

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

THE STATE OF NEW YORK
NEW YORK STATE CENTRAL PINE BARRENS
JOINT PLANNING & POLICY COMMISSION

-----X

Public Hearing in the Matter of:

LETTER of INTERPRETATION CREDIT ALLOCATION APPEAL,
JAMES EAGAN, HENRY DITTMER c/o ARMAND EAGAN,

Location: East side of Yaphank Middle Island Road,
Yaphank, Town of Brookhaven,

Suffolk County Tax Map Number 200-529-5-36

Pursuant to Sections 6.7.3.3 and 6.7.3.4 of the
Central Pine Barrens Comprehensive Land Use Plan.

-----X

October 17, 2018
4:01 P.M.

BROOKHAVEN TOWN HALL
ONE INDEPENDENCE HILL
FARMINGVILLE, NY

B E F O R E:

Carrie Meek Gallagher, Chairwoman



1 FOR THE COMMISSION:

2 CARRIE MEEK GALLAGHER, Chairwoman/Representative
for New York State's Governor's Office

3
4 DORIAN DALE, Designated Representative for
Member/Suffolk County Executive Steve Bellone

5 JANET P. LONGO, Designated Representative for
Member/Suffolk County Executive Steve Bellone

6
7 EMILY PINES, Designated Representative for
Member/Brookhaven Supervisor Edward P. Romaine

8 KYLE P. COLLINS, Designated Representative for
Member/Southampton Supervisor Jay H. Schneiderman

9
10 MARTY SHEA, Designated Representative for
Member/Southampton Supervisor Jay H. Schneiderman

11 LAURA JENS-SMITH, Member/Riverhead Supervisor

12 DANIEL P. McCORMICK - Member/Designated
Representative for Riverhead
13 Supervisor Laura Jens-Smith

14 JOHN W. PAVACIC, Executive Director,
Central Pine Barrens Commission

15
16 FOR THE APPLICANT:

17 JAMES EAGAN
ARMAND EAGAN
18 PETER D. BARON, Esq.

19 Also Present:

20 John Milazzo, ESQ., Commission Staff,
Special Counsel

21 Julie Hargrave, Principal Environmental Planner

22 Jerry Tverdy, Senior Environmental Analyst

23 Carol Sholl-Ostrowski, Administrative Assistant

24 Stephanie J. Valder, Stenographer

25 The Public

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

P R O C E E D I N G S

CHAIRWOMAN MEEK GALLAGHER: Okay. On to the next hearing.

MR. PAVACIC: For the LOI, I've asked Julie to work with Jerry on it, because Julie's very familiar obviously with this area --

CHAIRWOMAN MEEK GALLAGHER: Okay.

MR. PAVACIC: -- and with both sites, to work with Jerry on providing a staff report on this.

CHAIRWOMAN MEEK GALLAGHER: Okay, great.

Notice of public hearing, letter of interpretation Credit allocation appeal James Eagan, Henry Dittmer, care of Armand Eagan. The Central Pine Barrens Joint Planning and Policy Commission will hold a public hearing on October 17th, 2018 at 3 p.m. at Brookhaven Town Hall on the letter of interpretation appeal for James Eagan, Henry Dittmer, for Suffolk County Tax Map Number 200-529-5-36 which is located in the Core Preservation Area of the Central Pine Barrens area. I think that's enough.

So Jerry and Julie, right, you're both

1 P R O C E E D I N G S

2 going to present or is Jerry gonna give the
3 background?

4 MR. TVERDY: All right. So I can
5 start, okay. This is the same parcel, Tax Map
6 Number 200-529-5-36. It's .09 acres in the A5
7 residence zoning district. The staff report is
8 Exhibit A. And I submitted Exhibits from A to
9 P for the record.

10 CHAIRWOMAN MEEK GALLAGHER: Uh-huh.
11 Okay.

12 (Whereupon, Staff Exhibits A through P
13 were received in evidence as of this
14 date.)

15 MR. TVERDY: So exhibit -- exhibit --

16 CHAIRWOMAN MEEK GALLAGHER: Go through
17 each of the exhibits for us.

18 MR. TVERDY: So this is the exhibits
19 (indicating).

20 CHAIRWOMAN MEEK GALLAGHER: Yup.

21 MR. TVERDY: This is -- so the staff
22 report is Exhibit A.

23 Exhibit B is 2011 -- no I'm sorry, '18
24 Town of Brookhaven Suffolk County Tax Map album
25 page.

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

P R O C E E D I N G S

CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

MR. TVERDY: It shows the subject parcel.

CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

MR. TVERDY: And in Exhibit C, we have an aerial of the general area where the parcel is.

And the next exhibit, you will see the parcel that has more accurate pertinent information of the public parcel.

CHAIRWOMAN MEEK GALLAGHER: Okay.

MR. TVERDY: And so the next exhibits are practically identical to the exhibits from the -- the earlier hearing.

CHAIRWOMAN MEEK GALLAGHER: So photos; right.

MR. MILAZZO: So that's what's wrong, because remember, we're going to have two separate records.

CHAIRWOMAN MEEK GALLAGHER: Yes.

MR. MILAZZO: So I want to go through each exhibit in this.

CHAIRWOMAN MEEK GALLAGHER: Yes, photos of the project site and study area.

1 P R O C E E D I N G S

2 MS. HARGRAVE: That's (indicating) the
3 photos of the site. That's (indicating) the --

4 MR. MILAZZO: Yeah, we're going to
5 read through the exhibits, I'm sorry, just like
6 you did last time.

7 MS. HARGRAVE: F is --

8 MR. MILAZZO: Thank you.

9 MS. HARGRAVE: I'm sorry. E is the
10 photographs.

11 F is the list of the Bird Breeding,
12 Bird Atlas species.

13 CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

14 MS. HARGRAVE: G is the Species of
15 Greatest Conservation need. That has some
16 overlap with Exhibit F.

17 CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

18 MS. HARGRAVE: H shows the wetlands in
19 the vicinity of the project site.

20 And I is the study area map.

21 And J is the map of the study area
22 from 1994, okay, and it's with an aerial just
23 showing the development of that area in 1994.

24 And K is the zoning of the study area
25 which shows A5.

1 P R O C E E D I N G S

2 MR. TVERDY: Thank you, Julie. And I
3 can take over from here.

4 Approximately 35 parcels in the Core
5 is in this study area, half-a-mile radius are
6 protected through the conservation easement.
7 And they can encompass approximately 120 acres,
8 and they generated up to 100 Pine Barrens
9 Credits. All previously issued LOIs from 2010,
10 and 2015 and 2018, I'm sorry, '18 as an
11 Exhibit L, and allocation is .1 Credit.

12 On September the 6th, 2016, the parcel
13 was sold to Henry Dittmer by Henry Dittmer to
14 James Eagan and Henry Dittmer, and the deed is
15 in Exhibit M.

16 On September 14, 2016, the Commission
17 received a request from the applicant's
18 representative, Richard Scheyer, for an appeal
19 of the 2015 LOI for the subject parcel, and the
20 applicants were seeking 1 Pine Barrens Credit.
21 Mr. Scheyer stated in his letter to the
22 Commission which is Exhibit N, that the subject
23 parcel is similar in situation as a parcel
24 owned by the Woodstock Company with a tax map
25 number 200-5293-35. And you can see the

1 P R O C E E D I N G S

2 location of this parcel in Exhibit C up on the
3 aerial. It's outlined in red.

4 The -- that parcel received an
5 increase in allocation from a .1 to 1
6 Pine Barrens Credit, as per Commission
7 resolution of June 1998, and which is
8 Exhibit P. The resolution says that parcel was
9 granted a revision of Credits allocation for
10 the reason that he had single and separate
11 status, and they had received permission
12 for the construction of the road and
13 single-family's house.

14 On November 15th, 2016, applicant's
15 adjourned the public hearing for this subject
16 parcel. And on August 22nd, 2018, the
17 Commission received an LOI renewal application,
18 and request from the applicant's letter of
19 interpretation appeal for the subject parcel.
20 And this letter is Exhibit O.

21 So this is all we have in terms of the
22 new exhibits. If you any questions?

23 MR. PAVACIC: Exhibit P?

24 MR. TVERDYIY: Oh, P was the resolution
25 I mentioned.

1 P R O C E E D I N G S

2 MR. PAVACIC: Okay, thank you.

3 MR. TVERDYI: The Woodstock Company
4 resolution.

5 MR. MILAZZO: I'll just note,
6 and we'll leave it on the record, just
7 Mr. Scheyer's passed away.

8 CHAIRWOMAN MEEK GALLAGHER: Oh, okay.

9 MR. ARMAND EAGAN: Do you know he's
10 dead?

11 MR. MILAZZO: Yeah, he passed away.
12 He is deceased.

13 CHAIRWOMAN MEEK GALLAGHER: Okay.

14 MR. BARON: Mr. Scheyer passed away.

15 CHAIRWOMAN MEEK GALLAGHER: Is that --
16 we just mentioned that --

17 MR. MILAZZO: Yeah, we just noted
18 that --

19 CHAIRWOMAN MEEK GALLAGHER: -- for the
20 record.

21 MR. MILAZZO: -- and we send our
22 condolences to his family.

23 MR. BARON: It's very sad.

24 CHAIRWOMAN MEEK GALLAGHER: Are we
25 ready to hear from the applicant?

1 P R O C E E D I N G S

2 MR. ARMAND EAGAN: I'm ready when you
3 guys are ready.

4 CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

5 MR. ARMAND EAGAN: Okay.

6 MR. MILAZZO: Can we swear him in
7 again?

8 CHAIRWOMAN MEEK GALLAGHER: That's
9 right, he needs to be sworn in once more.

10 (ARMAND EAGAN, was duly sworn.)

11 THE STENOGRAPHER: Can you state your
12 name and address?

13 MR. ARMAND EAGAN: A-r-m-a-n-d,
14 E-a-g-a-n, and address is 114 Willis
15 W-i-l-l-i-s, Ave., A-v-e, Port Jefferson --
16 P - o -- Port Jefferson, New York 11777.

17 MR. MILAZZO: Mr. Eagan, what's your
18 relationship to the owner of this property?

19 MR. ARMAND EAGAN: Woodstock
20 application is my --

21 MR. MILAZZO: I'm sorry, I -- I had a
22 question just before we started. What's --

23 MR. ARMAND EAGAN: I'm sorry, I didn't
24 hear you.

25 MR. MILAZZO: -- is your relation --

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

P R O C E E D I N G S

huh? Maybe I'm not speaking clearly today.

What is your relationship to the owner of this property? Do you represent him?

I mean you have an attorney here. Does he represent the owner and can I just have the owner identified.

MR. BARON: If you know.

Do you know who the --

MR. MILAZZO: I don't know, that's what I'm asking.

MR. BARON: Who -- who is the deeded owner of this property, if you know?

MR. JAMES EAGAN: I own it.

MR. MILAZZO: Okay.

MR. JAMES EAGAN: I'm James Eagan.

MR. BARON: Okay. James Eagan is the deeded owner.

MR. MILAZZO: Is the owner?

MR. BARON: Yes.

MR. MILAZZO: Okay.

MR. BARON: Is the deeded owner.

MR. MILAZZO: James Eagan and Henry Dittmer; right?

MR. BARON: Right.

1 P R O C E E D I N G S

2 MR. MILAZZO: Who -- and so the owner
3 is James Eagan and Henry Dittmer?

4 MR. BARON: That's what I'm being
5 told. I don't have the deed in front of me
6 with that information.

7 MR. MILAZZO: All right, we have it.

8 So Mr. Eagan, you're just you're --
9 you were working with him; right?

10 MR. ARMAND EAGAN: I answer phones and
11 type.

12 MR. MILAZZO: Okay.

13 CHAIRWOMAN MEEK GALLAGHER: And -- and
14 apparently make public presentations as well.

15 MR. ARMAND EAGAN: I'm sorry?

16 MR. MILAZZO: And you make
17 presentations -- develop --

18 MR. BARON: Yes.

19 MR. MILAZZO: -- on applications?

20 MR. BARON: He's presenting the case
21 on behalf of the --

22 MR. MILAZZO: Okay, of the owners.

23 MR. BARON: -- Eagan and Dittmer.

24 MR. MILAZZO: Okay, that's all.

25 Thank you.

1 P R O C E E D I N G S

2 MR. BARON: No, it's fine.

3 (Laughter.)

4 MR. BARON: It's all right. They're
5 just --

6 MR. MILAZZO: No -- no, I just asked a
7 question, sir.

8 MR. BARON: No, he just wants to know,
9 that's fine.

10 MR. ARMAND EAGAN: Okay -- okay. My
11 first precedent is the Woodstock application.
12 This application is identically similarly
13 situated with the current application, and was
14 declared by the director of the PBC Commission
15 at the time substantially similar to a road
16 front parcel --

17 CHAIRWOMAN MEEK GALLAGHER: Mr. Eagan,
18 do you have new exhibits you'd like to share
19 for this hearing?

20 MR. ARMAND EAGAN: I --

21 MR. MILAZZO: Well, I thought you
22 wanted it --

23 CHAIRWOMAN MEEK GALLAGHER: I just
24 wanted to check.

25 MR. ARMAND EAGAN: Yeah.

1 P R O C E E D I N G S

2 MR. BARON: Is that new?

3 MR. ARMAND EAGAN: Yeah, it's new --
4 it's new.

5 MR. BARON: Okay. You're going to
6 have to do -- you're going to have to -- does
7 the Court -- do you have a --

8 MR. ARMAND EAGAN: I have a tiny copy
9 of it.

10 MR. BARON: In the exhibits?

11 MR. ARMAND EAGAN: In the exhibits.

12 MR. BARON: Let's go off the record
13 for a minute.

14 (Whereupon, a discussion was held off
15 the record.)

16 CHAIRWOMAN MEEK GALLAGHER: Do you
17 have a separate set of exhibits for the purpose
18 of this hearing, which is --

19 MR. MILAZZO: I want this on the
20 record.

21 CHAIRWOMAN MEEK GALLAGHER: -- which
22 is --

23 MR. MILAZZO: Hold on, are we on or
24 are we off the record right now?

25 MR. BARON: I want to go off to see.

1 P R O C E E D I N G S

2 MR. MILAZZO: Okay.

3 (Whereupon, a discussion was held off
4 the record.)

5 MR. BARON: All right. We'd like to
6 offer --

7 MR. MILAZZO: Okay, are we back on?

8 MR. BARON: Yeah, we're back on the
9 record.

10 MR. MILAZZO: Okay. Thank you.

11 MR. BARON: We'd like to offer what is
12 previously marked as -- as exhibit as a part of
13 Exhibit C --

14 CHAIRWOMAN MEEK GALLAGHER: Previously
15 marked as Exhibit C for what? We have no
16 exhibits in front of us for this hearing.

17 MR. BARON: Understood.

18 CHAIRWOMAN MEEK GALLAGHER: Correct?

19 MR. BARON: We're now marking as
20 Exhibit A, thank you.

21 CHAIRWOMAN MEEK GALLAGHER: Okay. So
22 you're going to provide us with --

23 MR. BARON: One copy --

24 CHAIRWOMAN MEEK GALLAGHER: --
25 exhibits for this hearing?

1 P R O C E E D I N G S

2 MR. BARON: Yes, we only have one.

3 But did you want us to make multiple copies or
4 do you just need --

5 CHAIRWOMAN MEEK GALLAGHER: We need --
6 need one for the purposes of today's hearing I
7 believe; right --

8 MR. BARON: You want one for the
9 record --

10 CHAIRWOMAN MEEK GALLAGHER: -- John?

11 MR. BARON: -- right?

12 MR. MILAZZO: Right.

13 CHAIRWOMAN MEEK GALLAGHER: Yes, we
14 need one for the record.

15 MR. BARON: Yes. For the purposes of
16 today's second hearing, which we'll go through
17 now, we're offering an Exhibit A, which is also
18 on the enlargement on the board right here
19 (indicating).

20 (Whereupon, a Brookhaven Tax Map
21 Section 529, Eagan Exhibit A was received
22 in evidence as of this date.)

23 MR. BARON: So this is --

24 MR. MILAZZO: So it'll be Eagan A.

25 MR. BARON: -- Eagan A. Thank you.

1 P R O C E E D I N G S

2 MR. MILAZZO: And that's, you want to
3 describe it? It's the section of the tax map.

4 MR. ARMAND EAGAN: It's a filed map
5 with the Madelung parcel highlighted, the
6 Woodstock parcel highlighted, and the Dittmer
7 parcel highlighted. And that's on the
8 Section 5 -- Map 529 of Brookhaven.

9 MR. MILAZZO: Thank you.

10 MR. BARON: Give me one second.

11 (Whereupon, a discussion was held off
12 the record.)

13 MR. ARMAND EAGAN: And so Exhibit --

14 MR. BARON: Back on the record.

15 CHAIRWOMAN MEEK GALLAGHER: Okay.

16 (Whereupon, a Doris Fichter
17 Resolution, Eagan Exhibit B was received
18 in evidence as of this date.)

19 MR. ARMAND EAGAN: And this is
20 Exhibit B.

21 MR. MILAZZO: So that's Exhibit B?

22 MR. BARON: B.

23 CHAIRWOMAN MEEK GALLAGHER: Exhibit B,
24 okay.

25 And what is Exhibit B?

1 P R O C E E D I N G S

2 MR. MILAZZO: So --

3 MR. BARON: Exhibit B is -- Exhibit B
4 is what?

5 MR. ARMAND EAGAN: Exhibit B is the
6 Doris Fichter resolution dated --

7 MR. BARON: Dated August 5th, of '98.

8 MR. ARMAND EAGAN: Are we -- we're
9 back on the record.

10 MR. MILAZZO: We're going to go back
11 on the record. Are you good? We're good.
12 Let's go.

13 CHAIRWOMAN MEEK GALLAGHER: So that's
14 Exhibit B.

15 MR. MILAZZO: We're back on the
16 record.

17 MR. ARMAND EAGAN: Exhibit B
18 August 5th, 1988 is a Doris Fichter Resolution
19 regarding a Credit matter.

20 MR. BARON: By the Pine Barrens.

21 MR. ARMAND EAGAN: By the Pine
22 Barrens. And Exhibit A is a copy of a file
23 map, a copy of the -- the map 529 with
24 highlighted Madelung, Woodstock and the
25 subjects of this appeal today.

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

P R O C E E D I N G S

So those are A and B.

CHAIRWOMAN MEEK GALLAGHER: So those are the two exhibits for today's, for this hearing?

MR. BARON: For this hearing.

CHAIRWOMAN MEEK GALLAGHER: Okay.

MR. ARMAND EAGAN: Okay -- okay, Woodstock is identically similarly situated. It was granted a full Credit. It was substantially similar to a road front parcel in the words of Ray Kerwin (phonetic). The prior approvals don't matter under the Act, but it did qualify for a 280A road opening and a building permit prior to the Act.

And then here's a second one. It was Doris Fichter. In the application of Doris Fichter, it was alleged that for lot 19, among others, was single and separate. Lot 19 is located within 350 feet away from an improved road and needs similar variances in order to be -- for a house to be built on the property, and was granted one full PBC for following reasons:

Parcel's proximity to an improved

1 P R O C E E D I N G S

2 road;

3 And the parcel's --

4 MR. MILAZZO: Mr. Eagan, I'm not
5 interrupting -- I am interrupting you only
6 because if you go really fast, the stenographer
7 can't record everything.

8 MR. ARMAND EAGAN: Okay.

9 MR. MILAZZO: I'm not telling you how
10 to do your job, but I'm just offering that
11 piece of friendly advice. It's not even
12 advice, just --

13 MR. ARMAND EAGAN: I hear you. Thank
14 you. Okay, I'm sorry.

15 MR. MILAZZO: I won't advise you at
16 all.

17 MR. ARMAND EAGAN: Let's -- let's
18 start that over again.

19 MR. MILAZZO: Okay.

20 MR. ARMAND EAGAN: Doris Fichter
21 application, Exhibit B. In this application,
22 it is alleged that lot 19, among others, was
23 single and separate. Lot 19 is located over
24 350 feet away from improved roads and --

25 You okay?

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

P R O C E E D I N G S

THE STENOGRAPHER: Yes.

MR. ARMAND EAGAN: And needs similar variances in order for a house to be built on the property. The property was granted one full PBC for the following reasons:

According to the resolution, one, the parcel's proximity to an improved road;

And two, the parcel's proximity to utilities.

And I would like to remind the Commission that -- are you okay.

THE STENOGRAPHER: Yes.

MR. ARMAND EAGAN: I don't know -- I'll let you catch up.

All right, it's -- it's --

MR. BARON: Go slower.

MR. ARMAND EAGAN: -- it -- it is -- it is -- we should tape record these too.

It is important to keep in consideration that both for the purpose of computing the allocation of PBCs, Pine Barren Credits, a parcel of land is defined as a separately assessed Suffolk County Real Property Tax Parcel. See CLUP 6.3 and the

1 P R O C E E D I N G S

2 Tuccio versus Pine Barrens Case in -- I think
3 in 2011, I think it was. The '11 case in the
4 Second Department, they decided that they --
5 for -- for the purpose of computing the
6 allocation, it's defined as a single and
7 separately assessed tax parcel, as
8 substantially in this case. That's all.

9 MR. BARON: Can we just have one
10 moment?

11 (Whereupon, a discussion was held off
12 the record.)

13 MR. ARMAND EAGAN: Okay. And we're
14 going to finish up.

15 CHAIRWOMAN MEEK GALLAGHER: Okay.

16 MR. ARMAND EAGAN: That's all we have.

17 MR. MILAZZO: And Mr. Eagan, I'm --
18 I'm just -- on this parcel, who are -- do you
19 have a -- a signed letter from the Health
20 Department showing the construction of a
21 single-family house for the parcel pursuant to
22 a Board of Review?

23 MR. ARMAND EAGAN: I would have to
24 review the file. I have no idea.

25 MR. MILAZZO: Do you have a signed

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

P R O C E E D I N G S

letter from the Town of Brookhaven Planning Department stating the building inspector's authorized to issue a building permit for this parcel?

MR. ARMAND EAGAN: No, I'm -- I'm attempting to go for that right now.

Is that part of the criteria for this hearing?

MR. MILAZZO: No -- no -- no. My -- my question was do you have it?

MR. ARMAND EAGAN: Is it part of the criteria?

MR. MILAZZO: It's a yes or no question. Yes or no, do you have it?

MR. ARMAND EAGAN: I -- I have to look at the file. I'm trying, attempting to go for an approval --

MR. MILAZZO: Okay.

MR. ARMAND EAGAN: -- for that now.

CHAIRWOMAN MEEK GALLAGHER: Okay.

MR. MILAZZO: So is that a yes or a no?

MR. ARMAND EAGAN: Is it part of the criteria to have that?

1 P R O C E E D I N G S

2 MR. MILAZZO: Okay.

3 MR. BARON: What?

4 MR. ARMAND EAGAN: Is it similarly
5 situated to Woodstock? If --

6 MR. BARON: Yeah.

7 MR. MILAZZO: Well, they have --
8 I'm -- do you -- do you have --

9 MR. ARMAND EAGAN: Well, are you
10 alleging that because they --

11 MR. MILAZZO: I'm not alleging
12 anything. I'm asking a question.

13 CHAIRWOMAN MEEK GALLAGHER: Yeah.

14 MR. BARON: Just answer the question.
15 (Whereupon, a discussion was held off
16 the record.)

17 CHAIRWOMAN MEEK GALLAGHER: Okay. So
18 do we need --

19 MR. ARMAND EAGAN: The Commission has
20 made new rules about going before the Health
21 Department or the Town. You need Commission
22 approval prior to -- prior to going before the
23 Town or the Health Department and getting the
24 approval ready.

25 MR. MILAZZO: Could you -- could

1 P R O C E E D I N G S

2 you -- um, can you point to that section of the
3 plan that says that?

4 (Whereupon, a discussion was held off
5 the record.)

6 MR. ARMAND EAGAN: Yeah, I remember
7 that.

8 Yeah, I remember that. Okay. So we
9 have the -- the letter from the Armand Gustav
10 application, that we had a Health Department
11 and a building permit on that property, yet --
12 that application. And the Commission wrote us
13 a letter that it was revoked, because it didn't
14 go for review before the Commission. And so
15 I -- I can -- I can --

16 MR. MILAZZO: I'm sorry. Just is that
17 a plan section you can cite to?

18 MR. ARMAND EAGAN: Yes, it's a
19 Commission policy.

20 MR. MILAZZO: Oh, okay.

21 MR. BARON: We would ask the
22 opportunity to locate that letter for the
23 Commission --

24 MR. MILAZZO: And I'd -- I'd like to
25 see that.

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

P R O C E E D I N G S

MR. BARON: -- presumably for you or for some member of the Commission, and put that into the record to establish --

CHAIRWOMAN MEEK GALLAGHER: So do we --

MR. BARON: -- Mr. Pavacic, which establishes that you need to get Commission approval first, before you go can go to the Health Department to get a building permit. And that I think would suffice to your answer --

MR. MILAZZO: Yup.

MR. BARON: -- as to why there's been no Health Department and, or building permit requested in this.

MR. MILAZZO: Does that also apply to the Town of -- is it to the -- okay.

CHAIRWOMAN MEEK GALLAGHER: Yeah. Do we need to keep the hearing open for any reason?

MR. BARON: So we'd ask permission --

CHAIRWOMAN MEEK GALLAGHER: Can we close the hearing and keep the record open for them to submit --

1 P R O C E E D I N G S

2 MR. ARMAND EAGAN: Yes.

3 CHAIRWOMAN MEEK GALLAGHER: --

4 documents, if they find it in their files.

5 We'll leave it open for what, 15 days?

6 MR. BARON: We have 15 days to -- we

7 have 15 days to do that please. 15 -- 15

8 should be sufficient.

9 MR. MILAZZO: I'll -- I -- I -- so the

10 Commission may wish to receive information from

11 the applicants.

12 CHAIRWOMAN MEEK GALLAGHER: Right.

13 MR. MILAZZO: And I think that the

14 Commission should reserve its right to respond

15 to that information.

16 CHAIRWOMAN MEEK GALLAGHER: Okay. So

17 we need to keep it longer.

18 MR. MILAZZO: Because in the other

19 case, we were just --

20 CHAIRWOMAN MEEK GALLAGHER: Okay --

21 MR. MILAZZO: -- which we're not

22 discussing --

23 CHAIRWOMAN MEEK GALLAGHER: -- right.

24 MR. MILAZZO: -- but that was just a

25 matter of fact letter from a governmental

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

P R O C E E D I N G S

agency.

This is a -- a letter that's going to a part of their allegation or their argument, so the Commission should have the benefit of being able to review that.

CHAIRWOMAN MEEK GALLAGHER: Okay, and respond if necessary.

MR. MILAZZO: As -- as the Commission deems appropriate, I would suggest that'd be the path for the Commission to adopt.

CHAIRWOMAN MEEK GALLAGHER: Okay. So close the public hearing, leave the record open.

MR. MILAZZO: You okay with closing the hearing; right?

MR. BARON: Yes.

MR. MILAZZO: Okay.

CHAIRWOMAN MEEK GALLAGHER: And leave the record open, so that we can receive the documents requested or the information requested and respond --

MR. MILAZZO: Could you do -- turn that around in --

CHAIRWOMAN MEEK GALLAGHER: -- as

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

P R O C E E D I N G S

necessary.

MR. MILAZZO: -- 7 days or 15 days?

How much time do you need?

MR. BARON: I think 15 is fairly

enough time.

MR. MILAZZO: All right. I just want

to make sure you have as much time as you need.

MR. BARON: 15 should be sufficient.

I'm sorry, but Madam Chairwoman, I didn't hear what the rest of you were saying.

CHAIRWOMAN MEEK GALLAGHER: So we

would leave the record -- close the public hearing, leave the record open to receive additional information from the applicant within 15 days. And then allow the Commission another, if it needs to respond, allow it -- what do we need, John, another 15 days for us to respond?

MR. MILAZZO: Which would mean that's

the decision deadline, although there is no firm decision deadline or permanent plan, it would also line up around December.

MR. BARON: That should be fine.

MR. MILAZZO: And your consent to it

1 P R O C E E D I N G S

2 as a goal of a December, without --

3 MR. BARON: Yes.

4 MR. MILAZZO: -- without a promise.

5 MR. BARON: That's fine.

6 MR. MILAZZO: Okay.

7 CHAIRWOMAN MEEK GALLAGHER: Okay. Is
8 there a motion?

9 MS. PINES: So moved.

10 CHAIRWOMAN MEEK GALLAGHER: Is there a
11 second?

12 MS. LONGO: Second.

13 CHAIRWOMAN MEEK GALLAGHER: All in
14 favor?

15 (Chorus of "ayes.")

16 CHAIRWOMAN MEEK GALLAGHER: Opposed?

17 (No response.)

18 CHAIRWOMAN MEEK GALLAGHER: Any
19 abstentions?

20 (No response.)

21 CHAIRWOMAN MEEK GALLAGHER: All right.

22 The hearing is closed. The record is kept open
23 for another 30 days to receive information from
24 the applicant and respond as necessary.

25 MR. MILAZZO: We're done. Thank you

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

P R O C E E D I N G S

very much.

(Time Noted: 4:23 p.m.)

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

I N D E X

EXHIBITS

STAFF

<u>EXHIBITS</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
A	Staff report	04
B	2018 Town of Brookhaven Suffolk County Tax Map	04
C	Aerial	04
D	Close up of 2016 aerial map	04
E	Photos	04
F	Breeding Bird Atlas List	04
G	NYSDEC Species of Greatest Conservation Need list of species	04
H	Wetlands	04
I	Map of the study area	04
J	Map of the study area from 1994 with an aerial	04
K	Zoning study area	04
L	LOIs from 2010, and 2015 and 2018	04
M	Deed	04
N	Mr. Scheyer letter to Commission for LOI	04

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

I N D E X

EXHIBITS

<u>STAFF</u>			
<u>EXHIBITS</u>		<u>DESCRIPTION</u>	<u>PAGE</u>
O		James Eagan letter requesting appeal of LOI	04
P		Resolution on the Letter of Interpretation Appeal of Woodstock Company	04

EAGAN

<u>EXHIBITS</u>		<u>DESCRIPTION</u>	<u>PAGE</u>
A		Brookhaven Tax Map Section 529	16
B		Doris Fichter Resolution	17

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

C E R T I F I C A T E

STATE OF NEW YORK)
 : ss.:
COUNTY OF SUFFOLK)

I, STEPHANIE J. VALDER, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I reported the proceedings in the within-entitled matter, on October 17, 2018, and that this is a true and accurate transcription of such proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of October, 2018.

Stephanie J. Valder
STEPHANIE J. VALDER

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

E R R A T A S H E E T

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE or CORRECTION</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____