Environmental Conservation Region 1
Suffolk County Department of Health Services Wastewater Division
Suffolk County Department of Public Works



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1

1 -----x
2 HENRY DITTMER CORE PRESERVATION
3 AREA HARDSHIP WAIVER APPLICATION
4
5 1 INDEPENDENCE HILL, FARMINGVILLE, NEW YORK 11738
6 -----x

7 December 16, 2015
8 3:06 p.m.

9 PRESENT:

10 JOHN PAVACIC, Executive Director/Acting as Chairman
ED ROMAINE, Member
11 SEAN WALTER, Member
DON MCCORMICK, Representative
12 ANNA THRON-HOLST, Member
BRENDA PRUSINOWSKI, Representative
13 KYLE COLLINS, Representative
MARTY SHEA, Representative
ANDY FRELENG, Member
14 CAROL SHOLL, Commission Staff
JOHN MILAZZO, Commission Staff
15 JUDY JAKOBSEN, Commission Staff
JULIE HARGRAVE, Commission Staff
16 LARRY HYNES, Commission Staff

17 ALSO PRESENT:

18 RICHARD AMPER, Long Island Pine Barrens Society
RICHARD SCHEYER, Attorney for Henry Dittmer
19 MIKE NOVELETTI, Code Enforcement Officer
HENRY DITTMER, Owner/Applicant
20 JAMES EAGAN, Owner/Applicant

21 *****

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1 MR. PAVACIC: Folks, I'd like to
2 welcome you to the public hearing portion
3 of our agenda, and for the record, my name
4 is John Pavacic, Executive Director of the
5 Commission. I'm also currently the acting
6 chair. I'm going to read into the record
7 the notice of public hearing. I'll then
8 provide it to the court stenographer.

9 "Pursuant to the New York State
10 Environmental Conservation Law Article
11 57-0121(10) and the Central Pine Barrens
12 Comprehensive Land Use Plan, notice is
13 hereby given that the Central Pine Barrens
14 Joint Planning and Policy Commission will
15 hold a public hearing on Wednesday,
16 December 16th, 2015, on the matter of a
17 Core Preservation Area Extraordinary
18 Hardship Waiver."

19 The name of the project to be heard
20 is the Henry Dittmer Core Preservation Area
21 Hardship Waiver Application. The
22 owner/applicant is Henry Dittmer/James
23 Eagan and Richard Scheyer. The project
24 site location is the East side of Yaphank
25 Middle Island Road, also known as County

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1 Road 21, south of Rustic Road, Yaphank.
2 The Suffolk County Tax Map Number is:
3 200-529-5, Lot 35 and the project
4 description is: Request for a Core
5 Preservation Area Hardship Permit to
6 develop a 10,000 square foot wooden
7 property, a single-family residence,
8 individual septic system, related
9 infrastructure and accessory structures,
10 and development of Chesterfield Avenue, an
11 unopened paper road. The proposal is a
12 Type II Action pursuant to the State
13 Environmental Quality Review Act.

14 I'll then hand that to the
15 stenographer, and so, I'd just like to ask
16 the members of the commission to identify
17 themselves, please, starting with
18 Supervisor Romaine.

19 MR. ROMAINE: Yes. Brookhaven Town
20 Supervisor, Ed Romaine.

21 MR. PAVACIC: John Pavacic,
22 Executive Director and acting as chair.

23 MR. WALTER: Sean Walter, member.

24 MR. FRELENG: Andy Freleng,
25 representing Town Executive and Sub-County

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1 Executive, Steven Malone.

2 MR. PAVACIC: We have our rep from
3 Southampton.

4 MR. COLLINS: Kyle Collins, Town
5 Planning and Developmentalist
6 Administrator, Town of Southampton,
7 representing Supervisor, Thron-Holst.

8 MR. PAVACIC: At this point, I'd
9 like to ask Ms. Julie Hargrave to please
10 come forward and just speak about the
11 application first and then we'll hear from
12 the applicant.

13 MS. HARGRAVE: Thank you and good
14 afternoon. You each should have a copy of
15 the staff report and exhibits before you
16 and the applicant has a copy as well. I'm
17 just going to briefly go through it and
18 then the applicants here to present in the
19 public hearing. The Staff Exhibits include
20 A through F:

21 A is aerial of the project site and
22 also of the surrounding area, showing about
23 a half a mile radius with the core and
24 compatible group area down below.

25 B is the property survey that was

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1 submitted with the application showing the
2 property is approximately 153 feet off of
3 East Yaphank & Middle Island Road, County
4 Road 21 and on an undeveloped, unopened
5 road on Rustic Avenue.

6 C is the photographs of the private
7 site taken by the staff. It includes an
8 additional set of photographs taken on --
9 so it includes November 12th, 2015
10 photographs and also December 10th, 2015.
11 The first day we were out there, it was
12 raining and the pictures didn't come out
13 very well. So you can see some views north
14 and south of the site and also the existing
15 drawing that runs on County Road 21. This
16 project site is behind that property in the
17 woods, and again, on an undeveloped road,
18 so you can't really see it except for
19 looking at the woods.

20 D is some of the historical
21 accounts of endangered and threatened
22 species that were listed on this date,
23 DEC's website, and also a map of the area
24 of the project site and you can see a large
25 wetland area across the street on the west

1 side of 21.

2 And F is a copy of the Tax Map, so
3 you can see the location of the property
4 and its placement among many protected
5 lands owned by the County, Suffolk County,
6 and nature preserved properties to the
7 north of the site and south and west across
8 the road, and to the south is a large
9 101-acre parcel owned by the County as
10 well.

11 And G is a copy of the Pine Barrens
12 Credit Clearinghouse letter that the
13 applicant received when they applied for a
14 Letter of Interpretation to carry out from
15 2010 and they received an outpatient of .1
16 credit.

17 And H is a copy of the applicant's
18 letters that relate to this proposal and
19 their petition addressing the hardship
20 criteria in the Pine Barrens Lot. So just
21 to go through the staff report a little
22 bit, this is, again, the 10,000 square foot
23 parcel on an undeveloped road. It's in the
24 5-acre residential zone district. It's
25 wooded and it would require development of

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1 a street approximately 4,290 square feet of
2 clearing to develop that road. This is
3 considered development under the Pine
4 Barrens Act according to the definition in
5 the act.

6 The site, we don't know exactly if
7 the site contains any endangered species.
8 The applicant didn't provide that
9 information and we haven't received a
10 response from the Natural Heritage Program
11 on that.

12 There appear to be no wetlands
13 shown on the survey. Not sure also about
14 whether they actually are, if the surveyor
15 looked for wetlands or if there are in fact
16 none. It's not in the wild we see a river
17 area.

18 We're waiting for a copy of a
19 response -- I'm sorry. We received the
20 response from the State for Preservation
21 Office that no cultural resources would be
22 impacted from the project, and County Road
23 21 is identified in the Pine Barrens Plan
24 as a scene of resource, so that's listed in
25 the staff report.

1 Just to go over the composition of
2 the area where the project site is located,
3 again, it's in the Core Preservation Area
4 and there appears to be approximately seven
5 houses developed in this span of County
6 Road 21 where the site is located and one
7 commercial property.

8 Once you go north or south of the
9 core, you can see in the aerial, there are
10 other developed properties in the
11 compatible growth area. Those predated the
12 Pine Barrens Act, developed course, and the
13 subdivision development on Rustic Road
14 north of the site, and also south, just off
15 the map, there's a subdivision as well that
16 creates the Act.

17 There are no roads in this -- in
18 the swamp of the core where the project
19 site is. There are no -- There are houses
20 in front on 21, but there are no roads
21 going east or west.

22 There are approximately 35 parcels
23 in the core that are protected through
24 conservation provisions that are in the
25 vicinity of this project site through the

1 credit program, and so, again, the owner
2 received a Letter of Interpretation for one
3 .1 Pine Barrens Credit and that was never
4 appealed by the applicant. It says it's
5 Type II under SEQRA. The Health Department
6 Approval would be pending, that application
7 has not been made, and the applicant would
8 need permits from the Town of Brookhaven
9 for building permits at least.

10 The questions we have on page 6,
11 just to have the applicant address the
12 hardship criteria, whether they ever plan
13 to appeal their credit allocation if
14 they've attempted to sell the property to
15 the County, since there is significant
16 County holdings in that area, and perhaps
17 it could be picked up by the County, if
18 there were interested -- both parties. The
19 feasibility of developing Chesterfield
20 Avenue and obtaining that curb cut on the
21 County Road 21, whether there are any
22 wetlands.

23 The opposite side of Chesterfield
24 Avenue, if you look at the Tax Map, is a
25 County Nature Preserve Land, so it's not --

1 I'm not sure if the parties would agree to
2 opening that road -- both parties, and not
3 sure if the proper project needs any
4 variances as well. That's everything.

5 MR. PAVACIC: Any questions for
6 Ms. Hargrave?

7 MR. ROMAINE: I just have a few
8 quick questions. You mentioned there were
9 seven residential areas and one commercial.
10 Were they all built prior to the Pine
11 Barrens Act?

12 MS. HARGRAVE: I believe so. I
13 believe so. I have an aerial from 1994.

14 MR. ROMAINE: Obviously, I'm asking
15 a question because I used to represent that
16 area in the legislation in the 80's and all
17 those structures were there when I
18 represented, including the telephone
19 company, so I'm very familiar with this
20 area and I believe they were all there
21 prior to the Pine Barrens Act. So nothing
22 has been developed along this way since the
23 Pine Barrens.

24 The town zoning on the property is
25 listed as what?

1 MS. HARGRAVE: I believe A-5.

2 MR. ROMAINE: Which is five-acre
3 residential, so on the basis that they
4 don't meet the zoning, even should a
5 hardship be granted, they'd have to take
6 other steps at the Town, and for the Town
7 to allow development on 100 x 100 parcel in
8 an area that was zoned 5-acre -- I think
9 the best word I can use is problematic, and
10 lastly, to develop this parcel, would they
11 not have to apply for a permit to the Town
12 of Brookhaven to open this paper street and
13 pave it?

14 MS. HARGRAVE: Yes.

15 MR. ROMAINE: Have they submitted
16 an application to do such, since part of
17 this paper street, the adjoining property,
18 I believe is owned by the County and
19 there's a residential unit immediately to
20 the west of this property on the north side
21 of Chesterfield that may also have to
22 concur on the highway law for this to be
23 opened; is that not correct?

24 MR. MILAZZO: That's our
25 understanding.

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1 MR. WALTER: I don't think they
2 have to concur.

3 MR. MILAZZO: That's a legal
4 question. We should let the applicant
5 address that issue.

6 MR. ROMAINE: Right. I'm raising
7 that question because I want to know if
8 they have done the research on what the
9 requirements are, what the requirements are
10 for a road opening permit and a road
11 construction permit, and maybe the
12 applicant can address that because, quite
13 frankly, if the road can't be open or if
14 there's impediments for doing so or if
15 there's a standard that they can't meet,
16 all this application is moot.

17 MR. WALTER: It's unfortunate for
18 us because I'd like to see the zone board
19 of appeals weigh in on this proposal.

20 MR. ROMAINE: We have an excellent
21 chairman in the zoning board of appeals.

22 MR. FRELENG: There appears to be
23 separate lots -- they appear. I just want
24 to confirm that's single and separate; one
25 south and one east of the subject property.

1 MS. HARGRAVE: South?

2 MR. FRELENG: I'm sorry, east and
3 west.

4 MS. HARGRAVE: Lot 36 is another
5 application by this applicant, Dittmer,
6 that will be on your agenda next week.
7 That is a 4,000 square foot lot. I believe
8 it's one separate and single lot near that
9 material to show that. Lot 34, it's not
10 developed -- I'm not sure -- and --

11 MS. PRUSINOWSKI: Julie, do you
12 have the single and separate search? If 35
13 and 36 are not single and separate, then
14 this is premature.

15 MS. HARGRAVE: I had that question,
16 if they're the same owner, how can they be
17 single and separate? But I think they have
18 been kept in different names.

19 MR. ROMAINE: Could I ask a
20 question to my other colleague from
21 Brookhaven? Single and separate has to be
22 held single and separate from what time
23 forward?

24 MS. PRUSINOWSKI: That depends on
25 the date of the upgoing of the property.

1 Its got to go back to when these were
2 conforming lots typically.

3 MR. ROMAINE: And you can give the
4 planning department --

5 MS. PRUSINOWSKI: Our planning
6 department can give that date, yes.

7 MR. ROMAINE: It will be helpful if
8 you can provide it because this is another
9 application coming in. The planning
10 department should say that they have to be
11 held single and separate from this date
12 forward, and I assume there's a chain of
13 title search that will be done to confirm
14 that.

15 MS. PRUSINOWSKI: Yes.

16 MR. ROMAINE: Just curious.

17 MS. PRUSINOWSKI: For the
18 applicant.

19 MR. ROMAINE: All County Clerk
20 coming out of me.

21 MR. PAVACIC: Are there any other
22 questions from the Commission for Ms.
23 Hargrave?

24 At this time, I'd like to hear from
25 the applicant, please.

1 MR. SCHEYER: Mr. Chairman, members
2 of the board, I just received a pamphlet
3 from the secretary, so I never checked to
4 read it, but here is one from me, which
5 will make this much quicker.

6 I want to answer first one of the
7 questions from the supervisor. This is a
8 single and separate lot. This one is
9 bought in 1971 and has been single and
10 separate ever since long before the Pine
11 Barrens existed.

12 MR. ROMAINE: That isn't the
13 standard for single and separate, as you
14 know, Counselor.

15 MR. SCHEYER: I know, but I'm
16 giving you the date. It's never been
17 attached to any other, never been
18 subdivided from any other, and in this
19 pamphlet, which I'm going to give you --
20 it's very short -- the single and separate
21 search is attached.

22 MR. MILAZZO: Is this the same as
23 you submitted earlier?

24 MR. SCHEYER: No.

25 MR. MILAZZO: Okay. I'd love to



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1 get a copy of that.

2 MR. SCHEYER: I gave him six or
3 seven.

4 I'll make it very brief because I
5 have one witness. Mr. Dittmer is the owner
6 of this property. It belonged to his
7 father before him in Manorville, as you
8 know, it's in the core. It is single and
9 separately owned. There's a copy of the
10 search in here. It was purchased in 1970.

11 The reports have been submitted to
12 the Pine Barrens. They never said it
13 wasn't single and separate, but it's
14 attached here to Exhibit A to these papers.
15 Property is currently zoned A-5, but was
16 not zoned A-5 in 1970. The aerial
17 photograph they have, and so do we, it's
18 Exhibit C of this book, and the title
19 report fully shows that it was bought. As
20 people from Brookhaven would know, if the
21 lot is more than 60 feet wide, held in
22 single and separate ownership and you owned
23 it, it was not in the Pine Barrens, you
24 could build on it as a matter of right
25 under the Brookhaven code today.

1 MR. ROMAINE: Depending on when
2 single and separate went into effect.

3 MR. SCHEYER: Yes.

4 MR. ROMAINE: For some lots, it was
5 1937, for other lots it was 1958. It's all
6 when zoning was in acted in effectuated
7 within the town.

8 MR. SCHEYER: When this was born in
9 1970, it was zoned D residential at the
10 time, and as subsequently --

11 MR. ROMAINE: Zoning and single and
12 separate are two different matters.

13 MR. SCHEYER: I understand. I'm
14 just explaining the history.

15 Boarded in 1970, it was a D zoning
16 at the time. It's been held the same way
17 unsubdivided from any other since, so the
18 search is in here.

19 MR. WALTER: You said
20 D-Residential. I'm sorry to interrupt, but
21 what was the minimum lot size for D
22 residential?

23 MR. SCHEYER: Oh, much smaller than
24 this. D residential, I think it was
25 multifamily, the D residential.

1 MS. PRUSINOWSKI: It was, yes, but
2 I don't recall the single family lot size
3 at this point.

4 MR. ROMAINE: Could we have a
5 report from the planning department
6 regarding subsequent lots from this from
7 which the applicant bring forwards the
8 hardship so that people other than the town
9 of Brookhaven who are members of this
10 commission would know what each of the
11 single and separate applies and the zoning,
12 which is a separate issue, and when the
13 rezonings were done, et cetera.

14 MR. SCHEYER: I believe there were
15 several rezonings since then.

16 MR. ROMAINE: Yes.

17 MR. SCHEYER: The current proposal
18 is developed as court arranged as a
19 100 x 100 foot parcel. As you've seen on
20 the survey, it's Exhibit B here, the survey
21 attached. It's on a paper street. We
22 would have to improve 100 feet of the
23 street to get to the house. I do know it
24 is required for a road opening. This is
25 the lot of a filed map. The road is on a

1 filed map. I've gone through this law
2 before, we could do it if you want again,
3 but a road on a filed map, you have the
4 right to open it. That's not development.
5 You've had a lot of cases on that.

6 MR. MILAZZO: Which cases are on
7 that?

8 MR. SCHEYER: What?

9 MR. MILAZZO: Which cases are on
10 that?

11 MR. SCHEYER: I have some attached.

12 MR. MILAZZO: That the road opening
13 is not developed?

14 MR. SCHEYER: Oh, no. I can supply
15 that if you want.

16 MR. MILAZZO: I would like them.

17 MR. SCHEYER: Pilanski versus the
18 town of Brookhaven is one of the clearest
19 cases. If it's on the map -- a file map,
20 you have the right to open it as a road if
21 you own property on it. I'll give you the
22 cases. I have a whole brief on it. We've
23 argued this in the Supreme Court.

24 MR. MILAZZO: My question was: You
25 indicated that the Commission said opening

1 the road is not a development. Which case
2 is that?

3 MR. SCHEYER: I will give you the
4 cases.

5 MR. MILAZZO: Okay.

6 MR. SCHEYER: The problem which
7 arises out of the characteristics of the
8 property -- I'm going through the code --
9 is not a personal hardship of the
10 applicant. It's not a result of any action
11 or inaction by the applicant who did not
12 transfer any contiguous land and common
13 ownership after 1993 when the Pine Barrens
14 came into effect. There is no owned
15 contiguous land since 1971.

16 In addition to Provision C, this
17 would not materially be detrimental or
18 injurious to other property or improvements
19 in the area. I have a witness to come in
20 on that. The area will clearly indicate
21 there are only four or five homes nearby
22 and the secretary indicated that and it's
23 all on --

24 MR. MILAZZO: She's not a
25 secretary. I'm sorry.

1 MR. SCHEYER: Excuse me?

2 MR. MILAZZO: She's an
3 environmental analyst.

4 MR. SCHEYER: I'm sorry for using
5 the wrong title.

6 MR. MILAZZO: It's okay.

7 MR. SCHEYER: In the case, there
8 are four or five homes nearby on our side
9 of the street and four or five more across
10 the street, which could very well be
11 classified under these cases as significant
12 development by standard setup by this board
13 and other cases which I'm going to relate
14 and are attached.

15 This would not increase the danger
16 of fire or public safety or impairment of
17 any resources of the area. There's no
18 wetlands here. The waiver is the minimum
19 release necessary because the property in
20 its present status under the code can't be
21 used. History wise, they applied for the
22 clearing, as indicated, five years ago. A
23 copy of the decision is also included in
24 Exhibit D. Their interpretation was
25 offered to Mr. Dittmer's 1/10 of a Pine

1 Barrens Credit, which he rejected. The
2 Pines Barrens Commission has in the past
3 approved numerous Core Area Permits for
4 building in the immediate area in examples,
5 which I'm just going to mention some.
6 Every one that I mention will be in your
7 book under "cases."

8 The case of Harold Marshall: North
9 of East Bartlett Road, South of Schneider
10 Lane, in Middle Island. Application for
11 Core Preservation Area Hardship for a
12 single-family home. The applicant is
13 zoning A-5 Residential as here. That
14 applicant has 3.9 acres of vacant wooden
15 property on a paper street, no road.
16 Circumstances identical to those before
17 you. Topography was flat. Vegetation was
18 mature oak-pitch pine forest.

19 This Commission met on October 2nd,
20 2002. We have the case number and the case
21 here. Commission determined that the
22 application met all requirements for
23 Extraordinary Hardship and allowed clearing
24 for a single-family home and approved the
25 Core Hardship Exemption on this piece of

1 vacant wooded property on a paper street,
2 which happened to abut nature trails and
3 preserves. It was further indicated that
4 there was going to be physical disturbance
5 of the land, an increase of the use of the
6 area and involved new destruction.

7 They were given permission to clear
8 the site within the core to build a
9 single-family home, which they would
10 classify as development, but was determined
11 to have a hardship. The parcel had only
12 two houses near it within a 500-foot radius
13 and was vacant in the entire surrounding
14 area. The case is attached.

15 Two, second case: Evan Goldstein,
16 Hot Water Street, Manorville, Town of
17 Brookhaven. That parcel was surrounded by
18 County property on three sides and existed
19 prior to Pine Barrens Core Roadfront
20 Exemption List. Commission determined that
21 the application met all requirements for
22 Extraordinary Hardship under Section
23 57-0121 (10(a) and (c)), exactly what the
24 applicant here is requesting under the same
25 section. The only condition was that they

1 could not clear more than 20 percent of the
2 total lot area. This was determined on
3 September 17th, '97. At that point, it was
4 a completely vacant area. No house
5 anywhere near it.

6 Next case is Anna and Alexander
7 Czanecki: The property is located on the
8 north side of North Street, west of Wading
9 River Road, Manorville. The applicant
10 wished to build a house on North Street,
11 which was near the Peconic River Wild
12 Scenic and Recreational Rivers corridor.

13 Single-family home on a lot would
14 comply with the Brookhaven Zoning and could
15 have been built on this lot because it was
16 single and separate. Same as this piece.
17 Granted the Extraordinary Hardship under
18 Section 57 -- same one -- (a) and (c). The
19 same provisions we're asking for here and
20 would approve without any conditions as a
21 Core Area Hardship Exemption in their
22 Meeting of September 26th, 2001. I'm
23 almost done.

24 The case of the application of
25 Katherine Foster Screven: Property is

1 located north side of North Street, west of
2 Center Moriches Road, Manorville.

3 Application for Core Area Hardship to build
4 a single-family home under septic system in
5 an A-5 District, same as we're discussing
6 here.

7 Property was single and separate,
8 totally wooded, bordering a horse farm to
9 the west, and a single-family residence to
10 the east on the south side of North Street
11 with a vacant lot behind it.

12 Contrary to the approvals, they
13 completely cleared the lot, neutering of
14 all trees and the Commission afterwards,
15 based on complaints, that regular meeting
16 approved the Core Hardship Exemption as
17 submitted without conditions. Clearing was
18 done after the application was made and
19 subsequently approved. The applicant built
20 a single-family home with the permission of
21 Pine Barrens and cleared every tree.

22 The application of Dolores Blake,
23 1997 case: Applicant needs variances from
24 the Town of Brookhaven to build. Yet the
25 commission granted a Core Preservation Area

1 Hardship, allowed them to subdivide 5 acres
2 into three lots containing less than 2
3 acres each in an A-2 Zone, didn't meet
4 zoning, but it required variance from the
5 Town of Brookhaven. Yet the Extraordinary
6 Hardship was granted by the board under the
7 same provisions we requested here.

8 Then we have the interesting
9 application of Rita Kristiansen on the east
10 end of Forge Road in Calverton: It should
11 be noted, the majority of this property was
12 certified wetland. The applicant asked
13 permission to build a single-family home on
14 .2 of an acre, which is 8,000 square feet.
15 Hardship Request Hearing was held March
16 20th, '96. The Commission found that this
17 small parcel met all of the requirements of
18 the Extraordinary Hardship under (a) and
19 (c), exactly what we're talking about here.
20 Exactly what we're requiring, the lot was
21 smaller; required variances from ZBA to be
22 built. The lot was only 8,700 square feet
23 in an A-10 Zone. Our parcel is an A-5 Zone
24 and was 10,000 feet. There were units in
25 the immediate vicinity, but not close.

1 Given the size of the parcel, only
2 a 261 square-foot house could have been
3 built. The Board gave them the right to
4 build a full scale house with clearing on
5 the site, which is far more severe than
6 this application.

7 And the Woodstock Company
8 application made in July of '98 on a lot
9 which is 40 x 100, same filed map we're
10 discussing here (two blocks away.) At that
11 time, you could build on a 40 x 100 single
12 and separate in the Town of Brookhaven
13 before they increased it to 60 feet.
14 However, this particular parcel had no road
15 on the map or anywhere else. It required 1
16 280-A Application to build a road or
17 right-of-way. It did not even exist on the
18 map. This lot did not come in for a
19 Hardship Exemption because the
20 Clearinghouse allocated one full Pine
21 Barrens Credit based on the fact they had
22 apparently been approved by the Town on an
23 earlier code. It had no road, no road
24 frontage, and it was grossly substandard to
25 the ordinance and would not have been

1 single and separate at the time the
2 application was made to the Pine Barrens.
3 The applicant didn't go further because he
4 was offered a full credit and he took it.

5 All these cases are listed here
6 under cases fully printed out, the whole
7 case.

8 Conclusion: Mr. Dittmer owned this
9 property since 1970. It was a buildable
10 parcel, again, under D-Residence. The
11 property was subsequently upzoned by the
12 Town in a series of upzoning, which rounds
13 up today at A-5. In 1995, we arguably can
14 argulate it, but it is single and separate
15 and was not in the core. This thing could
16 be built.

17 In 1995, it was placed in the Core
18 of Pine Barrens for all the reasons
19 explained before, this is a paper street.
20 The application wishes to pave 100 feet of
21 it. He rejected the 1/10 of a credit, far
22 less than any similarly situated parcel has
23 received Pine Barrens, including a 40 foot
24 parcel previously mentioned.

25 He wishes to develop the property

1 now, which is the best use for it under
2 Sections (a) and (c), all the cases
3 submitted above under the same provision of
4 the code approved by this Commission. We
5 have shown you numerous examples and can
6 provide more that were not on any Road
7 Frontage Exemption List that was acceptably
8 approved, but not when the time map was
9 created.

10 In cases to hold that if you are on
11 a paved or paveable road, it would be
12 considered non-development under decisions
13 that have been submitted before. I will
14 get those to you. The roadway is
15 considered non-development. It is in the
16 core, complies with the code of the Town of
17 Brookhaven and is single and separate
18 parcel in excess of 60 feet. If other
19 precedents are to be followed, this should
20 fall within.

21 We're asking the Commission to do
22 two things: Grant a waiver that has been
23 done in previous applications of the strict
24 criteria of the Pine Barrens.

25 Allow us to go to Brookhaven for a

1 building permit and build a house on this
2 single and separate lot in an area that is
3 pretty well developed. As you all know,
4 when they were developed is not the issue.
5 It's what's not on ground that counts and
6 there's houses all around here.

7 I would like at this time, which is
8 all I have to say, it's all in the book, we
9 have one other witness, Mr. Noveletti, the
10 code export among other things, who will
11 give you a very quick presentation also and
12 I'll get together with Mr. Milazzo and give
13 whatever he needs.

14 MR. MILAZZO: I would just like the
15 information on your assertion that the
16 development of a road is not development
17 under Article 57.

18 MR. SCHEYER: We have a bunch of
19 cases with it where you found that. I'll
20 get them to you.

21 MR. MILAZZO: Very well.

22 MR. WALTER: Can I ask Counsel a
23 question? I'd ask the witness a question,
24 but you're not putting the witness on that
25 I'd like to ask questions, so I won't

1 blind-side you.

2 If we gave you a full credit, would
3 this satisfy your client?

4 MR. SCHEYER: I have to ask him.

5 He's sitting in the back. I'd have to go
6 out and ask him. I can't answer that,
7 but --

8 MR. WALTER: I would have asked
9 him, but didn't want to blind-side him.
10 Maybe you can ask him that question.

11 MR. SCHEYER: I will ask him that
12 question. If you want my suspicion, he
13 might. The 1/10 of the credit allocation
14 is ludicrous. As you know, the building
15 lot is worth far more than \$7,000 or
16 \$8,000.

17 MR. FRELENG: Before we raise
18 edification, on what grounds would we issue
19 you additional credit?

20 MS. PRUSINOWSKI: It was never
21 appealed.

22 MR. FRELENG: It was never
23 appealed.

24 MR. SCHEYER: Well, he decided not
25 to get credits. He wants to build it.

1 MR. MILAZZO: Did he buy this
2 parcel?

3 MR. SCHEYER: He inherited it. His
4 father bought it in 1970. His father
5 passed away and he inherited 10 or 15 years
6 ago. Same people, same -- he took his
7 father's estate. His father was also
8 Henry, but it was bought in 1970. Is that
9 45, 50 years ago? This is not a
10 subdivision or a speculative thing. He had
11 it. It has not been merged with anything
12 else. It's been sitting there at his
13 property since then and when you formed the
14 Pine Barrens, this was a building lot.

15 MR. WALTER: This is what I would
16 call an exercise in esoteric real property
17 law, that I suspect that if we do go into
18 executive session and start to talk about
19 things, certain things are going to fall
20 into place. If you can ask your client
21 that, that might be important.

22 MR. SCHEYER: I will. Do you want
23 me to do it right now?

24 MR. WALTER: The rest of your case
25 will be fine. You don't even have to

1 answer it today.

2 MR. SCHEYER: I will get back to
3 you on that. Can I call Mr. Noveletti,
4 because I want to get you out of here.

5 MR. PAVACIC: Are there any other
6 questions for Mr. Scheyer?

7 MR. SCHEYER: I know nothing about
8 Pine Barrens. I wouldn't know one if I was
9 holding it.

10 MR. PAVACIC: Are there any other
11 questions for Mr. Scheyer from the
12 Commission?

13 You have your other witness then,
14 please.

15 MR. SCHEYER: Yes, please. Thank
16 you.

17 MR. PAVACIC: Are you an attorney,
18 sir?

19 MR. NOVELETTI: No, I'm not.

20 MR. PAVACIC: Can you swear him in?
21 M I K E N O V E L E T T I, the witness herein,
22 having been first duly sworn by a Notary Public of
23 the State of New York, was examined and testified
24 as follows:

25 MR. NOVELETTI: My name is Mike

1 Noveletti. I live at 8 Stillwaters Lane,
2 West Hampton Beach, New York. I do
3 environmental consultant work. I'm a code
4 enforcement officer in New York State,
5 building inspector, and I routinely do --
6 address land issues and evaluations of
7 properties with development construction
8 and potential development. I'm going to
9 explain to you by examples what the impacts
10 are of this proposed project relative to
11 four examples that I'll read to you that
12 have already previously been approved in
13 this neighborhood as a developed area.

14 MR. MILAZZO: I'm sorry to
15 interrupt, sir. Can you just define "in
16 this neighborhood?" What does that mean?
17 Is that 5 feet? 10 feet? A mile? 10
18 miles? One I see is in the Town of
19 Southampton.

20 MR. NOVELETTI: We're speaking
21 about the road.

22 MR. MILAZZO: How big is your
23 circle? Your testimony was that, "in this
24 neighborhood." I just want to know what
25 does "neighborhood" mean to you.

1 MR. NOVELETTI: The neighborhood
2 means the locations and locus of the
3 properties I'm about to tell you about.
4 They're along the road and adjacent to the
5 subject property.

6 MR. MILAZZO: But my question is
7 this -- Why don't you give your
8 presentation and I'll probably ask the same
9 question at the end.

10 MR. NOVELETTI: Okay. The parcel
11 belonging to the -- Mr. Dittmer, the
12 subject property known as 200-529-5-35 is
13 in the Core of the Preservation Pine
14 Barrens. The area in which the parcel is
15 located is classified by the Pine Barrens
16 as substantially developed. The
17 adjacent -- the apartments adjacent to this
18 property are classified as substantially
19 developed. Exhibits A, B, and C, A, being
20 Core Preservation Area Permits, and B known
21 as Central Pine Barrens Core Preservation
22 Area existing development patterns and
23 vacant lots, and C, as a Core Preservation
24 Area Non-development parcel --
25 Non-development parcel list, define the

1 parcels that are approved in substantially
2 developed areas.

3 The Yaphank-Middle Island Road is a
4 substantially developed area. The aerial
5 photographs shown as 1, 2, and 3 are
6 examples of cases approved or developed on.

7 The aerial known as 1 as highlighted in
8 blue, is on the front road exemptions
9 list -- of the road front exception list
10 and was developed on two sides along with
11 numerous other parcels on the street. The
12 area known as 2 is the 40 x 100 size lot,
13 also highlighted in blue, which was the
14 subject of an application known as the
15 Woodstock Application. The parcel had
16 building permits but was never developed.
17 For this lot, the Pine Barrens issued one
18 full Pine Barrens Credit.

19 The four parcels approved for
20 development by the Pine Barrens possess
21 many issues which Mr. Dittmer's parcel does
22 not share. The parcels listed for our
23 purposes of example are 1, 2, 3, and 4
24 before as follows:

25 Example 1: The application of Seth

1 Morgan with regards to parcels known as lot
2 200-410-1-7.6 & 10. These parcels are land
3 locked and 7 acres from the road, required
4 an easement and more clearing than the
5 Dittmer lot would require. The application
6 was approved for development of multiple
7 single-family houses.

8 Example number 2: The application
9 put forth by Janet DuMauro in regards to
10 this parcel number 200-382-3-13, resides in
11 wetlands which was required a wetland
12 permit. Also, the parcel required more
13 clearing than Mr. Dittmer's lot and was
14 approved for construction of a
15 single-family residence.

16 Item number 3 --

17 MS. PRUSINOWSKI: Sir, where are
18 the items that you're referring to?

19 MR. NOVELETTI: The Tax Map.

20 MR. MILAZZO: First page.

21 MS. PRUSINOWSKI: I'm trying to
22 follow and I'm having a very difficult
23 time.

24 MR. MILAZZO: First page.

25 MS. PRUSINOWSKI: So they're not

1 maps?

2 MR. NOVELETTI: No. I'm sorry. I
3 guess I should have -- Tax Maps is numbers.
4 We're doing the Tax Map numbers.

5 Example 3: George Cachimpanis put
6 in an application for Tax Map number
7 200-300-3-29 required more clearing to
8 construct a single-family home than the
9 subject Dittmer lot.

10 Example number 4: Theresa Cox put
11 in an application for Tax Map number lot
12 900-358-1-9 that required the Zoning Board
13 approvals in order to build. Mr. Dittmer's
14 lot does not, at least according to Mr.
15 Scheyer.

16 MR. MILAZZO: That seems circular.

17 MR. NOVELETTI: The final exhibit,
18 Exhibit D, we would like to present is
19 regarding a parcel identified as Tax Map
20 number 200-460-1-6, 6-acre parcel with
21 building approval as well as clearing
22 limits. The property is owned -- the
23 property owner cleared 4 acres, much
24 exceeding the clearing limits as shown on
25 the aerial photograph of the property

1 belonging to Exhibit D. Afterwards, the
2 Pine Barrens declared the excess clearing
3 of the parcel to be permissible.

4 What we're trying to prove by
5 providing these examples is that Dittmer's
6 land belongs to an area classified as
7 significantly developed, based on these
8 exhibits, and along with other examples
9 stated in this document and related
10 documents, also including the core road
11 front exemption list.

12 The parcels meet the criteria of
13 surrounding developed parcels. The
14 development of this parcel will not effect
15 or have a material detriment to any of the
16 surrounding parcels or improvements to the
17 area in which the subject property is
18 located. Furthermore, it will not increase
19 the danger of wildfire or endanger safety,
20 also it will not cause substantial
21 impairment to the resources of the core.
22 Based on the previous approvals of the
23 parcels Mr. Dittmer's 10,000 -- the subject
24 property -- 10,000 square-foot lot, 6,000
25 feet of which will be cleared is not out of

1 character to the surrounding area or of
2 greater environmental significance than all
3 the examples, which are listed.

4 MS. PRUSINOWSKI: Where are the
5 exhibits in reference to Exhibit D and then
6 an aerial known as 1, where are those? Are
7 they within this book somewhere?

8 MR. NOVELETTI: Yes, they are. The
9 aerial photographs open in the highlights.

10 MS. PRUSINOWSKI: Do you have one
11 map indicating the proximity of
12 Mr. Dittmer's parcel to the remainder of
13 the parcels that you're using as --

14 MR. NOVELETTI: The first aerial,
15 D, Dittmer property, is here (indicating).

16 MS. PRUSINOWSKI: First aerial?
17 This (indicating)?

18 MR. NOVELETTI: Yes. This is D.
19 I'm sorry. The Tax Map number here is
20 529-5-35 -- 529-5-34, which is the Dittmer
21 subject property.

22 MS. PRUSINOWSKI: Yes. I
23 understand that, but I don't understand how
24 these other parcels on different tax maps
25 relate to Mr. Dittmer's parcel in this

1 instance. Do you have a map that indicates
2 that?

3 MR. NOVELETTI: Mr. Scheyer, the
4 maps showing the relationship to these
5 examples?

6 MR. MILAZZO: Do you have that map?

7 MR. EAGAN: In the -- within your
8 own report was created -- well, in the
9 Central Pine Barrens Core, there's a
10 development identification box where
11 there's a Tax Map attached to the northern
12 part --

13 MR. MILAZZO: I'm sorry, are you
14 testifying?

15 MR. NOVELETTI: They're referring
16 to this section and the company maps.
17 They're not highlighted.

18 MS. PRUSINOWSKI: Unclear what the
19 point you're trying to get across is.

20 MR. NOVELETTI: The point is that
21 the intensity of the development of the
22 proposed Dittmer lot is less intensive than
23 the approval that has been granted on the
24 lots we just sited, those four examples, so
25 that it's customary to the character of or

1 less than the development intensity.

2 MS. PRUSINOWSKI: But how does the
3 subject parcel relate to the other cases
4 that you're trying to use as being
5 proximate?

6 MR. NOVELETTI: They're precedent
7 through this property being approved for
8 development.

9 MS. PRUSINOWSKI: How are they
10 precedent?

11 MR. NOVELETTI: Because it's less
12 than 6,000 square feet of clearing on the
13 size of the lot, the proximity to the road
14 and the opening of the road to bring excess
15 to it.

16 MS. THRON-HOLST: I think the
17 question that we're looking for an answer
18 on is not that they're similar so much that
19 they are within a reasonable radius,
20 because I think that was what was being
21 suggested that this property was in a
22 similar radius of similar properties that
23 have been granted.

24 MR. NOVELETTI: We're trying to say
25 here that it is within proximity.

1 MS. THRON-HOLST: But I think
2 that's what we're having a hard time seeing
3 from what you have shown us so far.

4 MR. PAVACIC: Mr. Noveletti, do you
5 have an overall aerial photograph showing
6 the locations of the parcel in relation to
7 the subject parcel?

8 MR. NOVELETTI: No. I have the
9 aerial photograph --

10 MR. PAVACIC: The individual aerial
11 photographs for each of the parcels you're
12 claiming as exhibits?

13 MR. NOVELETTI: No. We referred to
14 the Tax Map drawings where those properties
15 were located as those being on the list
16 that are within the Pine Barrens Core, the
17 existing development, patterns, and vacant
18 lots.

19 MR. MILAZZO: Are they in the
20 immediate vicinity of the parcel?

21 MR. NOVELETTI: I don't know. I
22 have to ask Mr. Scheyer.

23 MR. MILAZZO: Mr. Scheyer, are
24 those parcels in the immediate area? Are
25 they in the immediate vicinity of the

1 parcel?

2 MR. SCHEYER: I'm sorry?

3 MR. MILAZZO: Can you ask him?

4 MR. SCHEYER: If I may, I want to
5 answer the question Mr. Walter asked me
6 earlier if my client would accept one
7 credit, and the answer to that is yes.

8 MR. MILAZZO: That wasn't my
9 question. My question was whether the
10 parcels are in the immediate vicinity, if
11 the property that you referenced through
12 Mr. Noveletti are in the immediate vicinity
13 of this parcel.

14 MR. SCHEYER: It's in my booklet
15 that the aerial, you can see the --

16 MR. MILAZZO: Is it's a yes or no
17 question. Is it yes or no?

18 MR. SCHEYER: I don't know if it's
19 in his pamphlet, but it's in mine.

20 MR. NOVELETTI: Do you have his
21 pamphlet?

22 MR. MILAZZO: I have his pamphlet,
23 but those are different properties, aren't
24 they? Let me back up. Why don't we deal
25 with Mr. Noveletti's proposal. Mr.

1 Noveletti, there are four parcels. Are
2 these parcels in the immediate vicinity of
3 Mr. Dittmer's lot?

4 MR. NOVELETTI: That I don't know.
5 I have to ask Mr. Scheyer.

6 MR. MILAZZO: When you defined this
7 area, would you agree that seven homes in a
8 3,700 foot linear section of a roadway,
9 seven homes constitutes substantial
10 development?

11 MR. EAGAN: Yes.

12 MR. MILAZZO: That wasn't a
13 question to Mr. Eagan. If Mr. Eagan wants
14 to testify, he can do that.

15 MR. EAGAN: I'd be happy to
16 testify.

17 MR. MILAZZO: Okay.

18 MR. EAGAN: Mr. Noveletti, please
19 step away. Thank you.

20 My names is James Eagan. I'd be
21 happy to testify on his behalf.

22 MR. PAVACIC: You need to be sworn
23 in.

24 MR. EAGAN: I'd be happy to be
25 sworn in.

1 J A M E S E A G A N, the witness herein, having
2 been first duly sworn by a Notary Public of the
3 State of New York, was examined and testified as
4 follows:

5 MR. MILAZZO: My question again:

6 Would you agree seven homes in a 3,7000
7 linear stretch of a roadway constitutes
8 substantial development?

9 MR. EAGAN: Yes, I would. I would
10 base this on the fact that the Pine Barrens
11 Commission has created three lists:

12 One is the core road for an
13 exemption list, one is the core development
14 and patterns of the development, and one is
15 the permits issued.

16 The Pine Barrens did this because
17 they basically defined what development was
18 and the development that they said was,
19 "This is all that was allowed, so you have
20 to declare this as development based on the
21 fact that there is a parcel number 18
22 within 600 feet of Mr. Dittmer's and it is
23 in an area that they classify the Pine
24 Barrens, a substantially developed area.

25 You have to look at the Pine

1 Barrens as a unique entity. There isn't
2 total development and it's not seven
3 houses. It's ten houses on one side, 12
4 houses down the street, three across the
5 street. Mr. Dittmer's property is in the
6 -- at the end of a substantially developed
7 area, but someone has to be at the end of a
8 substantially developed area. Not everyone
9 can be in the middle because the Pine
10 Barrens basically took people's property,
11 and what they're trying to do is not give
12 them compensation, as they've shown, where
13 they're only willing to give Mr. Dittmer
14 1/10 of a credit and the Woodstock
15 company --

16 MR. WALTER: Mr. Eagan --

17 MR. MILAZZO: Let him testify.

18 MR. WALTER: Are you a contact
19 vendee?

20 MR. EAGAN: I am an owner with
21 Mr. Dittmer on the parcel. I am not a
22 contract vendee.

23 MR. MILAZZO: Was that disclosed to
24 us?

25 MS. PRUSINOWSKI: Then it's single

1 and separate.

2 MR. MILAZZO: Was that disclosed?

3 MR. EAGAN: I don't know if that
4 had to be disclosed. Mr. Dittmer and I
5 have partners on lots of land. If you
6 would like an owner's affidavit that Mr.
7 Dittmer and I are partners on land, I'd be
8 happy to, and I don't own any contiguous
9 land.

10 MR. MILAZZO: So I would just
11 direct your attention to the application.

12 MR. ROMAINE: Could I ask a
13 question?

14 MR. EAGAN: Sure.

15 MR. ROMAINE: When did you become a
16 part owner in this parcel?

17 MR. EAGAN: Mr. Dittmer and I have
18 an arrangement about -- within the last
19 couple of years. I don't see how that
20 matters, whether I'm --

21 MR. ROMAINE: Well, I asked that
22 question with one specific --

23 MS. PRUSINOWSKI: Were you also a
24 partner with number 36?

25 MR. EAGAN: No.

1 MR. ROMAINE: Arrangement is
2 different than being a part-owner. If
3 you're a part-owner, then you should be on
4 the deed. Are you on the deed of this
5 property?

6 MR. EAGAN: No, I am not. Well,
7 then I am not a part-owner. I have an
8 arrangement with a friend.

9 MR. WALTER: Is it written?

10 MR. EAGAN: No, it's not.

11 MR. ROMAINE: It's usually a
12 contract vendee then.

13 MR. EAGAN: Well, I don't have a
14 contract. All I'd like to say is what the
15 definition of "substantially developed" is,
16 and it's by your own record that
17 "substantially developed" is based on what
18 the Pine Barrens defines as an area that
19 has development in it. That's why they
20 picked road front parcel and said, This is
21 a substantially developed area and if
22 you're on -- in an area where you believe
23 that you could put a house, it's
24 "substantially developed."

25 MS. PRUSINOWSKI: Where does it say

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1 that?

2 MR. EAGAN: It implies it in the
3 law.

4 MR. WALTER: So if we're to issue a
5 credit to build a road, who gets the
6 financial benefit of that; you and
7 Mr. Dittmer or you?

8 MR. EAGAN: That would be for
9 Mr. Dittmer to determine.

10 MR. MILAZZO: Would you consider
11 this area significantly developed?

12 MR. EAGAN: The best I can tell,
13 yes.

14 MR. MILAZZO: Would you say that
15 this property is similar to the property
16 that's surrounding to the east?

17 MR. EAGAN: The east is -- the
18 County boarded up all the land.

19 MR. ROMAINE: That's all woods.

20 MR. EAGAN: So everybody in that
21 neighborhood whose got County behind it.

22 MR. ROMAINE: The development is
23 north and south on the street of 21.

24 MR. WALTER: Did you have anything
25 more to add because I think your attorney

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1 would like you to sit down?

2 MR. EAGAN: Yeah. He'd like to
3 choke me.

4 MR. WALTER: Figuratively, that's
5 probably realistic.

6 MR. EAGAN: That's fine. You got
7 to learn somehow. You know, it's all about
8 people's property right and it's about
9 getting people fair value for your money.

10 MR. WALTER: Mr. Eagan, thank you.

11 MR. EAGAN: I appreciate it.

12 MR. ROMAINE: Thank you.

13 MR. PAVACIC: Any other questions
14 for the applicant from the Commission at
15 this point? Any questions from the public?

16 MR. AMPER: (Indicating.)

17 MR. PAVACIC: Mr. Amper?

18 MR. AMPER: This question is --

19 MR. WALTER: We have to swear him
20 in.

21 RICHARD AMPER, the witness herein,
22 having been first duly sworn by a Notary Public of
23 the State of New York, was examined and testified
24 as follows:

25 MR. AMPER: Have we established

1 whether or not the applicant attempted to
2 sell property either to the Town of
3 Brookhaven or Suffolk County? Has that
4 come out and I just didn't hear it today?

5 MR. MILAZZO: We don't have the
6 ability to answer that. He can answer
7 that. Mr. Scheyer can answer that.

8 MR. SCHEYER: It has not. The deed
9 is in his name. I saw the deed. It's the
10 name of Henry Dittmer.

11 MS. PRUSINOWSKI: If I may, the
12 Town has made overtures to those parcels
13 located within these filed maps -- old
14 filed maps in order to require those
15 parcels that the County has not already
16 taken.

17 MR. AMPER: Say that again.

18 MS. PRUSINOWSKI: The Town has made
19 overtures to those individuals who owned
20 parcels other than the County of Suffolk in
21 order to increase the municipal holdings in
22 this area.

23 MR. AMPER: And they have not
24 accepted those offers?

25 MS. PRUSINOWSKI: There has been

1 very little acceptance to date.

2 MR. ROMAINE: No response.

3 MS. PRUSINOWSKI: And I'm not
4 referring to this specific parcel.

5 MR. AMPER: There's no evidence
6 that they made any effort to sell the
7 property to the County of the Town. They
8 didn't appeal the credit allocation, so I'm
9 going to go back to an argument that I
10 raised before and that is that: This
11 hardship is as a result of the inaction on
12 the part of the applicant, and that is
13 impermissible. This is in more of the
14 woods for folks that are not aware about
15 this. I don't want to go into the details,
16 because the number of species of bird, the
17 history of endangered species on this
18 property is well-documented. This is an --
19 I think obviously is a parcel in the middle
20 of the Pine Barrens that we sought to
21 protect, and it does not seem to me as
22 though the applicant has attempted to use
23 other remedies to resolve the problem for
24 which he is seeking a way.

25 MR. WALTER: Mr. Amper, can I ask

1 you a question?

2 MR. AMPER: Sure.

3 MR. WALTER: If the Clearinghouse
4 had given him one full credit allocation,
5 would you have objected to that?

6 MR. AMPER: No, and if he appeals
7 and it is granted, we wouldn't object to
8 that either.

9 MR. WALTER: So if the Commission
10 could fashion a resolution of this that did
11 not set precedent, that would be my opinion
12 just -- and I may have a little more
13 background as a lawyer than others sitting
14 on the Board -- but I would not be opposed
15 based on what I've heard to us figuring out
16 a way to authorize one credit and have
17 this -- because --

18 MR. AMPER: The precedent issue is
19 an important one.

20 MR. WALTER: I agree. We have to
21 do it in a way --

22 MR. AMPER: But clearly, the
23 Commission has the authority to rule on the
24 credit allocation.

25 MR. WALTER: So could they --

1 MS. THRON-HOLST: Under what
2 parameters in this case though?

3 MR. WALTER: Could they amend the
4 application, our Counselor?

5 MR. MILAZZO: The first office is
6 still part of the public hearing?

7 MR. WALTER: You're still part of
8 the public hearing. I'm keeping it all out
9 in the open now, Dick.

10 MR. AMPER: Terrific.

11 MR. MILAZZO: The Clearinghouse
12 has -- there's an appeal process that would
13 come to the Commission and you would hear
14 an appeal, which as suspect, you would
15 notice it, we would look at the application
16 under the contexts of an appeal, and we do
17 that in research and we haven't done that.

18 MR. WALTER: So this is what my
19 recommendation is: If Counsel is willing
20 to do this, close the public hearing now,
21 leave it open for written comment and
22 discuss a way to figure out whether we can
23 convert this to that appeal or how that
24 takes place, if the Commission is willing
25 to do that.

1 MR. ROMAINE: At this point, I'll
2 make a motion to close this public hearing
3 and leave it open for written discussion to
4 put it on our decision calendar for our
5 January meeting.

6 MR. WALTER: I think that that
7 would be an important first step to see if
8 we can come up with -- what I would deem
9 would be a settlement, but we have to do it
10 in a way that it's not -- I don't want
11 people coming --

12 MR. ROMAINE: Stipulated.

13 MR. WALTER: Yeah. We got to come
14 up with a way to do that. This can't be --
15 this shouldn't happen this way. You guys
16 should have appealed your Clearinghouse
17 decision way back when. That should have
18 been what happened and you put us in a
19 tough position.

20 MR. SCHEYER: I don't agree. May
21 I?

22 MR. WALTER: Absolutely. We
23 haven't closed it officially.

24 MR. SCHEYER: The client chose at
25 that point to try to develop the property

1 because it was not given any -- it was so
2 far from realty, that going to the Zoning
3 Board of Appeals to the Clearinghouse was a
4 useless act -- useless. Therefore --

5 MR. WALTER: Well, usually after
6 the appeal from the Clearinghouse, it comes
7 to us, doesn't it?

8 MR. SCHEYER: Well, ultimately,
9 this is the Board that has the authority to
10 do what it wants with all of this. The
11 Clearinghouse is only really an arbitrate
12 to you --

13 MR. WALTER: Dick disagrees.

14 MR. SCHEYER: You're the final
15 authority, they're not. I don't think on
16 the issue of reaching settlement, that this
17 Board has the authority to do it. I would
18 probably get something to Mr. Milazzo on
19 that because I sat on a lot of boards, as
20 you know, and certainly, they have --
21 you're the final authority.

22 You have the right to make any
23 decisions that you want based on the facts,
24 and it's easy to differentiate the facts.
25 This case is unusual enough that it's not

1 going to create a precedent. You're not
2 going to find a case like it if you look
3 all day long. So that if you separate it
4 and differentiate it from anything else and
5 come up with a settlement based on the
6 facts of this particular case, I don't see
7 why at this point there's not the authority
8 to do it. You have the authority to do
9 what you want, really.

10 MR. WALTER: Well, I would disagree
11 with that, but it's very critical in law
12 school you have your wherefore clause that
13 has it together with which as the court
14 deems just, so I'm asking you, your request
15 of this Commission is either the ability to
16 develop or one credit. Is that what you're
17 amending?

18 MR. SCHEYER: Yes.

19 MS. PRUSINOWSKI: Can I ask? I
20 have two questions.

21 MR. SCHEYER: Yes, Brenda.

22 MS. PRUSINOWSKI: How did
23 Mr. Dittmer and when did he take title to
24 the subject parcel?

25 MR. SCHEYER: His father owned it

1 and took title in 1970. He inherited when
2 his father died.

3 MS. PRUSINOWSKI: When was that
4 approximately?

5 MR. SCHEYER: Ten years ago
6 approximately, maybe more.

7 MS. PRUSINOWSKI: And how did he do
8 that?

9 MR. SCHEYER: He's the
10 administrator of his father's estate. They
11 both have the same name.

12 MS. PRUSINOWSKI: And who's Ida
13 Dittmer?

14 MR. MILAZZO: Mother.

15 MR. SCHEYER: Yeah.

16 MS. PRUSINOWSKI: What proof do we
17 have that Parcel 35 and 36 are not in the
18 same name?

19 MR. SCHEYER: You have the title
20 report.

21 MS. PRUSINOWSKI: It doesn't go
22 that far.

23 MR. SCHEYER: We'll get you one.
24 It's not a problem.

25 MR. ROMAINE: I think it's 54 that

PUBLIC HEARING
HENRY DITTMER CORE PRESERVATION

December 16, 2015
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1 it has to go back to in that particular
2 aerial.

3 MR. MILAZZO: It doesn't include
4 that adjacent parcel lot 36.

5 MR. SCHEYER: If you read it, I'll
6 get a statement from the title company that
7 they don't have, never had any adjacent
8 parcel.

9 MR. WALTER: Anything that we would
10 fashion would have to come under as near,
11 single, and separate.

12 MR. SCHEYER: I will get it for
13 you.

14 MS. PRUSINOWSKI: My question is:
15 How did he take them?

16 MR. SCHEYER: I'll get it for you.

17 MR. PAVACIC: Mr. Milazzo, at this
18 point --

19 MR. MILAZZO: I'll have a motion in
20 the second to close the hearing --

21 MS. THRON-HOLST: I would like your
22 input on this.

23 MR. AMPER: Before you close it --

24 MR. WALTER: We're not going to
25 close it until you speak.

1 MR. AMPER: The Commission can also
2 deny this application on the basis of the
3 fact that the hardship was created by an
4 inaction of the applicant and allow the
5 matter of the allocation to be visited
6 separately. Just another option.

7 MS. PRUSINOWSKI: In the matter of
8 the credit?

9 MR. AMPER: Huh?

10 MS. PRUSINOWSKI: You mean the
11 matter of the credit?

12 MR. AMPER: Uh-huh.

13 MR. WALTER: We don't want to go
14 through another public hearing.

15 MR. SCHEYER: It's going to be
16 nothing but a lawsuit.

17 MR. PAVACIC: I'd like to hear Mr.
18 Milazzo.

19 MR. MILAZZO: The only issue with
20 respect to giving -- the staff wasn't
21 prepared to address a Clearinghouse appeal
22 and they haven't reviewed the arguments
23 that you would make and how you would make
24 different arguments on a Clearinghouse
25 appeal or LOI appeal to the Commission.

1 So that's not part of our analyst
2 to date. If this came in as an LOI
3 interpretation appeal, there would be
4 different analyses of different reviews of
5 cases that may be on point that --

6 MR. WALTER: That's fair.

7 MR. MILAZZO: -- haven't been
8 addressed today because that wasn't what we
9 expected today.

10 MR. SCHEYER: I didn't either.

11 MR. FRELENG: To that point,
12 there's about a half dozen parcels just
13 on this map section 5-29 that are within
14 the 153 feet that could also be developed
15 or could also come in for a credit appeal,
16 so when staff looks at that, I'd like them
17 to try to look at that area, which is in
18 the immediate area of the subject area, and
19 give us some discussion on the history of
20 those lots that are precedent. That might
21 be important by what we're doing.

22 MR. ROMAINE: I think Brenda also
23 will have her work cut out for her because
24 the Brookhaven Planning Department will
25 began an extensive search, and I'd like you

1 to involve the official examiner of title
2 for Suffolk County in the clerk's office.

3 MR. AMPER: One other alternative:
4 If the Town of Brookhaven offered to
5 purchase the property, would the applicant
6 now agree to sell it?

7 MS. PRUSINOWSKI: Yeah.

8 MR. SCHEYER: Where did that come
9 from?

10 MR. MILAZZO: Mr. Amper --

11 MR. AMPER: Well --

12 MS. THRON-HOLST: Didn't you say
13 that you have way in the past?

14 MR. AMPER: But he did not
15 previously challenge the appeal and he's
16 now willing to consider taking the credit.
17 Is he open now to sell the property to buy?

18 MR. MILAZZO: There's a motion by
19 Supervisor Romaine to close the hearing and
20 leave the written comment period open
21 for how --

22 MR. ROMAINE: Leave the written
23 comment period open for 30 days and place
24 this on our decision calendar for our next
25 regularly scheduled meeting in January.

PUBLIC HEARING
HENRY DITTMER CORE PRESERVATION

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1 MR. PAVACIC: The next meeting is
2 January --

3 MR. MILAZZO: It would have to be
4 30 days.

5 MR. ROMAINE: February.

6 MR. PAVACIC: The decision deadline
7 on this is --

8 MR. MILAZZO: February 6th, so we
9 need an extension through the February
10 meeting.

11 MR. SCHEYER: What is the February
12 date?

13 MR. ROMAINE: February 6th.

14 MR. MILAZZO: Third Wednesday of
15 February.

16 MR. ROMAINE: Oh, is it the third
17 Wednesday?

18 MR. MILAZZO: February goes quickly
19 though because of the schools.

20 MR. PAVACIC: Mr. Scheyer says he
21 consents.

22 MR. SCHEYER: We consent. It is --
23 your decision time is put off until
24 February 6th?

25 MR. MILAZZO: Yes.

PUBLIC HEARING
HENRY DITTMER CORE PRESERVATION

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1 MR. WALTER: I'll second the
2 motion.

3 MR. PAVACIC: Seconded by
4 Supervisor Walter.

5 MR. ROMAINE: Okay.

6 MR. PAVACIC: All in favor?

7 MR. WALTER: I.

8 (Whereupon, there was a unanimous
9 affirmative vote of the Board.)

10 MR. PAVACIC: Any opposed? Any
11 extension? Motion carried.

12 (Whereupon, this hearing was
13 adjourned at 4:11 p.m.)

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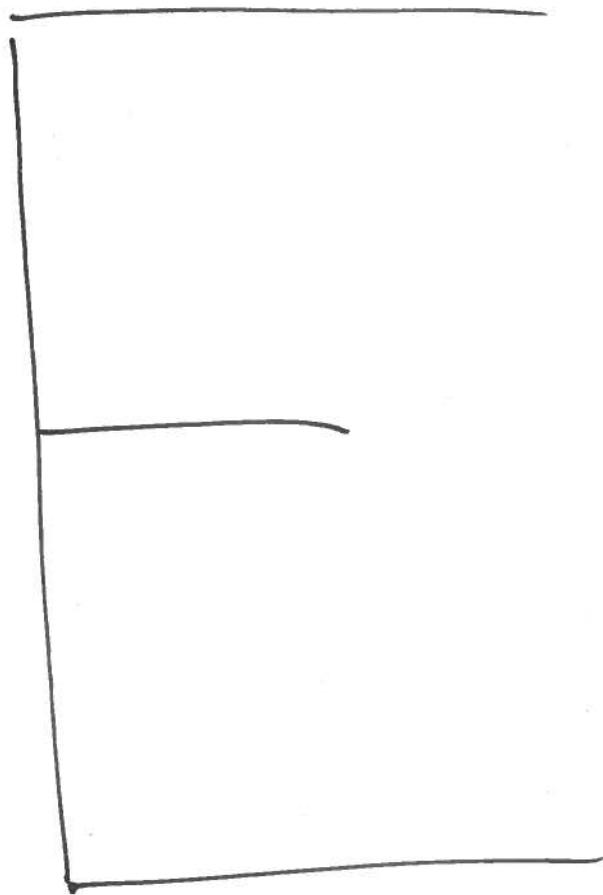
24

25

PUBLIC HEARING
HENRY DITTMER CORE PRESERVATION

December 16, 2015
66

1 C E R T I F I C A T I O N
2
3 STATE OF NEW YORK)
4 COUNTY OF SUFFOLK) SS
5
6 I, JAMIELEE PIGNOTTI, a Shorthand Reporter
7 and Notary Public within and for the State of New
8 York, do hereby certify:
9
10 THAT the foregoing transcript is a true
11 and accurate transcript of my original stenographic
notes.
12
13 IN WITNESS WHEREOF, I have hereunto set my
14
15 
16 JAMIELEE PIGNOTTI
17
18
19
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21
22
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25



PECONIC ABSTRACT, INC.

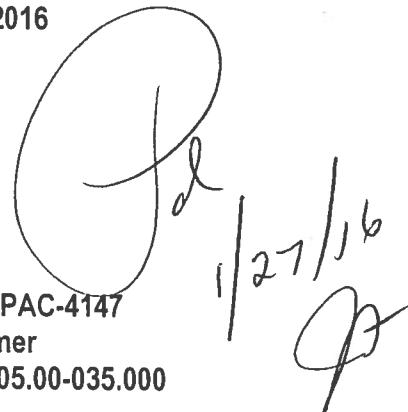
Agent for

**FIRST AMERICAN TITLE INSURANCE COMPANY
P.O. BOX 1267 405 OSTRANDER AVENUE
RIVERHEAD, NY 11901-0902**
(631) 369-0222 ~ Fax: (631) 369-4020
PECONICABSTRACT@VERIZON.NET

January 12, 2016

John P. Oliver, Esq.
1552 Stony Brook Road
Stony Brook, NY 1170
mainstlaw@optonline.net

Re: Title No. PAC-4147
Richard Dittmer
0200-529.00-05.00-035.000



Dear Mr. Oliver:

Enclosed herewith, please find updated Single & Separate Search pertaining to the above captioned matter.

Fee for said Search is...\$250.00. Please forward your check in this amount to my attention at the above address. Payment is due upon receipt. Thank you

Very truly yours,



Jeanne Anstett,
Office Manager

JA/mv

Encl.



First American Title

January 11, 2016

Town of Brookhaven
1 Independence Hill
Farmingville, NY 11738

RE: Title No. PAC-4147
Owner: RICHARD DITTMER
Premises: 0200-529.00-05.00-035.000

Dear Sir or Madam:

Please be advised that **PECONIC ABSTRACT, INC.** is a duly constituted and authorized agent of First American Title Insurance Company. As such agent, said Company can act fully on our behalf and in our stead and has the authority to prepare and issue Certificate and Report of Titles, omit title exceptions, collect title insurance premiums and issue Title Insurance Policies and Endorsements thereto.

If you have any questions in this regard, please feel free to call me at any time.

Very truly yours,

Vincent L. Plaia
Senior Underwriting Counsel
Eastern Division Agency

VLP/nco

cc: **Peconic Abstract, Inc.**
405 Ostrander Avenue
P. O. Box 1267
Riverhead, NY 11901

140 East 45th Street, 44th Floor, New York, NY 10017

TEL 212.381.6600 • FAX 212.381.6615

www.firstamny.com

Title No. PAC-4147

VARIANCE SEARCH
JEANNE ANSTETT, BEING DULY SWORN DEPOSES AND SAYS:

THAT SHE RESIDES AT 386 MARCY AVENUE, RIVERHEAD, NEW YORK AND IS OVER THE AGE OF 21 YEARS AND THAT SHE IS THE OFFICE MANAGER OF PECONIC ABSTRACT, INC., AN AUTHORIZED AGENT FOR FIRST AMERICAN TITLE INSURANCE COMPANY OF NEW YORK, AND THAT UNDER HER SUPERVISION AND DIRECTION, TITLE WAS EXAMINED TO THE PARCELS OF LAND DESCRIBED ON THE ANNEXED SCHEDULE THAT SAID EXAMINATION MADE TO INCLUDE 1/11/16 AND DETERMINED THAT SUBJECT PREMISES IS IN FACT SINGLE AND SEPARATE OWNERSHIP AS APPEARS FROM THE CHAINS OF TITLE ANNEXED HERETO AND THAT THE EFFECTIVE DATE OF THE APPLICABLE ZONING ORDINANCE 1/1/54.

AND THAT THIS AFFIDAVIT IS MADE TO ASSIST THE TOWN OF BROOKHAVEN BOARD OF APPEALS TO REACH ANY DETERMINATION WHICH REQUIRES AS A BASIS THERETOFORE THE INFORMATION SET FORTH HEREIN AND KNOWING FULL WELL THAT SAID BOARD WILL RELY UPON THE TRUTH THEREOF.

LIABILITY OF THIS COMPANY IS LIMITED TO \$25,000.00 FOR ANY REASON.

DATED: 1/11/16

SWORN TO BEFORE ME THIS
11th DAY OF JANUARY, 2016

MICHELLE VAIL
NOTARY PUBLIC

PECONIC ABSTRACT, INC.

BY: _____

JEANNE ANSTETT,
OFFICE MANAGER

MICHELLE VAIL
Notary Public, State of New York
No. 01VA4989798-Suffolk County
Commission Expires Dec. 16, 2017

TITLE NO. PAC-4147

PREMISES ON THE NORTH: 0200-529.00-05.00-003.001

Middle Island Realty Corp

To

Louise Wilkerson

Liber 1782 page 248

Dated: 7/27/34

Recorded: 9/27/34

(Lots 17-19)

(Assessed to: L. Wilkerson)

Chester Jacobs, County Treasurer

To

Herman Karp, 50% interest,
Martin Goldman, 25% interest and
Theodore Goldman, 25% interest

Liber 4614 page 448

Dated: 3/24/59

Recorded: 4/21/59

(Lots 17-19)

Emil, Henry & George Karp, as Executors
of Herman Karp, as to 50% interest,

Martin Goldman, 25% interest,
Theodore Goldman, 25% interest, who legally
changed his name to Theodore Mann dba

HMT Company

To

Theodore Mann, 50% interest, Martin Goldman,
25% interest; Samuel Shauer, 25% interest

Liber 8216 page 573

Dated: 3/28/77

Recorded: 4/7/77

(Lots 17-19)

Theodore Mann, 50% interest, Martin Goldman,
25% interest, Samuel Shauer, 25% interest

To

Theodore Mann

Liber 8567 page 374

Dated: 11/13/78

Recorded: 1/15/79

(Lots 17-19)

Jean H. Tuthill, County Treasurer

To

County of Suffolk

Liber 8977 page 422 (437)

Dated: 3/23/81

Recorded: 3/23/81

(Lots 17-19)

LAST DEED OF RECORD (FOR LOTS 17-19 INCL.)

Ellis T. Terry, County Treasurer

To

County of Suffolk

Liber 1798 page 01 (50)

Dated: 1/14/35

Recorded: 1/14/35

(Lots 11-16)

County of Suffolk

To

New York Lien Corp.

Liber 3848 page 32

Dated: 3/2/55

Recorded: 3/4/55

(Lots 11-16)

Continued.....

SWORN TO BEFORE ME THIS
11th DAY OF JANUARY, 2016

Michelle Vail
NOTARY PUBLIC

MICHELLE VAIL
Notary Public, State of New York
No. 01VA4989798-Suffolk County
Commission Expires Dec. 16, 2017

PECONIC ABSTRACT, INC.

by: JEANNE ANSTETT, OFFICE MANAGER

TITLE NO. PAC-4147

PREMISES ON THE NORTH: 0200-529.00-05.00-003.001
Continued.....

New York Lien Corp.
To
Menashi J. Saleh

Liber 3953 page 247
Dated: 6-1-55
Recorded: 8/19/55
(Lots 11-16)

Norma & Joseph Saleh, as Executors of
Menashi Saleh, who died 12/26/69 in
Westchester County
To
Bravo Lands Corp.

Liber 7109 page 326
Dated: 12/10/71
Recorded: 2/18/72
(Lots 11-16)

Kevin Seaman, Referee (foreclose mortgage
Liber 6287 page 496)
To
Norma & Joseph Saleh, as Executors of
Menashi J. Saleh

Liber 8104 page 516
Dated: 9/8/76
Recorded: 9/15/76
(Lots 11-16)

Jean Tuthill, County Treasurer
To
County of Suffolk
(assessed to Bravo Lands Corp.)

Liber 8266 page 01 (65)
Dated: 7/8/77
Recorded: 7/8/77
(Lots 11-16)

Jean Tuthill, County Treasurer
To
County of Suffolk

Liber 8390 page 186 (206)
Dated: 2/17/78
Recorded: 2/17/78

LAST DEED OF RECORD (FOR LOTS 11-16 INCL.)

SWORN TO BEFORE ME THIS
11th DAY OF JANUARY, 2016

MICHELLE VAIL
NOTARY PUBLIC

PECONIC ABSTRACT, INC.

by: JEANNE ANSTETT, OFFICE MANAGER

MICHELLE VAIL
Notary Public, State of New York
No. 01VA4989798-Suffolk County
Commission Expires Dec. 16, 2017

TITLE NO. PAC-4147

PREMISES ON THE EAST: 0200-529.00-05.00-034.000

County of Suffolk
To
Ralph Zerul and Celia Zerul, his wife

Liber 3545 page 362
Dated: 7/6/53
Recorded: 7/13/53

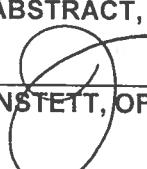
(Ralph Zerul died on 2/6/84.)

Joseph Sawicki, County Treasurer
To
County of Suffolk
(Assessed to Ralph and Celia Zerul)

Liber 12129 page 300
Dated: 7/5/01
Recorded: 7/12/01

LAST RECORD OWNER

SWORN TO BEFORE ME THIS
11th DAY OF JANUARY, 2016
MICHELLE VAIL
NOTARY PUBLIC

PECONIC ABSTRACT, INC.
by: 
JEANNE ANSTETT, OFFICE MANAGER

MICHELLE VAIL
Notary Public, State of New York
No. 01VA4989798-Suffolk County
Commission Expires Dec. 16, 20 17

TITLE NO. PAC-4147

PREMISES ON THE SOUTH: CHESTERFIELD STREET

SWORN TO BEFORE ME THIS
11th DAY OF JANUARY, 2016
Michelle Baril
NOTARY PUBLIC

PECONIC ABSTRACT, INC.

by: JEANNE ANSTETT, OFFICE MANAGER

MICHELLE VAIL
Notary Public, State of New York
No. 01VA4989798-Suffolk County
Commission Expires Dec. 16, 2017

TITLE NO. PAC-4147

PREMISES ON THE WEST: 0200-529.00-05.00-036.000

**Middle Island Realty Corp
To
Thomas Accordino**

Liber 1826 page 163
Dated: 1/14/35
Recorded: 8/23/35

Thomas Accordino
To
Thomas Accordino and Beatrice Accordino,
his wife

Liber 5559 page 360
Dated: 6/15/64
Recorded: 6/16/64

(No proof of death found on Thomas Accordino)
Beatrice Accordino Eklund
fka Beatrice Accordino
to
Ida Dittmer

Liber 6772 page 235
Dated: 7/9/70
Recorded: 7/13/70

LAST RECORD OWNER

**SWORN TO BEFORE ME THIS
11th DAY OF JANUARY, 2016**

11 DAY OF JANUARY, 2013

NOTARY PUBLIC

PECONIC ABSTRACT, INC.

by: JEANNE ANSTETT, OFFICE MANAGER

MICHELLE VAIL
Notary Public, State of New York
No. 01VA4989798-Suffolk County
Commission Expires Dec. 16, 2017

TITLE NO. PAC-4147

SUBJECT PREMISES: 0200-529.00-05.00-035.000

Middle Island Realty Corp
To
George D. Chapman

Liber 1732 page 223
Dated: 8-29-33
Recorded: 9/7/33

(Assessed to G.D. Chapman)
Chester F. Jacobs, County Treasurer
To
Lewis C. Bollenbach

Liber 5890 page 114
Dated: 1/6/66
Recorded: 1/6/66

Lewis C. Bollenbach
To
Richard Dittmer

Liber 6746 page 201
Dated: 5/21/70
Recorded: 5/22/70

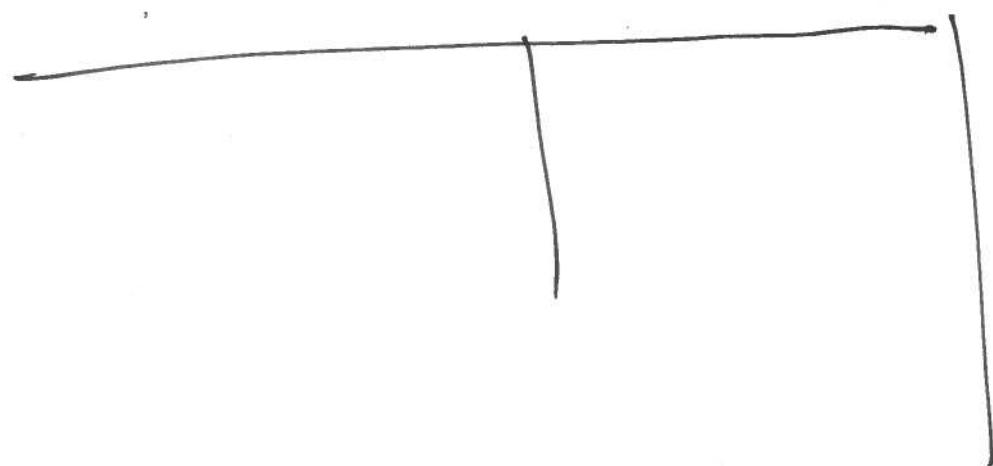
LAST RECORD OWNER

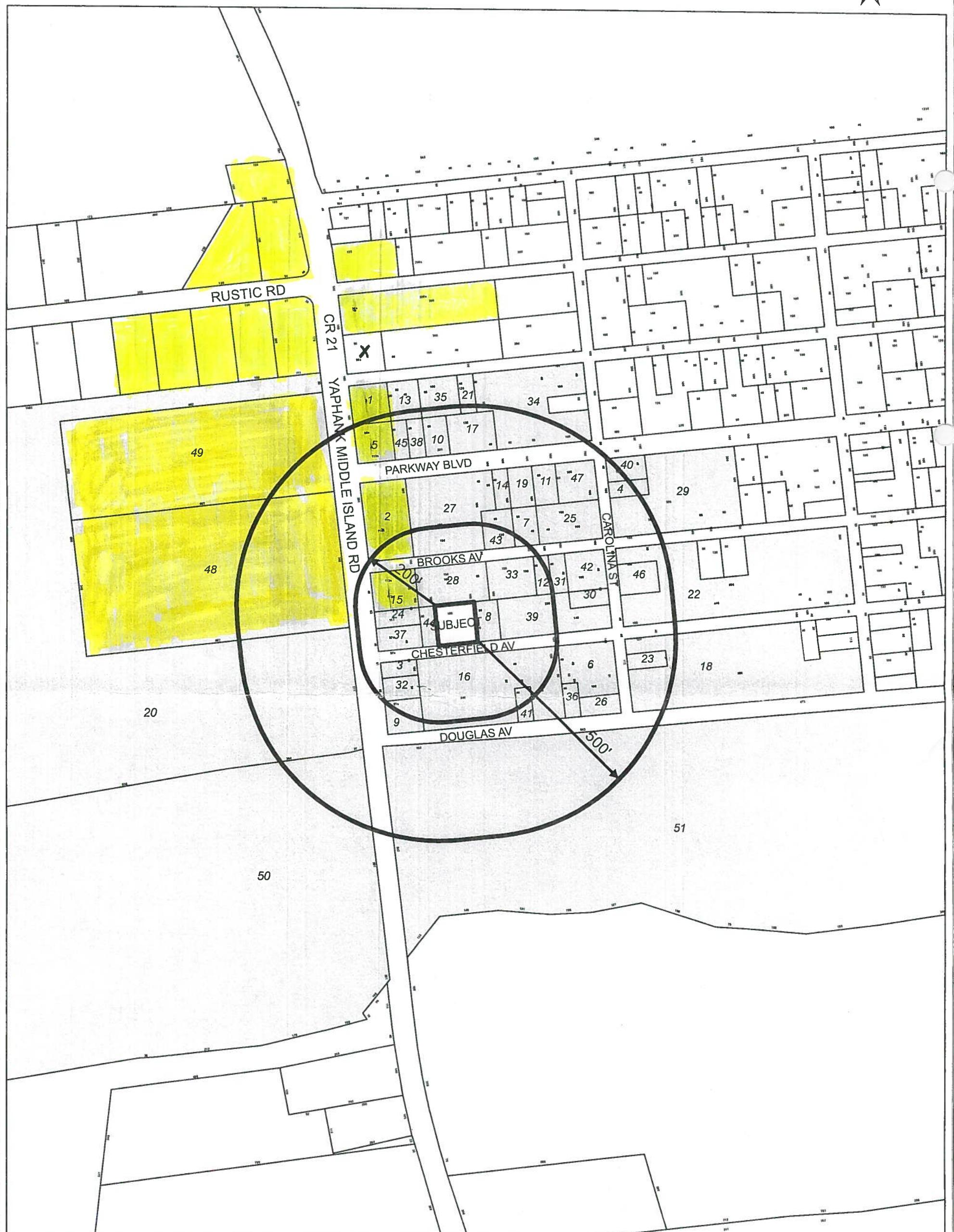
SWORN TO BEFORE ME THIS
11th DAY OF JANUARY, 2016
Michelle Vail
NOTARY PUBLIC

PECONIC ABSTRACT, INC.

by: _____
JEANNE ANSTETT, OFFICE MANAGER

MICHELLE VAIL
Notary Public, State of New York
No. 01VA4989798-Suffolk County
Commission Expires Dec. 16, 2017





ITALIC NUMBERS APPLY TO LIST

LOTS ON MAP OF
FLOWER CITY PARK
FILE# 58 SEC B
LOTS 52 - 56 INCL



RESIDENTIAL HOMES

THIS MAP PREPARED BY THE ASSESSORS
OFFICE OF THE TOWN OF BROOKHAVEN
By: L.H.C.

Date: 3/1/2016

ID	SCTM	Property Code : Description	Parcel	Owner Name	Owner Address	City	State	Zip
	Subject Parcels							
0200	52900 0500 035000	311 Residential Vacant Land	0.2300	DITTMER RICHARD C	139 W MAIN ST	BAY SHORE	NY	11706
1	0200 52900 0300 001000	220 Two Family Year-Round Residence	0.2300	STERLING CONSULTING ASSOCIATES INC	777 N RAINBOW BLVD STE LAS VEGAS			
2	0200 52900 0400 001000	210 One Family Year-Round Residence	0.4600	LORANDINI GARY A & LAUREN	323 YAPHANK MIDDLE ISLY YAPHANK	NY	89107	
3	0200 52900 0500 039000	311 Residential Vacant Land	0.0900	LUBIN LILLIAN C/O BEDER	123 BERKSHIRE RD	ROCKVILLE CENTER	NY	11980
4	0200 52900 0400 009000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11570
5	0200 52900 0300 036000	220 Two Family Year-Round Residence	0.2300	MANGINO JOHN JR & ELAINE	9 HEATHER CRES	COMMACK	NY	11725
6	0200 52900 0500 046000	311 Residential Vacant Land	0.4100	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11901
7	0200 52900 0400 034000	311 Residential Vacant Land	0.1400	COUNTY OF SUFFOLK	330 CENTER DR	RIVERHEAD	NY	11901
8	0200 52900 0500 034000	311 Residential Vacant Land	0.1400	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11901
9	0200 52900 0500 017000	311 Residential Vacant Land	0.1800	COUNTY OF SUFFOLK	330 CENTER DR	RIVERHEAD	NY	11901
10	0200 52900 0300 033000	311 Residential Vacant Land	0.1400	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788
11	0200 52900 0400 006000	129 Acquired Development Rights	0.1400	COUNTY OF SUFFOLK PLAN DEPT C/O S KARCZEWSKI	PO BOX 6100	HAUPPAUGE	NY	11788
12	0200 52900 0500 005000	311 Residential Vacant Land	0.0900	EASLEY WM & WM EASLEY JR & ESTATE OF CASSANDRA	57 CORNELL AVE	YONKERS	NY	10705
13	0200 52900 0300 002000	311 Residential Vacant Land	0.1800	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11901
14	0200 52900 0400 004000	311 Residential Vacant Land	0.0900	COUNTY OF SUFFOLK	330 CENTER DR	RIVERHEAD	NY	11788
15	0200 52900 0500 001000	210 One Family Year-Round Residence	0.2300	CORRADO CONO & JOAN	327 YAPK MIDDLE ISL RD	YAPHANK	NY	11901
16	0200 52900 0500 075001	311 Residential Vacant Land	1.5300	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11980
17	0200 52900 0300 032000	942 Co Owned Reforested Land	0.2700	SUFFOLK COUNTY DEPT PARKS REC & CONSERVAT	10 OVAL DR	HAUPPAUGE	NY	11788
18	0200 52900 0500 068001	311 Residential Vacant Land	2.1900	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11782
19	0200 52900 0400 005000	311 Residential Vacant Land	0.1400	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788
20	0200 52900 0100 028002	311 Residential Vacant Land	12.8800	SUFFOLK COUNTY	COUNTY CTR	RIVERHEAD	NY	11901
21	0200 52900 0300 004000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11901
22	0200 52900 0500 030001	311 Residential Vacant Land	2.2000	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788
23	0200 52900 0500 048000	129 Acquired Development Rights	0.0900	SUFFOLK COUNTY	310 CENTER DR	RIVERHEAD	NY	11901
24	0200 52900 0500 037000	311 Residential Vacant Land	0.0900	DITTMER RICHARD	139 W MAIN ST	BAY SHORE	NY	11706
25	0200 52900 0400 033000	129 Acquired Development Rights	0.3700	COUNTY OF SUFFOLK SUFFOLK COUNTY CENTER	CENTER DR	RIVERHEAD	NY	11901
26	0200 52900 0500 069000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11788
27	0200 52900 0400 035001	311 Residential Vacant Land	0.9100	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788
28	0200 52900 0500 003001	311 Residential Vacant Land	0.4100	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788
29	0200 52900 0400 032001	311 Residential Vacant Land	1.2400	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788
30	0200 52900 0500 031000	311 Residential Vacant Land	0.0900	MC GOVERN MICHAEL	259 10 HILLSIDE AVE 2D	FLORAL PARK	NY	11788
31	0200 52900 0500 006000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11001
32	0200 52900 0500 040000	311 Residential Vacant Land	0.1400	COUNTY OF SUFFOLK	330 CENTER DR	RIVERHEAD	NY	11901
33	0200 52900 0500 004000	129 Acquired Development Rights	0.2700	COUNTY OF SUFFOLK C/T LAGATTA PLAN DEPT	PO BOX 6100	HAUPPAUGE	NY	11788
34	0200 52900 0300 031001	311 Residential Vacant Land	1.0900	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788
35	0200 52900 0300 003000	129 Acquired Development Rights	0.2300	COUNTY OF SUFFOLK PLANN DEPT C/O C WREDE	PO BOX 6100	HAUPPAUGE	NY	11788
36	0200 52900 0500 070000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11901
37	0200 52900 0500 038000	311 Residential Vacant Land	0.1400	DITTMER IDA	52 SUNSET RD	BAY SHORE	NY	11706
38	0200 52900 0300 034000	942 Co Owned Reforested Land	0.0900	SUFFOLK COUNTY DEPT PARKS REC & CONSERVAT	NO MONTAUK HWY	SAYVILLE	NY	11782
39	0200 52900 0500 033001	311 Residential Vacant Land	0.5400	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788
40	0200 52900 0400 008000	311 Residential Vacant Land	0.1400	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11901
41	0200 52900 0500 073000	962 County Owned Public Parks and Rec	0.0900	SUFFOLK CTY NAT PRESERVE DEPT PARKS RECREAT & C MONTAUK HWY	SAYVILLE		NY	11782

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<u>ID</u>	<u>SCTM</u>	<u>Property Code - Description</u>	<u>Parcel</u>	<u>Owner Name</u>	<u>Owner Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
42	0200 52900 0500 007000	311 Residential Vacant Land	0.2300	COUNTY OF SUFFOLK C/O SUFFOLK COUNTY DEPT PARK	PO BOX 144	WEST SAYVILLE	NY	11796
43	0200 52900 0400 035000	311 Residential Vacant Land	0.1800	COUNTY OF SUFFOLK	330 CENTER DR	RIVERHEAD	NY	11901
44	0200 52900 0500 036000	311 Residential Vacant Land	0.0900	DITTMER IDA	52 SUNSET RD	BAY SHORE	NY	11706
45	0200 52900 0300 035000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11901
46	0200 52900 0500 008000	962 County Owned Public Parks and Rec	0.1800	SUFFOLK CTY NAT PRESERVE DEPT PARKS RECREAT & C	MONTAUK HWY	SAYVILLE	NY	11782
47	0200 52900 0400 007000	311 Residential Vacant Land	0.2300	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788
48	0200 52900 0100 028003	210 One Family Year-Round Residence	5.3300	BLANCA DANA & PAULA K	326 YAPHANK-MIDDLE ISLYAPHANK	NY	11980	
49	0200 52900 0100 028004	210 One Family Year-Round Residence	3.8600	MCKENNA CHARLES	318 YAPHANK-MIDDLE ISLYAPHANK	NY	11980	
50	0200 52900 0100 029001	942 Co Owned Reforested Land	36.0300	SUFFOLK COUNTY	COUNTY CTR	RIVERHEAD	NY	11901
51	0200 55100 0100 001000	942 Co Owned Reforested Land	31.2900	SUFFOLK COUNTY	COUNTY CTR	RIVERHEAD	NY	11901

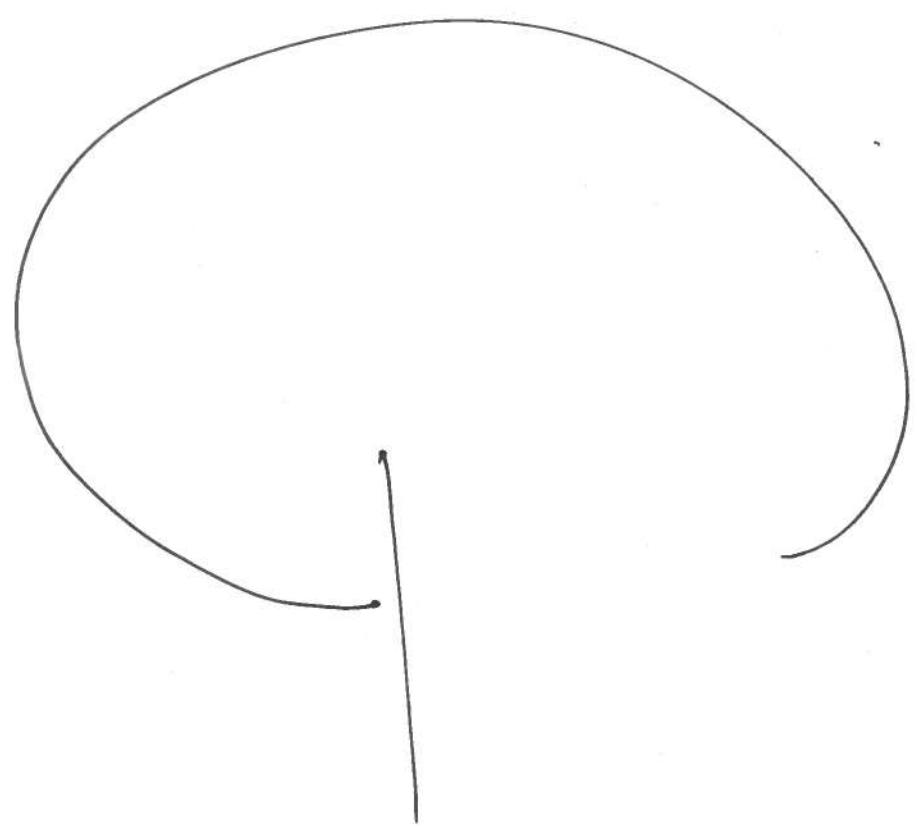
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<u>ID</u>	<u>SCTM</u>	<u>Property Code - Description</u>	<u>Parcel Acreage</u>	<u>Owner Name</u>	<u>Owner Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
	Subject Parcels							
0200	52900 0500 035000	311 Residential Vacant Land	0.2300	DITTMER RICHARD C	139 W MAIN ST	BAY SHORE	NY	11706
	Buffered Parcels							
0200	52900 0400 001000	210 One Family Year-Round Residence	0.4600	LORANDINI GARY A & LAUREN	323 YAPHANK MIDDLE ISL.YAPHANK	NY	11980	
0200	52900 0500 039000	311 Residential Vacant Land	0.0900	LUBIN LILLIAN C/O BEDER	123 BARKSHIRE RD	NY	11570	
0200	52900 0400 034000	311 Residential Vacant Land	0.1400	COUNTY OF SUFFOLK	330 CENTER DR	NY	11901	
0200	52900 0500 034000	311 Residential Vacant Land	0.1400	SUFFOLK COUNTY	330 CENTER DR	NY	11901	
0200	52900 0500 017000	311 Residential Vacant Land	0.1800	COUNTY OF SUFFOLK	330 CENTER DR	NY	11901	
0200	52900 0500 005000	311 Residential Vacant Land	0.0900	EASLEY WM & WM EASLEY JR & ESTATE OF CASSANDRA	57 CORNELL AVE	NY	10705	
0200	52900 0500 001000	210 One Family Year-Round Residence	0.2300	CORRADO CONO & JOAN	327 YAPK MIDDLE ISL RD	NY	11980	
0200	52900 0500 075001	311 Residential Vacant Land	1.5300	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	NY	11788	
0200	52900 0500 037000	311 Residential Vacant Land	0.0900	DITTMER RICHARD	139 W MAIN ST	NY	11706	
0200	52900 0400 036001	311 Residential Vacant Land	0.9100	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	NY	11788	
0200	52900 0500 003001	311 Residential Vacant Land	0.4100	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	NY	11788	
0200	52900 0500 006000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	NY	11901	
0200	52900 0500 040000	311 Residential Vacant Land	0.1400	COUNTY OF SUFFOLK	330 CENTER DR	NY	11901	
0200	52900 0500 004000	129 Acquired Development Rights	0.2700	COUNTY OF SUFFOLK C/T LAGATTA PLAN DEPT	PO BOX 6100	NY	11788	
0200	52900 0500 038000	311 Residential Vacant Land	0.1400	DITTMER IDA	52 SUNSET RD	NY	11706	
0200	52900 0500 033001	311 Residential Vacant Land	0.5400	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	NY	11788	
0200	52900 0500 073000	962 County Owned Public Parks and Rec	0.0900	SUFFOLK CITY NAT PRESERVE DEPT PARKS RECREAT & C	MONTAUK HWY	NY	11782	
0200	52900 0400 035000	311 Residential Vacant Land	0.1800	COUNTY OF SUFFOLK	330 CENTER DR	NY	11901	
0200	52900 0500 036000	311 Residential Vacant Land	0.0900	DITTMER IDA	52 SUNSET RD	NY	11706	

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<u>ID</u>	<u>SCTM</u>	<u>Property Code : Description</u>	<u>Parcel</u>	<u>Acreage</u>	<u>Owner Name</u>	<u>Owner Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
	Subject Parcels								
0200 52900 0500 035000	311 Residential Vacant Land			0.2300	DITTMER RICHARD C	139 W MAIN ST	BAY SHORE	NY	11706
	Buffered Parcels								
0200 52900 0300 001000	220 Two Family Year-Round Residence	0.2300	STERLING CONSULTING ASSOCIATES INC	777 N RAINBOW BLVD STE LAS VEGAS					
0200 52900 0400 009000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NV	89107		
0200 52900 0300 036000	220 Two Family Year-Round Residence	0.2300	MANGINO JOHN JR & ELAINE	9 HEATHER CRES	COMMACK	NY	11901		
0200 52900 0500 046000	311 Residential Vacant Land	0.4100	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11725		
0200 52900 0300 033000	311 Residential Vacant Land	0.1400	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11901		
0200 52900 0400 006000	129 Acquired Development Rights	0.1400	COUNTY OF SUFFOLK	PO BOX 6100	HAUPPAUGE	NY	11788		
0200 52900 0300 002000	311 Residential Vacant Land	0.1800	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788		
0200 52900 0400 004000	311 Residential Vacant Land	0.0900	COUNTY OF SUFFOLK	330 CENTER DR	HAUPPAUGE	NY	11788		
0200 52900 0300 032000	942 Co Owned Reforested Land	0.2700	SUFFOLK COUNTY DEPT PARKS REC & CONSERVAT	NO MONTAUK HWY	RIVERHEAD	NY	11901		
0200 52900 0500 068001	311 Residential Vacant Land	2.1900	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788		
0200 52900 0400 005000	311 Residential Vacant Land	0.1400	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788		
0200 52900 0100 028002	311 Residential Vacant Land	12.8800	SUFFOLK COUNTY	COUNTY CTR	RIVERHEAD	NY	11901		
0200 52900 0300 004000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11901		
0200 52900 0500 030001	311 Residential Vacant Land	2.2000	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788		
0200 52900 0500 048000	129 Acquired Development Rights	0.0900	SUFFOLK COUNTY	310 CENTER DR	RIVERHEAD	NY	11788		
0200 52900 0400 033000	129 Acquired Development Rights	0.3700	COUNTY OF SUFFOLK	CENTER DR	RIVERHEAD	NY	11901		
0200 52900 0500 069000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	RIVERHEAD	NY	11901		
0200 52900 0400 032001	311 Residential Vacant Land	1.2400	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788		
0200 52900 0500 031000	311 Residential Vacant Land	0.0900	MC GOVERN MICHAEL	259 10 HILLSIDE AVE 2D	RIVERHEAD	NY	11901		
0200 52900 0300 031001	311 Residential Vacant Land	1.0900	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11788		
0200 52900 0300 003000	129 Acquired Development Rights	0.2300	COUNTY OF SUFFOLK DEPT C/O C WREDE	PO BOX 6100	RIVERHEAD	NY	11901		
0200 52900 0500 070000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	HAUPPAUGE	NY	11788		
0200 52900 0300 034000	942 Co Owned Reforested Land	0.0900	SUFFOLK COUNTY DEPT PARKS REC & CONSERVAT	NO MONTAUK HWY	RIVERHEAD	NY	11901		
0200 52900 0400 008000	311 Residential Vacant Land	0.1400	SUFFOLK COUNTY	330 CENTER DR	HAUPPAUGE	NY	11788		
0200 52900 0500 007000	311 Residential Vacant Land	0.2300	COUNTY OF SUFFOLK C/O SUFFOLK COUNTY DEPT PARK	PO BOX 144	RIVERHEAD	NY	11788		
0200 52900 0300 035000	311 Residential Vacant Land	0.0900	SUFFOLK COUNTY	330 CENTER DR	SAYVILLE	NY	11901		
0200 52900 0500 008000	962 County Owned Public Parks and Rec	0.1800	SUFFOLK CTY NAT PRESERVE DEPT PARKS RECREAT & C	MONTAUK HWY	RIVERHEAD	NY	11782		
0200 52900 0400 007000	311 Residential Vacant Land	0.2300	SUFFOLK COUNTY DEPT REAL EST	10 OVAL DR	HAUPPAUGE	NY	11901		
0200 52900 0100 028003	210 One Family Year-Round Residence	5.3300	BLANCA DANA & PAULA K	326 YAPHANK-MIDDLE ISL YAPHANK	RIVERHEAD	NY	11788		
0200 52900 0100 028004	210 One Family Year-Round Residence	3.8600	MCKENNA CHARLES	318 YAPHANK-MIDDLE ISL YAPHANK	RIVERHEAD	NY	11901		
0200 52900 0100 029001	942 Co Owned Reforested Land	36.0300	SUFFOLK COUNTY	COUNTY CTR	RIVERHEAD	NY	11901		
0200 55100 0100 001000	942 Co Owned Reforested Land	31.2900	SUFFOLK COUNTY	COUNTY CTR	RIVERHEAD	NY	11901		

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YAPHANK MIDDLE ISLAND RD

0200-529000-0500-035000
2010 Aerial

Permission Granted, Town of Brookhaven
3/6/81 to use the Suffolk County Tax Map
for Town Base Mapping purposes by the
Suffolk County Real Property Tax Service
Agency, Riverhead, New York 11901.

This map may not reflect current tax map
configurations. Current parcel and ownership
information is available at the Suffolk County
Real Property Tax Service Agency,
Riverhead, New York 11901.

Project: NewZoningMap7292013.mxd

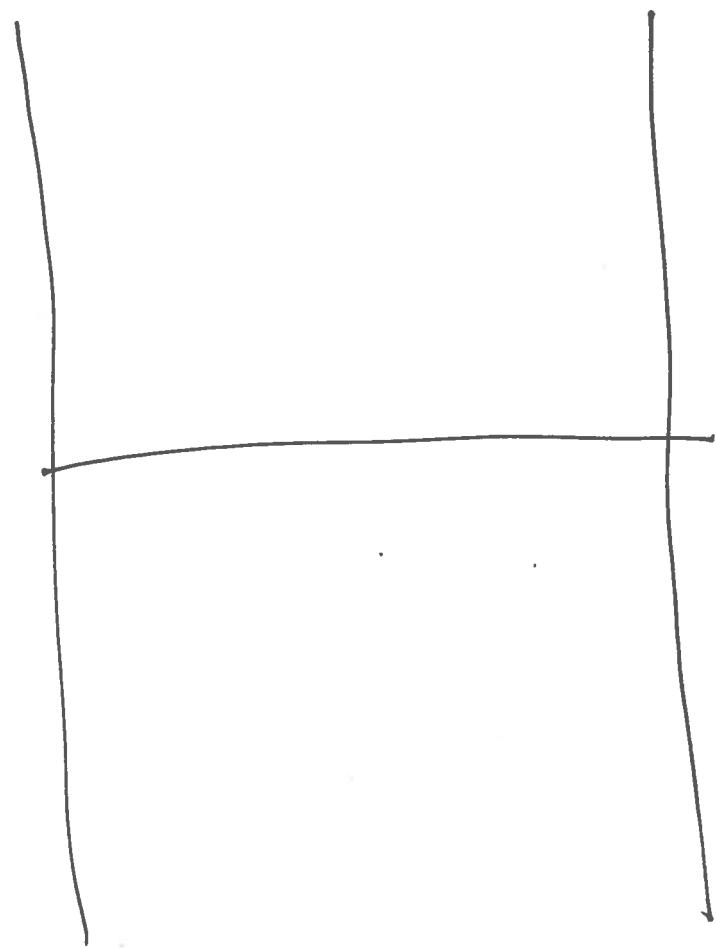
NOTE:
Parcel(s) highlighted as per Suffolk County Tax Map number provided
in written form by the applicant, whether in person, by email or by fax.
The Town of Brookhaven assumes no responsibility for incorrect
Suffolk County Tax Map numbers as provided by the Applicant.

11/06/2015
Map created by:
Isabel Morris,
Engineering Aide
Division of Engineering
PELM

BASE MAP



Town of Brookhaven
Suffolk County, New York





Permission Granted, Town of Brookhaven
3/6/81 to use the Suffolk County Tax Map
for Town Base mapping purposes by the
Suffolk County Real Property Tax Service
Agency, Riverhead, New York 11901

This map may not reflect current tax map
configurations. Current parcel and ownership
information is available at the Suffolk County
Real Property Tax Service Agency.

0200-29400-0400-014000
2010 Aerial

Project: NewZoningMap10_29_2016.mxd

NOTE:
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in written form by the applicant, whether in person, by email or by fax.
The Town of Brookhaven assumes no responsibility for incorrect
Suffolk County Tax Map numbers as provided by the Applicant.

02/22/2018
Map created by:
Isabel Morris,
Engineering Aide
Division of Engineering
PELM



Town of Brookhaven
Suffolk County, New York

Commission Meeting of July 16, 1997
Brookhaven Town Offices

Present: Mr. Cowen (for the State of New York) Ms. Wiplush (for Town of Brookhaven), Mr. Freleng (for Southampton), Mr. Dragotta (for Suffolk County), Ms. Filmanski (for Town of Riverhead)

Resolution on Application of Dolores Blake
Core Preservation Area Hardship
Property located at east side of William Floyd Parkway, north of Route 25
Ridge, Town of Brookhaven
SCTM # 200-294-4-14

Whereas, on March 24, 1997, Dolores Blake submitted a Core Preservation Area hardship exemption application to subdivide 5.23 acres into three lots containing under two acres each in an A2 zoning district; and,

Whereas, on April 28, 1997, pursuant to the New York State Environmental Quality Review Act ("SEQRA") Part 617.6, the Commission hereby determines that the application is an Unlisted action and coordinated lead agency review and,

Whereas, on May 14, 1997 a public hearing on the Core Preservation Area hardship was held by the Commission and a transcript was thereafter made available to the Commission; and,

Whereas, the Commission has considered the staff report dated July 16, 1997 and all materials submitted in connection with the Core Preservation Area hardship exemption; now therefore be it,

Resolved, that the Commission hereby designates itself as lead agency and determines that the proposed action will not have a significant impact on the environment pursuant to SEQRA; and be it further,

Resolved, that the Commission hereby determines that the application, as submitted, does meet all of the requirements for extraordinary hardship pursuant to New York State Environmental Conservation Law 57-0121 (10)(a)(c) and be it further

Resolved, that the application for a Core Preservation Area hardship exemption is granted, subject to the following conditions:

1. If the Town of Brookhaven Zoning Board of Appeals grants approval for three lots, they shall be clustered to the front of the subject parcel with a minimum of one to two acres of preserved area at the rear of the parcel.

2. If only two lots are approved, they need not be clustered.

3. Clearing of native vegetation be limited as per the lot size to those standards set forth in Figure 5-1 of the *Central Pine Barrens Comprehensive Land Use Plan*.

4. Upon completion of a revised and approved land division map, a copy be submitted for the Commission's records.

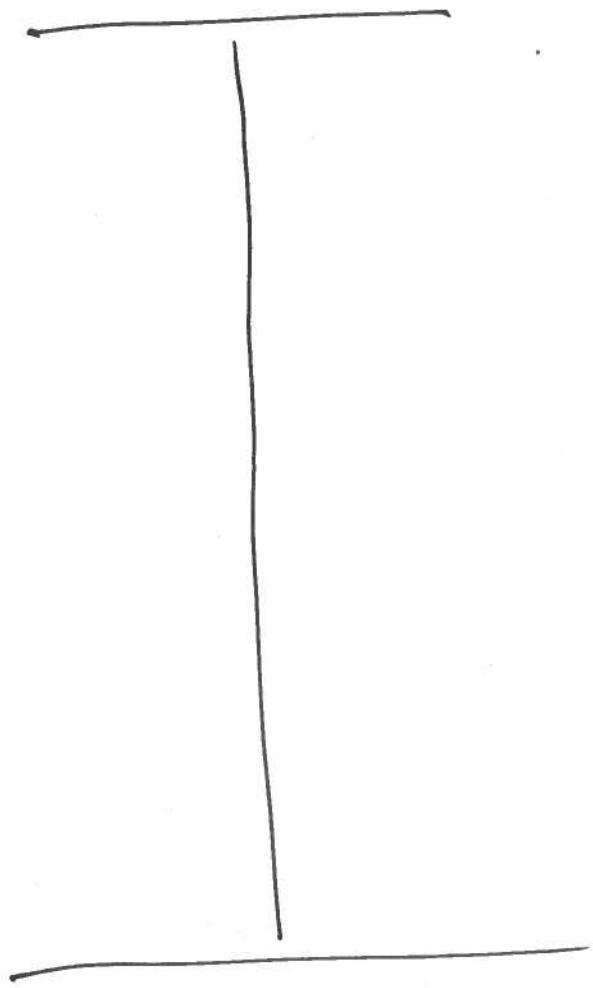
Record of Motion:

Motion by Mr. Cowen

Seconded by Ms. Filmanski

Yea Votes:

Unanimous





1 inch = 130 feet



Permission Granted, Town of Brookhaven
#681 to use the Suffolk County Tax Map
for Town Base Mapping purposes by the
Suffolk County Real Property Tax Service
Agency, Riverhead, New York 11901

0200-46000-0100-006003
2010 Aerial

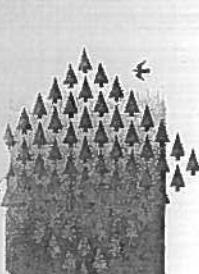
Project: NewZoningMap10_29_2016.mxd

NOTE
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The Town of Brookhaven assumes no responsibility for incorrect
Suffolk County Tax Map numbers as provided by the Applicant

02/17/2016
Map created by:
Isabel Morris,
Engineering Aide
Division of Engineering
PELM

BASE MAP
Town of Brookhaven
Suffolk-County, New Yc





**CENTRAL
PINE
BARRENS**
JOINT
PLANNING
&
POLICY
COMMISSION

Robert J. Gaffney
Chair

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F.
Kozakiewicz
Member

John Jay LaValle
Member

P.O. Box 587
3525 Sunrise
Highway
2nd Floor
Great River, NY
11739-0587

Phone (631) 224-2604
Fax (631) 224-7653
Internet:
<http://pb.state.ny.us>

**Resolution on the Core Preservation Area Hardship
Application of Katherine Foster Screven
Property located on the north side of North Street, west of Wading River Road,
Manorville, Town of Brookhaven**

**Originally passed at the Commission Meeting of July 18, 2001
Southaven Park Police Headquarters, Yaphank, NY
and subsequently amended at the Commission meeting on August 8, 2001**

**Tax Map Numbers 200-460-1-6.1 & 6.2
(2 lots are merged and renumbered as 200-460-1-6.3)**

Whereas, on June 13, 2001 Harold Screven on behalf of his wife Katherine Foster Screven, filed with the Commission, a request for a core preservation area hardship exemption permit to construct a single family home with septic system on 3.48 acres in a A-5 Residential zoning district; and

Whereas, a public hearing on the core preservation hardship request was held by the Commission on July 18, 2001; and

Whereas, the Commission has considered all materials submitted in connection with the application; and

Whereas, lot 6.2 that is on the pending road front exemption list has been merged with lot 6.1 and will be renumbered to lot 6.3; now therefore be it

Resolved, pursuant to the New York State Environmental Quality Review Act ("SEQRA") Part 617.5, the Commission hereby determines that the application is a Type II action, and be it further

Resolved, that the clearing allowed for the site for a single family home shall be in accordance with the regulations of the Town of Brookhaven, and be it further

Resolved, that the Commission hereby determines the application, as submitted meets the requirement for extraordinary hardship pursuant to New York State Environmental Conservation Law 57-0121 (10)(a) and (c) and be it further

Resolved, that the application for a Core Preservation Area hardship exemption is approved.

Record of Original Motion at Commission meeting of July 18, 2001:

Motion by Mr. MacLellan
Seconded by Mr. Murphree

5:0 approval by: Mr. Cowen (for New York State), Mr. Proios (for Suffolk County), Ms. Wiplush (for Brookhaven), Mr. Murphree (for Southampton)

Record of Motion at Commission meeting of August 8, 2001 to amend original motion of July 18, 2001:

Motion by Ms. Prusinowski
Seconded by Mr. MacLellan

4:0 approval by: Ms. Kohn (for Suffolk County), Ms. Prusinowski (for Brookhaven), Mr. Murphree (for Southampton), Mr. MacLellan (for Riverhead)

CENTRAL PINE BARRENS JOINT PLANNING & POLICY COMMISSION
STAFF REPORT

prepared by: Judy Jakobsen, Environmental Analyst
Issue Date: 7/18/01
Field Visit: 6/20/01

APPLICATION REC'D/HEARING DATES:

6/13/01 - Receipt
7/18/01 - Public Hearing
10/11/01 - Decision Deadline

APPLICANT: Katherine Foster-Screven

LOCATION: North side of North Street, west of Center Moriches Road and Wading River Road, Manorville, Town of Brookhaven

TAX MAP: 200-460-1-6.1 & 6.2

REQUEST: Core preservation area hardship permit to build a single family home with septic system.

ZONING: A-5 Residence

LAND USE: The property is currently vacant wooded site, horse farm borders the west side of the property and there are single family residence to the east and on south side of North Street.

SITE DESCRIPTION:

Topography: Generally flat, approximately 100 ft above mean sea level.

Soils: PlB(Plymouth loamy sand, 3-8% slopes)

Vegetation: Primarily oak overstory with a few walnut and hickory trees, smaller red maples, thick cat brier understory w/ small cherry and sassafras trees 1-2 ft high, few blueberry.

REQUIRED APPROVALS:

- SEQRA Unlisted Action, uncoordinated review
- Town of Brookhaven: Building Permit
- Town of Brookhaven Zoning Board - variance
- Town of Brookhaven Planning Board: Site Plan
- Suffolk County Dept of Health - Article 6 Permit

HARDSHIP CRITERIA:

Information to be presented by applicant at hearing scheduled for July 18, 2001.

Items to Consider:

- According to the applicant lots 6.1 & 6.2 have been merged and new tax map # will be assigned.
- Lot 6.2 is on the revised roadfront exemption list that is legislation pending the Governor's signature.

Commission Meeting of September 26, 2001

Commission Office, Great River, NY

Present: Mr. Proios (for Suffolk County), Mr. Murphree (for Southampton),
Mr. Hanley (for Riverhead), Ms. Prusinowski (for Brookhaven)

**Resolution on the Core Preservation Area Hardship Application
of Anna and Alexander Czarnecki**

**Property located on the north side of North Street, west of Wading River Road,
Manorville, Town of Brookhaven**

Tax Map Number 200-460-1-9

Whereas, on July 17, 2001 Robert Pino on behalf of the property owners, Anna and Alexander Czarnecki, filed with the Commission, a request for a core preservation area hardship exemption permit to construct a single family home with septic system on .92 acres in a A-5 Residential zoning district; and

Whereas, a public hearing on the core preservation hardship request was held by the Commission on September 26, 2001; and

Whereas, the Commission has considered all materials submitted in connection with the application; and

Whereas, the house will be situated on North Street and therefore placed at the furthest distance from within the Peconic River Wild Scenic and Recreational Rivers corridor;

Now therefore be it resolved, pursuant to the New York State Environmental Quality Review Act ("SEQRA") Part 617.5, the Commission hereby determines that the application is a Type II action, and be it further

Resolved, that the clearing allowed for the site for a single family home shall be in accordance with the regulations of the Town of Brookhaven, and be it further

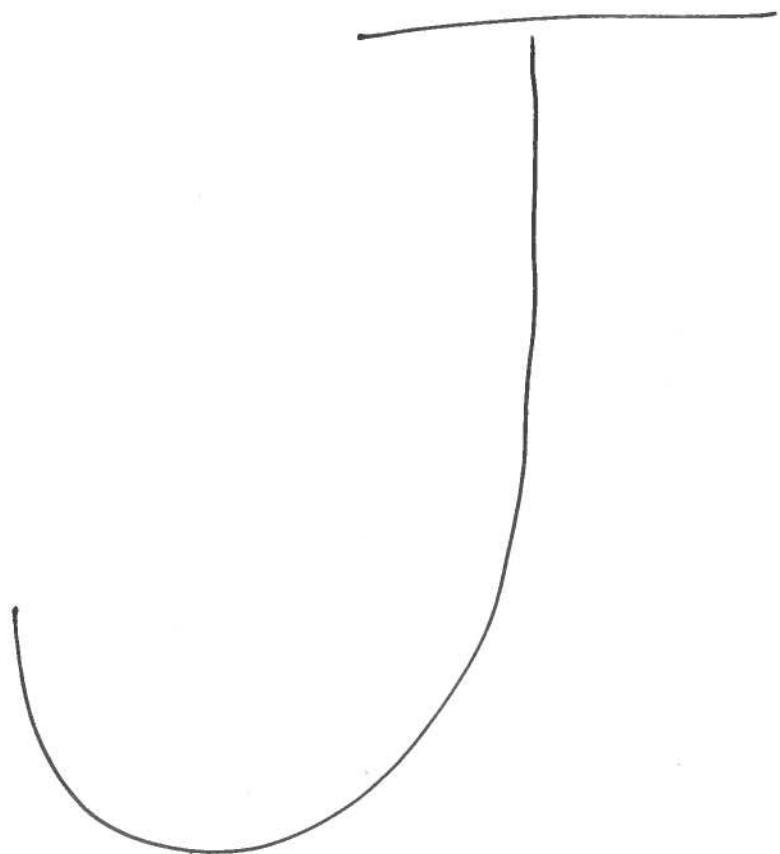
Resolved, that the Commission hereby determines the application, as submitted meets the requirement for extraordinary hardship pursuant to New York State Environmental Conservation Law 57-0121 (10)(a) and (c) and be it further

Resolved, that the application for a Core Preservation Area hardship exemption is approved.

Motion by Mr. Murphree

Seconded by Ms. Prusinowski

Vote: 4 to 0 in favor (Unanimous approval)





1 inch = 130 feet



Permittee Granted, Town of Brookhaven
3/6/11 to use the Suffolk County Tax Map
for Town Base Mapping purposes by the
Suffolk County Real Property Tax Service
Agency, Riverhead, New York 11901.

This map may not reflect current tax map
configurations. Current parcel and ownership
information is available from the Suffolk County
Real Property Tax Service Agency,
Riverhead, New York 11901.

0200-51000-0100-011000
2010 Aerial

Project: NewZoningMap10_29_2016.mxd

NOTE
Permittee Granted, Town of Brookhaven
3/6/11 to use the Suffolk County Tax Map for Town Base Mapping purposes by the
Suffolk County Real Property Tax Service Agency, Riverhead, New York 11901.
The Town of Brookhaven assumes no responsibility for inaccuracy.
Suffolk County Tax Map numbers as provided by the Applicant.

02/17/2016
Map created by:
Isabel Morris,
Engineering Aide
Division of Engineering
PELM

BASE MAP



Town of Brookhaven
Suffolk County, New York

Commission Meeting of September 17, 1997
Quogue Wildlife Refuge

Present: Mr Proios (for Suffolk County), Ms. Talmage (for Riverhead) Ms. Wiplush (for Brookhaven), Mr. Duffy (for Southampton)

Resolution on the Core Preservation Area Hardship
Application of Evan Goldstein
Property located west of Hot Water Street just west of its intersection with County
Road 111, Manorville, Town of Brookhaven
SCTM # 200-510-1-11

Whereas, on March 17, 1997, Evan Goldstein filed with the Commission, a request for a core preservation area hardship exemption to construct one single family dwelling and associated sanitary system on a lot containing 75,714 square feet, and,

Whereas, on May 5, 1997 the applicant requested an adjournment of the public hearing until after July 21, 1997 and,

Whereas, on June 4, 1997 the Commission accepted a request for an extension of the decision deadline until 60 days after the public hearing and,

Whereas, a public hearing on the core preservation hardship request was held by the Commission on August 6, 1997 and a transcript was thereafter made available to the Commission, and,

Whereas, the Commission has considered all materials submitted in connection with the application, now, therefore, be it

Resolved, pursuant to the New York State Environmental Quality Review Act ("SEQRA") Part 617.5, the Commission hereby determines that the application is an Unlisted action and makes a determination of non-significance, now therefore be it,

Resolved, that the Commission hereby determines that the application, as submitted does meet all of the requirements for extraordinary hardship pursuant to New York State Environmental Conservation Law 57-0121 (10)(a) and (c) and be it further

Resolved, that the application for a core preservation area hardship exemption is granted subject to the following condition:

- clearing of existing vegetation combined with the existing clearing shall not exceed 20% of the total lot area.

Record of Motion:

Motion by Mr. Duffy

Seconded by Ms. Talmage

Abstension: Ms. Wiplush

PRE-APPLICATION GENERAL INQUIRY CHECKLIST

Page One of Three - For Phone Calls and Initial Inquiries - ALL TYPES

PROJECT/INQUIRY NAME - Evan Goldstein		INQUIRY # _____	DATE INQUIRY RCVD - 1-19-10 (NOT A COMPLETE APPLICATION DETERMINATION)
PROJECT LOCATION - Manorville, Town of Brookhaven		TOWN of - Brookhaven	TOWN STAFF PERSON - R. Mills
		PERSON INQUIRING - Evan Goldstein - (b) PHONE - 878-6019	OR REPRESENTATIVE - (c) PHONE - 914-864-5875
TAX MAP #(s) - 0200 - 510,00 - 01,00 - 011,000		ACREAGE - 7 1/4 acres / Approximately: 1-3/4 acres	
* Residential Use * Hardship exemption issued: 9-17-97 (Constructing) IS THIS INQUIRY RELATED TO - Circle One (1 - Family home) <input checked="" type="checkbox"/> DEVELOPMENT CREDIT PROGRAM STEWARDSHIP VIOLATION		CURRENT ZONING - Residential When was parcel purchased? 10-31-86	
		CIRCLE ONE - <input checked="" type="checkbox"/> CORE	CGA NOT IN PINE BARRENS
		CIRCLE ONE - CRA	DESIGNATED RCVN'G SITE N/A
PROPOSED ACTION/ACTIVITY DESCRIPTION - Wants to fence in property and plant Christmas or fruit trees - agriculture - wants to have small nursery. Has hardship exemption to build a 1 family dwelling.			
PRELIMINARY ASSESSMENT OF ACTION - (Is this activity contemplated...) <input checked="" type="checkbox"/> PHYSICAL DISTURBANCE OF LAND - <input checked="" type="checkbox"/> YES NO UNKNOWN <input checked="" type="checkbox"/> NEW CONSTRUCTION/ADDITION - <input checked="" type="checkbox"/> YES NO UNKNOWN <input checked="" type="checkbox"/> OTHER - Please explain - Nursery			
PRIOR APPLICATION/DOJ/INQUIRY RESPONSE FILE CHECK MASTERFILE RECORD? - <input type="checkbox"/> NONE FOUND YES - Date _____ DEVELOPMENT PROJECT FILE? <input type="checkbox"/> NONE FOUND YES - Date _____ PBC FILE/EASEMENTS? - <input type="checkbox"/> NONE FOUND YES - Date _____			
DEVELOPMENT OR NON-DEVELOPMENT REVIEW DEVELOPMENT - 57-0107(13)(a-f) Explain - <i>Meet Hardship to Clear</i>			
BONFIRM 1995 ZONING - <i>One</i> CONDUCT AERIAL COMPARISON - 1994-CURRENT - REVIEW 1993 TAX MAP TO CONFIRM PARCEL STATUS - ACTION TAKEN/QUESTION POSED/OTHER NOTES - <i>fruit trees or Christmas trees more conducive to</i>			
<small>NOTE - If DEVELOPMENT go to Page 2 of 3 If STEWARDSHIP/VIOLATION forward to responsible staff member</small>			
<small>NOTE - CREATE MASTERFILE RECORD NOW</small>			

CENTRAL PINE BARRENS JOINT PLANNING & POLICY COMMISSION
STAFF REPORT

Issued: September 16, 1997
Field Visit: 7/8/97

APPLICATION REC'D/HEARING/DECISION DEADLINE DATES:

- 3/17/97 receipt
- 5/5/97 request for adjournment of hearing til after 7/21/97
- 6/2/97 request for decision deadline extension til 60 days after hearing
- 8/6/97 public hearing
- 10/6/97 decision deadline

APPLICANT: Evan Goldstein
144 Weaver Street
Larchmont, NY 10538

LOCATION: North side of County Road 111 just west of its intersection with Hot Water Street, Manorville, Town of Brookhaven.

TAX MAP: 200-510-1-11

REQUEST: Construction of one single family residence and associated septic system on a lot containing 75,714 square feet.

ZONING: A5 Residence (one unit per 200,000 square feet).

LAND USE: Vacant with public land to the north and east. Vacant private land to the west and bounded on the south by the highway.

SITE DESCRIPTION

Topography: Generally flat approximately 100' above mean sea level.

Vegetation: Disturbed and previously cleared areas with areas of successional old field. There may be some areas of pitch pine - oak woods at the rear of the parcel, however it is not possible to determine this without a vegetative survey.

REQUIRED APPROVALS :

- **SEQRA:** see attached determination of significance.
- **Town of Brookhaven Building Permit**
- **SC Dept. of Health Services Article 6 Permits**
- **SC Dept. of Public Works:** curb cut permit

HARDSHIP CRITERIA

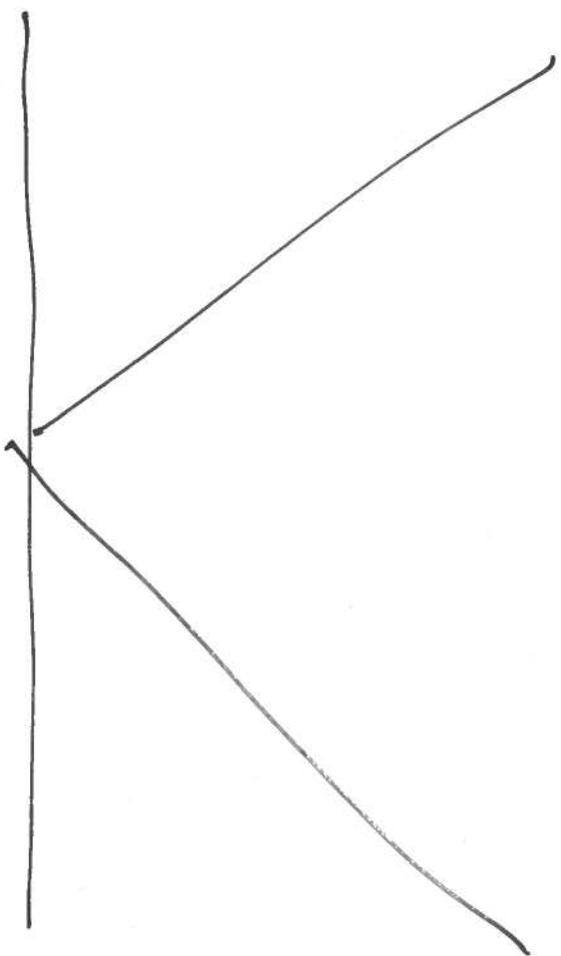
The applicant did not *specifically* address the hardship criteria during the public hearing or subsequently in writing, as outlined in ECL Article 57(10)(a), although staff had provided that information. However staff has addressed the standards under ECL 57-0121(10)(c) based on the information submitted and finds that they have been met for the following reasons:

The granting of the permit for the subject lot will not result in substantial impairment of the resources of the core preservation area, given that one house on the size of this parcel in an area that is already disturbed will not have a negative impact. The granting of the waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of the core preservation area. The waiver requested is the minimum relief necessary to relieve the extraordinary hardship.

RECOMMENDATION

Commission declare lead agency and make a determination of non-significance as per the attached and the application be approved with the following condition:

- that clearing of additional vegetation combined with the existing clearing not exceed 20%.



WALKER

1 inch = 110 feet



0200-529000-0300-035000
2010 Aerial

Permission Granted, Town of Brookhaven
3/6/81 to use the Suffolk County Tax Map
for Town Base mapping purposes by the
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Agency, Riverhead, New York 11901

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NOTE:
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in written form by the applicant, whether in person, by mail or by fax.
The Town of Brookhaven assumes no responsibility for incorrect
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11/09/2016
Map created by:
Isabel Morris,
Engineering Aids
Division of Engineering
PELM

BASE MAP



Town of Brookhaven
Suffolk County, New York

PINE BARRENS CREDIT CLEARINGHOUSE

40 x 100

JAMES T.B. TRIPP, ESQ., CHAIRMAN
ALLAN D. GRECCO, ESQ., VICE CHAIRMAN
VINCENT CANNUSCIO, MEMBER
JOHN F. HANLEY, MEMBER
MITCHELL H. PALLY, ESQ., MEMBER

LETTER OF INTERPRETATION

Re: Suffolk County Tax Map Number: 200-529-3-35

Applicant: The Woodstock Company

Date: July 7, 1998

Findings of Fact

The applicant by its representative applied for a Letter of Interpretation for the above-referenced 0.09 acre parcel. The parcel is in the Town of Brookhaven. It was in the A Residence 5 District at the adoption of the *Central Pine Barrens Comprehensive Land Use Plan* (the "Plan") on June 28, 1995. Pursuant to the Plan, the applicant requested and received a Letter of Interpretation concerning the number of Pine Barrens Credits which are allocated to this parcel. The Letter, issued on March 30, 1998 allocated 0.10 Pine Barrens Credits to the parcel. The applicant appealed this allocation.

Pursuant to a Central Pine Barrens Joint Planning and Policy Commission resolution of June 24, 1998 the number of Pine Barrens Credits allocated to this parcel is 1.00.

The total number of Pine Barrens Credits allocated for this parcel is 1.00.

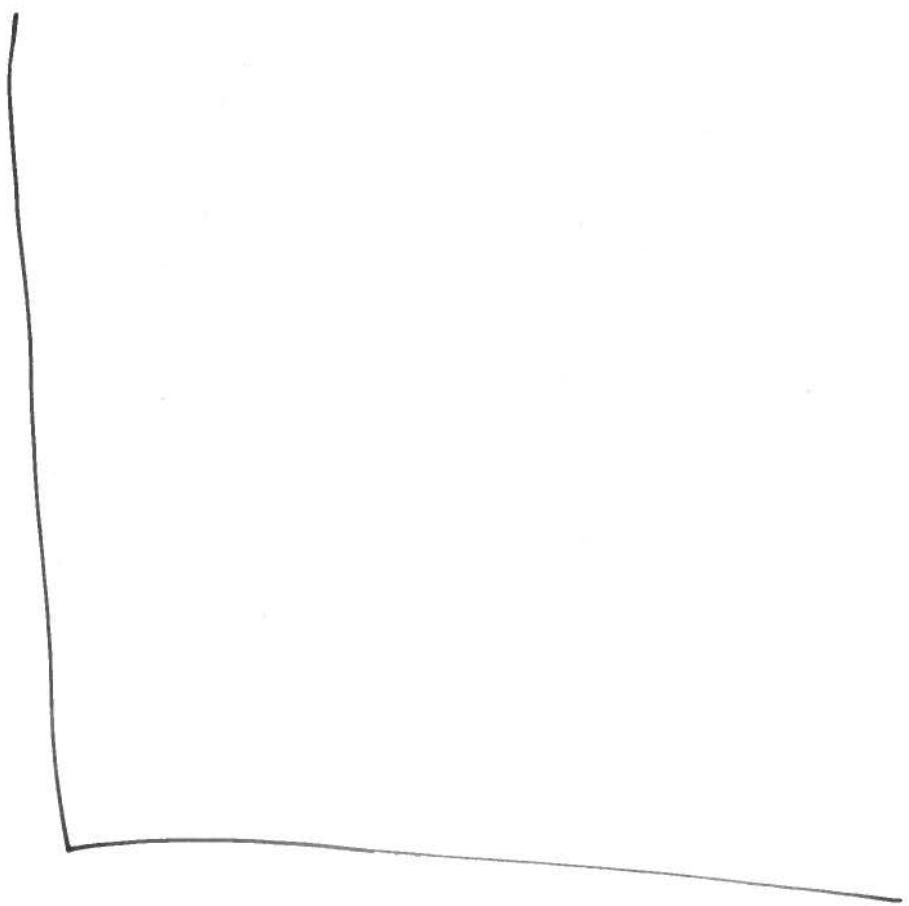
This Letter of Interpretation replaces and renders void any and all Letters of Interpretation issued for this parcel.

This Letter of Interpretation expires in one year from the above date. In order to obtain a Pine Barrens Credit Certificates the applicant must complete the Pine Barrens Credit Certificate Application and follow the instructions contained in the Pine Barrens Credit Handbook.

If there is a mortgage or other lien on this parcel, the applicant will have to make an arrangement with the lender or other party holding the lien before the Clearinghouse can issue a Pine Barrens Credit Certificate for this tax map parcel.

P.O. Box 587, 3525 SUNRISE HIGHWAY, 2ND FLOOR, GREAT RIVER, NEW YORK 11739-0587
516-224-2604 / FAX 516-224-7653

BUea



200-383-6-6.1 Jallg LA.

Stuart Osleeb - Core
200-383-1-6.1

7/27/94 - Commission approved application.

Excerpts from the minutes of this meeting follows.

Central Pine Barrens
Joint Planning and Policy Commission

Robert J. Gaffney, *Chairman*
John LaMura, *Vice Chairman*
Ulric S. Haynes, *Member*
Joseph F. Janoski, *Member*
Fred W. Thiele, Jr., *Member*

P.O. Box 587
3525 Sunrise Highway, 2nd
Floor
Great River, New York 11739

COMMISSION MEETING SUMMARY - JULY 27, 1994 (DRAFT)
BROOKHAVEN TOWN OFFICES, MEDFORD

Present: Mr. Proios (for Commissioner Gaffney), Commissioner Thiele, Ms. Filmanski (for Commissioner Janoski), Ms. Pines (for Commissioner LaMura), Ms. Swick (alternate), Mr. Rigano (counsel), Mr. Corwin (director), Ms. Trezza (administrator), Ms. Greene (assistant to the Advisory Committee), plus additional attendees on attached sign-in sheet.

Osleeb/Ridge application: Coordinated review and 7/31 decision deadline

Summary: This application has not gone completely through the SEQRA review process at this time. The Commission staff conducted coordinated review with the Suffolk County Department of Health Services, the Town of Brookhaven, and the New York State Department of Environmental Conservation. The coordination process has been completed, and the three agencies have no objection to the Commission acting as lead agency. The Commission may designate itself as the lead agency.

A motion was made by Ms. Filmanski and seconded by Commissioner Thiele designating the Commission as lead agency. The motion was carried unanimously.

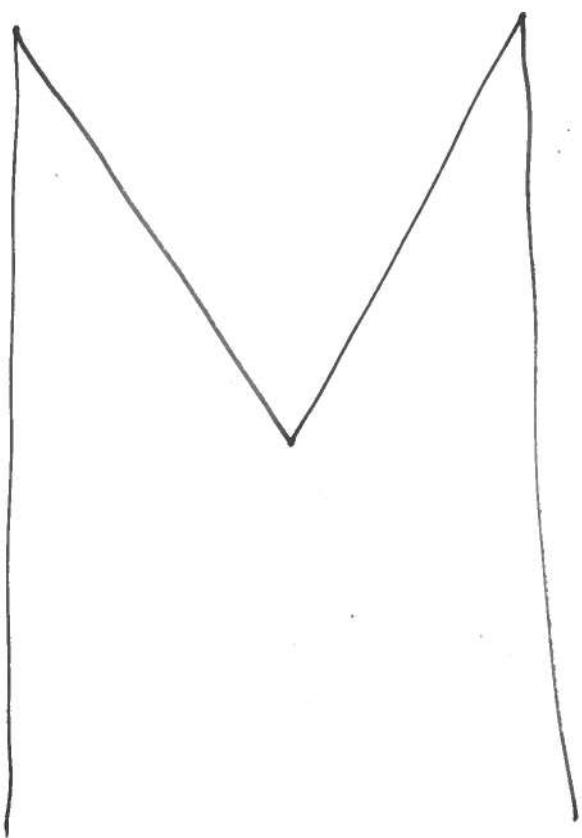
Jim Bagg from Suffolk County Planning reviewed the Environmental Assessment Form, the application materials pertaining to this, and the project summary. An adoption of a negative declaration and a decision on this application will take place later in this meeting.

The following is out of sequence due to a review of the Environmental Assessment Form completed by Jim Bagg which took place during this meeting.

A motion was made by Ms. Pines and seconded by Ms. Filmanski adopting a Negative Declaration on the Osleeb application. The motion was carried unanimously.

A further motion was made by Ms. Pines and seconded by Ms. Filmanski to grant the requested hardship on the Osleeb application. The motion was carried unanimously.

50





0200-48100-0100-005000
2010 Aerial

Project: NewZoningMap10_29_2016.mxd

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02/17/2016
Map created by:
Isabel Morris,
Engineering Aide
Division of Engineering
PELM

BASE MAP



Town of Brookhaven
Suffolk County, New York

Commission Meeting of October 2, 2002

Riverhead Town Hall, Riverhead, NY

Present: Mr. Proios (for Suffolk County), Mr. Shea (for Southampton),
Mr. MacLellan (for Riverhead), Ms. Compitello (for Brookhaven)

SINGE
FAMILY
HOME.

Resolution on the Core Preservation Area Hardship Application
of Harold Marshall

Property located north of East Bartlett Road, west of Line Road,
Middle Island, Town of Brookhaven

Tax Map Number 200-481-1-5

Whereas, on May 30, 2002 Harold Marshall, filed with the Commission, a request for a core preservation area hardship exemption permit to construct a single family home with septic system on 3.99 acres in a A-5 Residential zoning district; and

Whereas, a public hearing on the core preservation hardship request was held by the Commission on July 10, 2002; and

Whereas, the Commission has considered all materials submitted in connection with the application; and

Now therefore be it resolved, pursuant to the New York State Environmental Quality Review Act ("SEQRA") Part 617.5, the Commission hereby determines that the application is a Type II action, and be it further

Resolved, that the Commission hereby determines the application, as submitted meets the requirement for extraordinary hardship pursuant to New York State Environmental Conservation Law 57-0121 (10)(a) and (c); the clearing allowed for the site for a single family home shall be in accordance with the clearing regulations of the Town of Brookhaven; the house will be situated in the southeast corner of the property, and therefore placed near an existing road; and be it further

Resolved, that the application for a Core Preservation Area hardship exemption is approved subject to the conditions set forth herein.

Motion by Mr. Proios

Seconded by Mr. MacLellan

Vote: 3 -0- 2 in favor

88