

COPY



In the Matter Of:

EQUINE FACILITY LLC REPRESENTED BY JOHN BRESLIN, ESQ

PROCEEDINGS

May 16, 2018



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EQUINE FACILITY LLC

REPRESENTED BY JOHN BRESLIN, ESQ.

340 Smith Road, Shirley, NY 11967

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May 16, 2018

3:40 p.m

PRESENT:

CARRIE MEEK GALLAGHER

JOHN MILAZZO

ANDY FRELENG

MARTY SHEA

DAN McCORMICK

JOHN PAVACIC

EDWARD P. ROMAINE

DORIAN DALE

JANET LONGO

KYLE COLLINS

JERRY TVERDDY

LAURA SMITH

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MS. MEEK GALLAGHER: Notice of Public Hearing, Letter of Interpretation Credit Allocation Appeal for Equine Facility LLC. This is a continuation from last month and we are holding it now here, May 16th 3p.m. at Wertheim National Wildlife Refuge.

MR. MILAZZO: Mr. Eagan, are you going to be speaking?

MR. EAGAN: Yes.

MR. MILAZZO: So you might as well swear him in now.

A R M A N D E A G A N, the witness herein, having been first duly sworn before a Notary Public of the State of New York, was examined and testified as follows:

MR. BARON: Gentlemen and ladies and chairwoman, Exhibit A- The commission determines that the AVR decision doesn't provide precedent for allocating one Pine Barrens per acre to the AGE parcel. The AVR parcel was in the A-Residence 1 zoning district not within the A-Residence 5 district as AGE alleges. The development yield factor for parcels within the A-residence 1 district is

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0.80 PBC per acre, thus AVR's 80.68 acre parcel was properly allocated at 64.55 Pine Barrens Credits. The AVR parcel was not allocated one Pine Barren Credit was AGE claims - it was allocated PBC's using the 0.80 development yield factor. 2018 Commission resolution to the Armand Gustave LLC and the James Eagan parcel (see Exhibit A).

These contentions that the Commission makes in their Resolution are false. The property zoning of the property, (which predated the act) is A-5 Residential (1 house per 200,000 square feet). Furthermore, the property never, at any point during its zoning history, was zoned A-1 Residential (see Exhibit G, 2018 Brookhaven zoning analysis). The Resolution further goes on to allege that the entire 80.68-acres of received Pine Barrens Credits, this was untrue. In the A Commission meeting summary, the property was described by the Clearinghouse members as "approximately northerly two thirds OD -- two thirds of the parcel is in the core area" (See exhibit A).

Lastly, the Commission alleges that the

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property was allocated 64.55 Pine Barrens Credits. This is also untrue. The Conservation Easement on page number two under "now therefore," clearly states "in the amount of 57.85 Pine Barren Credits" (see Exhibit A last page).

Exhibit B is a 2014 Brookhaven Town Zoning Board "Findings and conclusions" declares the zoning of the Equine Facility LLC property as "HF-Horse Farm Residence District." All principle uses permitted in the A-Residence District." Code 85-367(A).

Exhibit C is a 2000 Clearinghouse Staff Report prepared by Judy Jakobsen regarding The Equine Facility LLC property. Ms. Jakobsen refers to the zoning as "Horse Farm (HF, one house per 30,000 square feet)."

Exhibit C is where Mr. Milazzo -- D, I'm sorry, D as in David, is where Mr. Milazzo created yield factor for property zoned Horse Farm. Mr. Milazzo said, "HF (Horse Farm). The zoning category permits all uses in the A-Residence District, which allows one unit per 30,000 square feet." He went on to declare

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that the "yield factor would be 1.2 Pine Barrens Credits per acre."

Exhibit E, this Letter of Interpretation alleges that, "According to the plan, the number of Pine Barrens Credits allocated to a parcel within the Horse Farm Zoning District is equal to the parcel size in acres multiplied by 0.10. This allocation uses the "All Other Districts" development yield factor in the Plan Figure 6-2 because there's no specific development yield factor for parcel zoned Horse Farm. This statement is untrue because Mr. Milazzo created a yield factor for parcels zoned Horse Farm in 1997. This yield factor still exists on the CLUP to this day and has not been rescinded or edited since its creation. (See KLUP statute section 6.3.1.1.3)

Moving on to Exhibit H is a 1998 Letter of Interpretation for the subject property referencing its Horse Farm Zoning and then allocating based on the A-5 zoning (1 house per 200,000 square feet using the CLUP formula 6.3.1.1.9). No reductions were made for Barns or staff housing. This Letter of

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Interpretation was administered eight months after the creation of the Horse Farm yield factor by Mr. Milazzo.

Exhibit J is a 2018 Staff Report regarding the subject property referencing the zoning as "Horse Farm Residence District."

MR. MILAZZO: Just -- I don't even want to ask the question. No, I am going to ask the question. Are these new exhibits or are these exhibits that you provided in the past? Just so we all know.

MR. DALE: I was wondering if you were going to hand out that pile. So far we are sitting here while you are rattling this stuff off.

MR. EAGAN: We will just finish the one sheet right there.

MR. DALE: Wouldn't it be useful for you if we had -- if we were able to read along? I just want to reemphasize a request. I believe I was clear at making it during the last meeting and it was really for your benefit that we all be provided with a copy so that we can then be really in a position to fully be

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informed about the case that you are making. I would also suggest that after the fact that perhaps the big phone book you guys have brought along with you be PDF'd and then be forwarded to the commission. I don't believe that happened. Again, this is to your advantage.

MR. BARON: Okay, I do understand. We will do that in the future.

MR. DALE: As I suggested.

MR. BARON: It helps us get the information to you.

MR. DALE: It keeps us fully informed. You are going through this like "baa baa baa baa baa," there's no way to absorb it.

MR. BARON: I understand to do that.

MR. DALE: I appreciate it.

MR. BARON: Thank you. I think I was up to J.

Going back to Exhibit J. It is a 2018 Staff Report regarding the subject property referencing the zoning as "Horse Farm Residence District."

Exhibit L is a Clearinghouse Staff Report

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2 from 1997 referencing zoning as "HF (Horse
3 Farm). All uses as permitted in the
4 A-Residence District which allows one unit per
5 30,000 square feet."

6 Exhibit M is a revised Letter of
7 Interpretation for the Cavalli (neighboring)
8 property stating that the zoning was
9 incorrectly reported as Horse Farm District,
10 and is instead in the A-Residence 5 District.

11 Exhibit N is a meeting summary where the
12 Commission allocated 1 Pine Barren Credit per
13 acre to the Cavalli property (after an appeal)
14 located at the A-Residence 5 District.

15 Reducing only 1 Pine Barren Credit for the
16 primary residence and none for the Barns.

17 Exhibit O references the Cavalli
18 properties unique features (it is a horse
19 farm).

20 Exhibit P is of the Alberto/Sipala, a tree
21 farm located in the A-Residence 5 District.

22 The properties were allocated 1 Pine Barrens
23 Credit based upon Health Department Article 6.

24 Exhibit Q is a Commission response
25 declaring "The Pine Barrens Credit allocation

PROCEEDINGS

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2 formula uses the zoning of a parcel as of
3 1995."

4 MR. EAGAN: Okay. My turn.

5 Does anybody not have one? I will hand
6 all these out before I start. I folded them
7 for your convenience so you can flip it over
8 after.

9 I want to start out on the -- actually the
10 book. I [inaudible] requested the CLUP
11 Amendment of All Other Districts in 2011, 2012,
12 up. So in our most recent LOI for the
13 property, we got allocated credits under All
14 Other Districts. Which allocates one tenth of
15 a Pine Barrens Credit per acre. Mr. Milazzo
16 said the yield factor was created in 2012. So
17 I [inaudible] requested it and I read the
18 meeting minutes and all the attached material
19 with the foil request which was a lie. I
20 concluded that nowhere in the meeting minutes
21 were any of the attachment material that's in
22 reference to the Horse Farm Zoning District in
23 any way, but I did find a piece here, it was E
24 comments on CLUP Amendments to Chapter 6, it's
25 Exhibit Q in the blue or black book, whatever

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2 you have. It says here response: The Pine
3 Barrens Credit Allocation formula uses the
4 zoning of a parcel as of 1995 which our
5 property was on Horse Farm since 1983 and
6 currently zoned Horse Farm so there's no issue
7 there. But other than that with All Other
8 Districts, the statute was never amended when
9 Mr. Milazzo created 6.3.1.1.13 which allocates
10 1.2 Pine Barrens Credits per acre to properties
11 located in the A, which allow one unit per
12 30,000 square feet. If it's not amended, it
13 was created for the Horse Farm District and now
14 they are just allocating based on All Other
15 Districts. After I get to my presentation, it
16 will be obvious.

17 So I highlighted some things, you don't
18 have it on yours but I have it on mine. The
19 most important parts of the piece of paper
20 here, starting with Cavalli under
21 misinterpreted. The zoning was misinterpreted
22 as Horse Farm Zoning, 1 house per 30,000 square
23 feet, this was by Mr. Milazzo (no deductions
24 were made for Barns or stalls) as of right.
25 You guys didn't have the Commission, the CLUP

PROCEEDINGS

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2 didn't have a classification at this time for
3 Horse Farm properties zoned Horse Farm. A new
4 classification was created and it says, "Mr.
5 Milazzo reported that the Clearinghouse board
6 at the last meeting, examined an application
7 for a Letter of Interpretation for four parcels
8 with the HF (horse farm) zoning in Brookhaven
9 Town. He explained that the plan does not
10 provide an allocation formula for the zoning
11 category which requires 30,000 square feet for
12 each residential parcel. The plan does provide
13 an allocation formula factors for 20,000 square
14 feet (i.e., a factor of 1.6) and 40,000 square
15 feet (i.e, factor of 0.8), and the
16 Clearinghouse interpolated from these factors
17 to arrive at a factor of 1.2, which it utilized
18 in approving a Letter of Interpretation ."

19 CLUP 6.3.1.1.13.

20 So after they misinterpreted and rescinded
21 the LOI and said it was "incorrectly reported
22 at Horse Farm District," "Newly interpreted as
23 A-5 Residential by Mr. Milazzo. Then they
24 allocated credits based on A-5. They allocated
25 3.16 PBCs still not deducting for the barns or

PROCEEDINGS

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2 any of the stalls on the Cavalli property and
3 only one for the house even under the A-5
4 Zoning. So they appealed, no hearing was held,
5 they submitted an "Opinion of Value." In our
6 book Exhibit 4I, we submitted a real estate
7 appraisal for the property and Cavalli
8 submitted an opinion about it by a local real
9 estate and they said that the Barkus Precedent
10 requested 1 PBC per acre. The use of the
11 property was a Horse Farm, it was used to board
12 horses, contains barns and a primary residence.
13 Ultimately they allocated 1 PBC per 40,000
14 square feet. No deductions were made for
15 barns, only one primary residence was in the
16 A-5 Zoning.

17 So now I am just going to flip over here
18 and I am going to go to the first --

19 MR. MILAZZO: Mr. Eagan, when you
20 referenced Exhibit 1B classification, what is
21 that exhibit? What is Exhibit 1B, where is it?

22 MR. EAGAN: Let me back up here.

23 MR. MILAZZO: New Classification, third
24 one down, Exhibit 1B. What is that?

25 MR. EAGAN: I must have mistyped B. Oh,

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it's from the old book.

MR. MILAZZO: So that's one B in the old book.

MR. EAGAN: The old book.

MR. MILAZZO: Is there a naming practice to differentiate between one book and this book? Just so everything is clear.

MR. EAGAN: They say H2 -- one book says H2 Exhibit and one book says exhibit.

MR. MILAZZO: Maybe when you are doing your presentation, you can just say this is the old book, this is the new book so we have that. Thank you.

MR. EAGAN: All right. Okay. And I want to just say, you told me last time not -- to say Commission Staff but, you know, that's not really making a good record then if you say Commission Staff instead of Mr. Milazzo because you are the attorney for the Commission so I should refer to you by name. It says in the documents.

MS. MEEK GALLAGHER: Well, he is staff to the commission.

MR. EAGAN: I know, but when he makes a

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decision, he should be referred to by his name
because he's -- he also --

MS. MEEK GALLAGHER: It's the Commission.
It's Mr. Milazzo representing the Commission so
it's the Commission making the decision or
representation.

MR. EAGAN: I understand but it's -- I am
trying to make the record clear, it's
testimony.

MS. MEEK GALLAGHER: The Commission is the
responsible entity.

MR. EAGAN: I know. To make the record
more clear, I will put Mr. Milazzo's name in
there, but not out of disrespect.

MR. MILAZZO: I don't feel any of that.

MR. EAGAN: LOI. The first LOI was 1999
right after -eight months after the Cavalli or
the new yield factor was created for the Horse
Farm Residence District. So the first LOI --

MR. MILAZZO: Mr. Eagan, what are you
referring to now?

MR. EAGAN: Equine Facilities, LLC, the
big heading.

MR. MILAZZO: Okay.

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2 MR. EAGAN: The first LOI for Equine
3 Facilities LLC was in 1999. The advisory board
4 said to allocate credits, PBCs "as they see
5 fit" deducting one for the primary residence.
6 The clearinghouse allocated PBCs based on the
7 A-5 Zoning (see CLUP 6.3.1.1.9). No deductions
8 were made for Barns or staff housing. Mr.
9 Milazzo eight months prior created a Horse Farm
10 yield factor (see CLUP 6.3.1.1.13).

11 MR. MILAZZO: So again, I just -- I do not
12 have the power to do anything. The Commission
13 adopts policy. The Commission affects policy.
14 I was not staff counsel in 1999.

15 MR. EAGAN: But you were part of the staff
16 counsel.

17 MR. MILAZZO: I was part of the staff just
18 like all of the other people were.

19 MR. EAGAN: Let me finish.

20 MR. MILAZZO: I'm sorry, let me finish.

21 MR. EAGAN: You'll see my --

22 MR. MILAZZO: Let me finish.

23 MR. EAGAN: You'll see my point.

24 MR. MILAZZO: I don't care what your point
25 is because right now I would like to finish.

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MR. EAGAN: Okay.

MR. MILAZZO: So when you say that I created something, the Commission created it, that's all. Thank you. You can finish.

MR. EAGAN: Staff report, 5/10/2000, prepared by Judy Jakobsen, reference zoning as "Horse Farm (1 house per 30,000 square feet)" See Exhibit H2-Exhibit C. So book 2, Exhibit C.

MS. SMITH: That's the new book?

MR. EAGAN: That's the new book.

We will go to the appraisal here, March 19, 2018. The value of the property is \$3.88 million by Breslin Appraisal Co. The average price of a PBC (2017) is \$77,000 per credit.

So we determined that we would be entitled to based on that, if you do the math, 34.22-acres time 43,560 equals 1,490,623.2 square feet divided by 30,029.68 equals if you divide 3,773,000 divided by 77,000 equals 49 PBCs.

Let me go back to Warner. Zoning on the date of the act in 1995 was Recreation District

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allowing 1 house per 200,000 square feet.
There was no appeal .the survey depicted 18
buildings on the property. Buildings were not
acknowledged nor deducted for when allocating
PBCs. The use was used to board horses at the
time of Pine Barrens Credit Allocation and
currently.

Again, as of right, during the first LOI
for the Equine property. Going back to it, we
weren't -- there was no deductions made from
Barns or staff housing, but every LOI after
that in 2013, 2016, and I believe there was
another one prior to that, there were
deductions made for the Barns and staff housing
on those properties. There were none for the
Warner or Cavalli but there were for the Equine
property.

We move on to Klug. The property was
sterilized in 1982. The Development rights
were sold prior to inception of the ACT in
1995. We were -- so the request was Barns and
labor housing and the result -- the
determination by the Commission was "the use of
any land for the purpose of Agriculture or

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Horticulture does not constitute development.

No permit from the Commission is required.

Barns and labor housing allowed under

57-0107.13 V and under CLUP (see Exhibit 5A).

Now, this is a new exhibit I added in.

Alberto/Sipala. This is new to this particular

appeal. The zoning of this property is and was

at the A-5 Residential, 1 house per 200,000

square feet. The use was a Tree Farm

Horticulture exemption

Agriculture/Horticulture. The easement was

allowed to continue use as a farm. So they

requested one road-front credit per lot and

they used Suffolk County Health Department

Article 6 as a precedent, and the Commission

decided to allocate one PBC per acre based on

Health Department Article 6. So it wasn't one

credit per lot but they did give them one PBC

per acre. It worked out to be 3.52 PBCs and

they were allowed to continue use as a farm.

So I am going to add another exhibit in

here, AVR-Breslin which is 80.68 acres, the

zoning is Brookhave Town's A-5 Residential

Zoning, one house per 200,000 square feet.

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2 There was no hearing. The CLUP yield factor,
3 should have been allocated in it's LOI, .16
4 PBCs per acre for two-thirds of the property.
5 CLUP 6.3.1.1.9. It was allocated as of right,
6 57.85 PBCs for two-thirds of 86.68-acres in the
7 A-5 Zoning. There was no request, there was no
8 hearing, and there was one PBC given per 40,000
9 square feet, as of right.

10 Now, I will move back to The Equine LOIs
11 here. Moving down to the 2013 LOI (New yield
12 factor created) allocated PBCs to the property
13 zoned HF under yield factor "all other
14 districts" because "there is no specific yield
15 factor for properties zoned HF" (see H2 Exhibit
16 E).

17 Although CLUP section 6.2.1.1.13 existed
18 then and now, they allocated -- LOI allocated
19 zero PBCs and deducted for Barns and staff
20 housing. I have a category here, all other
21 districts and it's right under 2013 LOI. The
22 2011/2012 yield factor, "all other districts"
23 (.10 PBCs per acre) created by Mr. Milazzo
24 alleged that this applies because "there is no
25 yield factor for properties zoned HF." Mr.

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2 Milazzo had no grounds for applying this yield
3 factor. Minutes to 2011/2012 Ammendment does
4 not mention HF zone property. Mr. Milazzo is
5 applying this yield factor in order to deprive
6 Mr. Eagan of his right to equal treatment as
7 Mr. Milazzo did in the 2018 case where Mr.
8 Eagan -- where applicant was Eagan. Mr.
9 Milazzo misstated facts and lied about about
10 AVR property zoning and it was A-1 Residence.
11 Said it was A-1 Residence when zoning analysis
12 from the town says A-5 Residence and also lied
13 about credit allocation and yield factor use
14 (see book two, Exhibit A).

15 MR. MILAZZO: I am just going to respond
16 that I just disagree. That's fine.

17 MR. EAGAN: I pulled --

18 MR. MILAZZO: That's fine. I just want to
19 out it on the record. If you want to accuse me
20 of lying.

21 MR. EAGAN: Well, the Commission. You
22 presented this at the meeting. It was said
23 next to the category where it say James Eagan,
24 it said in the little print in the bracket, it
25 said Mr. Milazzo..

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2 MR. MILAZZO: I was just taking acception
3 to your presentation that I am lying. It's
4 fine. You can continue.

5 MR. EAGAN: I am sure there is an author
6 to this but --

7 MR. MILAZZO: You can continue.

8 MR. EAGAN: I am sure there was an author
9 to this but, you know, it says I am referring
10 to the bottom of page seven and the top of page
11 nine in book two, Exhibit A. When I say this,
12 this is part of the Commission resolution, if
13 you turn to the back of Exhibit A here, it
14 has -- I will let you all get there first.

15 MS. MEEK GALLAGHER: Which page?

16 MR. EAGAN: We are looking at Exhibit A,
17 Commission Resolution, it's at the bottom of
18 seven right above the footnote. It says the
19 Commission determines that AVR decisions does
20 not provide precedent for allocating one Pine
21 Barren credit per acre to the ADE parcel and
22 the A-Residence 1 Zoning District not within
23 the A Residence 5 Zoning District as ADE
24 alleges. Development Yield factor for parcels
25 in A-Residence 1 District [inaudible] PBCs per

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2 acre and 80.68-acre parcels properly allocated
3 64.55 PBCs. The ABR parcel was not allocated 1
4 PBC per acre. [inaudible] Claims allocated
5 PBCs .08 development yield factor .

6 So I have here a zoning analysis from
7 Brookhaven Town and it says that the parcel was
8 zoned A-5 since 1990. It's currently A-5 and
9 prior to that, it was A-Residence, prior to
10 1990. So that was prior to the inception of
11 the act. It was never actually zoned A-1
12 Residence. Further, I have the conservation
13 easement that says in the amount of 57.85 PBCs
14 so we have here, you said 64.55 and it's 57.85.
15 And it says that the property was located only
16 in the core area because the whole property was
17 allocated the .08 yield factor, but here, in
18 the Commission minutes for 4/21/04, it says
19 that approximately northerly two-thirds of the
20 parcel is in the core area. So there's some
21 inaccuracies there and that would explain the
22 in accuracies in the Equine case.

23 Moving on.

24 MS. MEEK GALLAGHER: Certainly, that's
25 something that we can correct if need be.

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MR. EAGAN: Well, I presented that to you and the hearing and the minutes were not recorded on the, I think, it was the February hearing, after it was resolved and, you know, I don't think it was an issue, I can't -- I can point out about errors in that if you want to have that hearing reopened, that would be great.

MR. MILAZZO: We are not going to reopen a hearing.

MS. MEEK GALLAGHER: We certainly --

MR. MILAZZO: I would recommend to a commission that they not reopen a hearing.

MR. EAGAN: No, not reopen a hearing, that's a violation of due process right, but I would consider -- I would love to see that resolution redone with proper allocation, one Pine Barren Credit per acre, but no hearing needs to be reopened. I'll get to that too.

Zoning interpretation. 2014 applicants applied to ZBA (Brookhaven) for zoning interpretation. The ZBA stipulated after a mandamus-article 78. The ZBA determined that the property zoned Horse Farm Residence which

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allows "All principle uses in the A-Residence District" (one house per 30,000 square feet) (see book two, Exhibit B).

So the LOI 2016 Commission being made aware of the zoning as per ZBA determination allocated based on "All Other Districts," allocated zero PBCs and ignored zoning in CLUP 6.3.1.1.13. "If the zoning allowed 1 dwelling unit per 30,000 square feet, the development yield factor is 1.20 PBCs per acre, created specifically for Horse Farm zoning by Clearinghouse Staff (see exhibit B book two).

Then the removal of buildings. There was a letter attached "once the improvements have been removed, the applicant may then apply for a revised Letter of Interpretation." Other precedent cases were allowed to have Barns and housing and horse boarding as of right (see Cavalli and warner).

So now we get into the Armand Gutave Case for the zoning for the -- the Zoning for the Armand Gustave LLC, and the James Eagan Case, that's right to the right of The Equine Facility LLC. It is Southampton Town CR-200

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residential zoning (one house per 200,000 square feet). So the appeal requested 1 PBC per acre based on precedent, allowing one house per 40,000 square feet. The AVR Rose-Breslin Associates parcel (all 5-acres zoned, all receive 1 PBC per acre).

The Commission attempted to open a closed public hearing to "clean up the record." This is a violation of due process rights. Once a hearing a closed, it's supposed to stay closed. The applicant sued in mandamus to keep the record closed. Stipulations of discontinuance agreed to make decision based on the record.

A resolution -- the commission made a resolution using information not on the record. They lied about the zoning on AVR and allocation of PBCs and the Core CGA status one-thirds/two-thirds (see book two, Exhibit A). Said zoning was A-1 Residential, actual zoning A-5 Residential. They lied about Alberto/Sipala.

MS. MEEK GALLAGHER: Mr. Eagan, if you can refrain from using the word lie. Perhaps misstated or there was an error. A lie implies

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that there was an intentional --

MR. EAGAN: I understand --

MS. MEEK GALLAGHER: -- which I don't think was that case.

MR. EAGAN: Ms. Gallagher, I understand here, but my point of view is this nine page document here basically called me a liar when I presented this case, so --

MS. MEEK GALLAGHER: Did we use that phrase?

MR. EAGAN: Well, no, you didn't use the phrase but in less words did that so, you know, what else do you call it when somebody is being singled out and made into a class of one?

Instead, it was allocated 3.42 PBCs based on CLUP formula, ignoring CLUP standard OFM Formula. They should have been allocated 4.2 PBCs (see CLUP 6.3.1.1.9).

The applicant requested determination of nondevelopment. Precedent cases were provided but there was no differentiation and it was denied by the Commission using the Equine Facility LLC Case to deny. It was allocated 3.35 PBCs to 20.88 acres in the CE-200 Zoning

PROCEEDINGS

District.

Now, I got a final piece of the appeal. I got a final piece of the appeal. Does anybody need a blue book? Did I miss anybody? It's in the front of the book but I was supposed to hand it out. It's in my black book.

So we were requesting a result based on precedent. It is requesting the CLUP states that "one Pine Barrens Credit shall be allocated for each single-family dwelling permitted on a residentially zoned parcel of land located within the Core Preservation Area" (see CLUP 6.3.1). This here is a cut out. I cut it out from a real estate appraisal which is Exhibit 4I in book one. The first page; this is Mr. Breslin's analysis of the potential profit of the subdivision of the property. So it worked out to be \$77,551 per lot. So the math is 34.22-acres times 43,560 equals 1,490,623.2 square feet divided by 30,000 square feet equals 49.68 building lots under the current zoning. If the above referenced section of the CLUP was applied, we would be entitled to 49.68 PBCs (see CLUP 6.3.1).

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The Maintenance of Value. In the introduction to the Pine Barrens Credit Program in the CLUP states that, "it is the primary purpose of the credit program is to maintain the value in lands designated for preservation or protection under the plan providing for the allocation and use Pine Barrens Credit (PBCs) (see CLUP 6.1).

The property appraised at 5.88 million-dollars for 120,000 building lot multiplied by 49 building lots. The average sale price of a Pine Barrens Credit currently is currently \$77,000 as per the December 2017 Commission meeting. The final appraisal after anticipated costs worked out to 3,773,000 divided 77 equals 49 PBCs (See Exhibit 4I).

So we were requesting 49.68 PBCs subtracting one for the primary residence. We were relying on the Klug decision, Warner, and Cavalli as our precedent for no deductions for barns or agricultural staff housing and that concludes my presentation.

MS. MEEK GALLAGHER: Mr. Milazzo.

MR. MILAZZO: I just want to confirm with

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PROCEEDINGS

your attorney, did you receive our letter from
April 18th?

MR. BARON: Yes, we did.

MR. MILAZZO: Okay. I have that as
courtesy of including that as part of the
record.

MR. BARON: Absolutely.

MR. MILAZZO: Okay. I don't have it with
me today.

MR. BARON: We will deem it part of the
record.

MR. MILAZZO: Thank you very much.
What's the zoning of the property?

MR. EAGAN: Horse Farm residence, one
house per 30,000 square feet.

MR. MILAZZO: What's the property used
for?

MR. EAGAN: I am just, you know, going to
read the exhibits.

MR. MILAZZO: What's the property used
for?

MR. EAGAN: The same thing Klug, Warner
Cavalli used it for. Boarding horses.

MR. MILAZZO: What else is done on the

PROCEEDINGS

property?

MR. EAGAN: Recreational use under the
CLUP chapter seven.

MR. MILAZZO: Any other activities done on
the property?

MR. EAGAN: (Witness nods head.)

MR. MILAZZO: I am trying to get a sense
of piece from it. Any other uses?

MR. EAGAN: No.

MR. MILAZZO: Okay. Do you have any
questions, Jerry.

MR. TVVERDY: No.

MS. MEEK GALLAGHER: Do commission members
have any questions?

MR. DALE: Yeah, just out of curiosity,
how many horses are there actually stabled,
approximately?

MR. EAGAN: I don't know.

MR. DALE: Don't know. Okay. And you
suggested that in addition to the presence of
horses, they are also ridden on the property?

MR. EAGAN: Yes.

MR. DALE: On the full expanse of the
property or is it a confined rodeo proposition?

PROCEEDINGS

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2 Do you know?

3 MR. EAGAN: I don't know.

4 MR. DALE: Thank you.

5 MS. MEEK GALLAGHER: So --

6 MR. EAGAN: May I ask what your point is?

7 MR. DALE: Well, I think I will be helpful
8 responding to that if you have 50-acres, it
9 questions what fraction of the property is in
10 fact directly used both for the stabling and
11 for the recreational riding of the horses. I
12 think that's the proposition.

13 MR. EAGAN: I don't know.

14 MR. DALE: I see. But you don't even have
15 a vague idea?

16 MR. EAGAN: I don't. My attorney knows.

17 MR. MILAZZO: Do they breed horses there?
18 Do you breed horses there?

19 MR. EAGAN: (Witness nods head.)

20 MR. BARON: I don't know.

21 MR. MILAZZO: What's the answer? Do they
22 breed horses there?

23 MR. BARON: I don't know.

24 MR. MILAZZO: Mr. Eagan, do you breed
25 horses there?

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MR. EAGAN: I don't know. I am going to quote my attorney there. I don't know.

MR. MILAZZO: Is the other owner here today?

MR. EAGAN: I don't know. I am presenting for my father.

MR. MILAZZO: Okay. Well, I see Mr. Egoen and Ms. Jolly (phonetic) here, can they answer that question?

MR. BARON: I don't know whether that's part of the application that's being presented. I don't know if the statute or the CLUP gets into that aspect, what's being used on the property. It's really statutory, it is what the property is being zoned for and what the allocation should be and respectfully whether what percentage is used for, you know, raising horses or maintaining horses or whatever. I don't think it's really relevant or at issue here and I would ask that --

MR. ROMAINE: Is it fair to ask if this is an active horse farm?

MR. BARON: What's that?

MR. ROMAINE: Is it fair to ask that this

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is an active horse farm?

MR. BARON: Well, I would say yes,
Mr. Romaine, because the issue --

MR. ROMAINE: I asked because I know the
neighbors.

MR. BARON: Right, but when you say the
word active, what does active mean? There are
horses there, there are horses that are stabled
there, and there are horses that, you know, are
present. But I don't know what else -- I
honestly don't know if horses are bred there or
birthed there but it is -- there are horses
there, yes. To the extent, I don't know.
Taking it to the next level, I don't know
whether -- whatever extent it becomes, I don't
know whether it's relevant or whether it --

MR. ROMAINE: Horses are boarded there on
a regular basis --

MR. BARON: Yes.

MR. ROMAINE: -- on a regular and
continuous basis, that's a fair statement?

MR. BARON: Fair statement. But how many
and what extent and what portion of the land, I
don't know the answer to that, nor if we did

1 PROCEEDINGS

2 know the answer, would it be relevant or
3 admissible in connection with this application.
4 That's the point I have.

5 MR. MILAZZO: Did you provide information
6 ability the CLUP matter?

7 MR. EAGAN: I gave it in Exhibit -- yes.

8 MR. MILAZZO: That was with respect to
9 Agricultural use, did you argue that was
10 similar to your property?

11 MR. EAGAN: (No verbal response).

12 MR. MILAZZO: The CLUP is on this exhibit
13 that you provided, right?

14 MR. EAGAN: Okay.

15 MR. MILAZZO: Okay. So my -- okay. So,
16 Mr. Baron, are you allowing us -- no, I am
17 moving on. We are going to be able to provide
18 that letter. So there are a lot of new items
19 again, provided by your client which is
20 perfectly appropriate and the Commission may
21 need some time to supplement and respond to
22 some of these allegations of actions by the
23 commissions. What's the word on here?

24 MR. ROMAINE: Meronious (phonetic)

25 MR. MILAZZO: And lying. So I think there

PROCEEDINGS

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2 should be an opportunity to provide some
3 response to that.

4 MR. BARON: Respectfully, I would ask that
5 the hearing be closed. The hearing was kept
6 open, at your request, which gave us the
7 opportunity to present additional documents.
8 Last time these documents would have never been
9 presented to the commission. We had the
10 opportunity to present additional documents
11 today other than the letter which you sent to
12 my office, nothing else was presented. I think
13 in fairness, we've had enough. It must come to
14 an end. I think all the evidence that needed
15 to be presented has been presented. I think
16 you've had an opportunity to review the
17 evidence, ask questions about the evidence, and
18 I would request that the board close this
19 hearing. It's not that difficult an issue. I
20 think the hearing should be closed and the
21 board, based on your foundation, should make a
22 decision and then --

23 MS. MEEK GALLAGHER: Do we -- so is there
24 an option to close but keep open to the record
25 just in terms of us being able to respond on

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the record to some of the new evidence that's been provided?

MR. BARON: Respond in -- who is going to be responding?

MS. MEEK GALLAGHER: If the Commission needs to respond or provide anything for the record. I am just asking that.

MR. MILAZZO: Yeah, we think that the Commission has in the past allowed the hearing to be closed and allow documents to be permitted for a week or two.

MR. ROMAINE: Motion to close this public hearing and keep it open for comments for the next 15 days.

MR. AMPER: I object. We are closing the hearing without any other testimony?

MR. BARON: I will object and ask that the hearing be closed for all purposes and the board render its decision.

MS. SMITH: You are closing the public comment portion and want to leave it open for written comment, is that what you are doing?

MS. MEEK GALLAGHER: Mr. Amper, you are objecting to it being closed for public comment

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or --

MR. AMPER: No, I object to not being able to speak at this public hearing.

MS. SMITH: So you are closing the hearing?

MS. MEEK GALLAGHER: You are right.

MR. ROMAINE: I withdraw my resolution.

MS. SMITH: I just have a question also for Exhibit L in the new book. That's what you are referring to for this first section here?

MR. EAGAN: L is Cavalli.

MS. SMITH: So that's the portion of the property?

MR. EAGAN: I don't understand.

MR. ROMAINE: In other words, it's an example of similar property.

MS. SMITH: Is that an example of a similar property?

MR. EAGAN: Yes, this is actually a property so this Equine is on North Street, this is directly across the street adjacent and it's four properties so they are all one.

MS. SMITH: That's what I was asking.

MR. EAGAN: That's the staff report.

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2 MS. MEEK GALLAGHER: Mr. Pavacic, I am
3 going to ask you to take over for me.

4 MR. PAVACIC: Okay.

5 MR. ROMAINE: Motion to ask our executive
6 director to chair this meeting in the absence
7 of our chair lady

8 MR. DALE: Second.

9 MS. MEEK GALLAGHER: All in favor?

10 (Chorus of ayes.)

11 MS. MEEK GALLAGHER: Any abstentions?

12 (No verbal responses given.)

13 MR. PAVACIC: Are there any other
14 questions or comments, inquiries from other
15 members of the commission at this time?

16 (No verbal responses given.)

17 MR. PAVACIC: Are there any comments from
18 the public on this?

19 MR. AMPER: Thank you for being here.

20 R I C H A R D A M P E R, the witness herein,
21 having been first duly sworn before a Notary Public
22 of the State of New York, was examined and testified
23 as follows:

24 MR. AMPER: My name is Richard Amper.

25 Very briefly, it's important that we all

PROCEEDINGS

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2 remember that the applicant enjoys existing
3 use. Activity on the property has previously
4 been found to constitute development. We
5 strongly disagree that Mr. Milazzo ever created
6 the credit allocation for the horse farm and we
7 ask that these Supreme Court findings in the
8 Jolly, Harkus (phonetic) and Nickus (phonetic)
9 Cases be considered as part of this proceeding
10 in as much as the property is one of the same
11 and you indicated earlier in the history of the
12 Pine Barrens.

13 MR. PAVACIC: Is there anybody else from
14 the public who wishes to comment during this
15 hearing?

16 (No verbal responses.)

17 MR. PAVACIC: Any additional
18 comments/questions from the Commission?

19 (No verbal responses.)
20

21 MR. PAVACIC: Recommendation from counsel,
22 there's a quite a bit of information here,
23 quite a bit of interpretation and evidence has
24 been provided so does the Commission want to
25 review this information, take an opportunity to

PROCEEDINGS

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2 digest this because it appears there has been
3 additional new information presented here
4 today. I just want to ask counsel in regard to
5 that, what would be appropriate for the
6 Commission to either keep the hearing open for
7 a period of time or close the hearing but keep
8 the record open to allow for response to the --
9 review and response to the information of what
10 was presented here today?

11 MR. MILAZZO: Commission may wish to
12 provide some documentary evidence in response
13 to some of the new items that were brought up
14 today. Just so that they are in the record so
15 that all parties have the benefit of having a
16 complete record and that would be the reason
17 the commission may wish to hold the matter open
18 with respect to -- it's up to the Commission,
19 of course, on whether they want to continue
20 with this hearing so is that the -- Mr. Egoen
21 and Mr. Baron would have the opportunity to
22 respond to whatever new documents were provided
23 so you would have that opportunity, or the
24 commission can just say we are going to provide
25 it to the record and use that in formulating a

PROCEEDINGS

response in this application.

MR. BARON: Can we do it this way; can we close the hearing, I am going to object -- Mr. Milazzo, if the board seems or the commission seems inclined to do so, allow him to submit his documents and allow us to receive a written response without having to reconvene the whole commission. Give us his documents, we will provide a written response within a period of time and the Commission will consider that render or decision?

MR. ROMAINE: That seems fair. I'd be willing to make a motion to that affect.

MR. MILAZZO: Can we just get a timeline?

MS. SMITH: Ten days open.

MR. ROMAINE: 10 or 15 days?

MR. PAVACIC: I would say probably 15 days for Commission to review the documents and provide comment and an additional 15 days for the applicant to respond to comments provided.

MR. EAGAN: He says no.

MR. BARON: So it's going to be 15 days for Mr. Milazzo on behalf of the Commission to provide the documents --

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MR. PAVACIC: To the Commission staff.

MR. BARON: Commission staff to provide the documents to us to the applicant.

MS. SMITH: To review and submit additional documents and then you have 15 days to respond to those documents that you were given.

MR. McCORMICK: Documents which will be provided by staff will also be provided to you at the same time so you have additional time to respond.

MR. BARON: Right, and then can we have a decision by July 1st? We want to get the decision. That will -- so we have a decision by July 1.

MR. MILAZZO: Commission meets once a month so the meeting is June 20th then the next meeting will be that week of July 20 -- So if it's 15 business days so then you are looking at you have 15 business days so that will probably be a July decision.

MR. BARON: So 10 and 10, we want to get it by the June.

MR. MILAZZO: I have other -- the

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Commission staff may have other matters to attend to in that short timeframe.

MR. BARON: I understand. So you need time to --

MR. PAVACIC: We are looking at the July meeting to make a decision.

MR. BARON: So we will go with 15/15.

MR. MILAZZO: Fifteen business days.

MR. PAVACIC: So the hearing is closed except for the document response and then a decision will be made in the July meeting.

MR. BARON: And then a decision will be made at the July meeting.

MR. MILAZZO: That will be the Commission's -- I would suggest that the Commission adopt that as a goal to have a decision as a July and that will be the end of the Commission goal.

MR. BARON: That's fair, thank you very much.

MR. PAVACIC: Is there a motion to close the hearing?

MR. ROMAINE: I'll move it.

MR. DALE: Second.

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MR. PAVACIC: Second by Mr. Dale. All in favor?

(Chorus of ayes.)

MR. PAVACIC: Opposed? Any abstentions?

(Chorus of ayes.)

MR. PAVACIC: Motion carries.

(Time Noted: 4:33 p.m.)

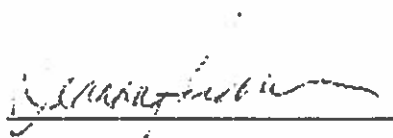
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C E R T I F I C A T E

I, DEANNA HUDSON, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the within statement is a true and accurate record of the stenographic notes taken by me.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



DEANNA HUDSON

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