

In the Matter Of:
Notice of Public Hearing
Letter of Interpretation Credit Allocation Appeal
Harriet Murphy
February 24, 2021
3:00 p.m.

Being held Via Zoom Video Conferencing

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A P P E A R A N C E S:

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EDWARD P. ROMAINÉ, Supervisor for the Town of Brookhaven

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DANIEL E. MCCORMICK, ESQ., Representative for

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Supervisor Yvette Aguiar

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JANET SCHERER, Representative for Supervisor

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Jay Schneiderman

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DORIAN DALE, Representative for Steve Bellone

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JANET M. LONGO, Suffolk County, Division of Real Estate

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JUDY JAKOBSEN, Deputy Director

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JERRY TVERDY, Senior Environmental Analyst

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JOHN MILAZZO, ESQ., Special Counsel

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ANGELA BROWN-WATSON, Administrative Assistant

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JOHN F. MCHUGH, ESQ., Representative for Harriet Murphy

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(Whereupon, this portion of the proceedings began at 3:00 p.m.)

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MS. JAKOBSEN: I'll start by reading the Notice of Public Hearing for the Letter of Interpretation Credit Allocation Appeal for Harriet Murphy Suffolk County Tax Map Numbers 900-215.3-1-1.1 and 900-215.3-1-1.2.

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The Central Pine Barrens Joint Planning and Policy Commission will hold a public hearing on February 24, 2021 at 3:00 p.m. on the Letter of Interpretation Appeal for Harriet Murphy for Suffolk County Tax Map numbers, which I just read. The parcels are located in the Core Preservation Area of the Central Pine Barrens, north of Sunrise Highway, between Exit 62 and 63, south of the Hampton Hills Golf Club in Northampton in the Town of Southampton. Said appeal is made pursuant to Section 6.7.3.3 of the Central Pine Barrens Comprehensive Land Use Plan, dated 1995 (the Plan). The Central Pine Barrens Joint Planning and Policy Commission will

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2 be holding the appeal hearing pursuant to
3 Section 6.7.3.4 of the Plan. The
4 Clearinghouse allocated zero Pine Barren
5 Credits to the parcels as stated in the
6 Letters of Interpretation dated
7 November 13, 2020. Harriet Murphy's
8 representative John F. McHugh requested
9 the appeal on December 14, 2020.

10 The public will be provided the
11 opportunity to comment during the hearing.
12 Written comments can be submitted in
13 advance of the Commission meeting via
14 e-mail to info@pb.state.ny.us or by
15 regular mail also to the Commission
16 office.

17 And it goes on to say, the meeting
18 will be held via Zoom format at 3:00 p.m.
19 on Wednesday, February 24th, 2020. The
20 Zoom link is provided, etc.

21 So I'd like to ask the Commission
22 members to identify themselves for the
23 record.

24 Suffolk County?

25 MR. DALE: Dorian Dale.

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MS. JAKOBSEN: Town of Brookhaven?

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SUPERVISOR ROMAINE: Supervisor Ed Romaine.

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MS. JAKOBSEN: Town of Riverhead?

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MR. MCCORMICK: Daniel McCormick, designated representative for Supervisor Yvette Aguiar.

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MS. JAKOBSEN: Thank you.

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Town of Southampton?

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MS. SCHERER: Janice Scherer,

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designated representative for

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Jay Schneiderman.

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MS. JAKOBSEN: Thank you.

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Okay. We are going to start by

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hearing from Commission Staff Julie

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Hargrave. She'll be presenting the

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application.

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Pardon me. I have the wrong name.

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It's Jerry Tverdyi is going to be

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presenting the application. I apologize,

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Jerry. I'm so used to Julie doing the

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hearings. It's Jerry Tverdyi.

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MR. TVERDYI: It's okay. No

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problem. Thank you, Judy.

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So I'm going to give you a brief introduction to the Staff Report and the exhibits, which is also available at the website at the moment.

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Subject parcels located in the Core Preservation Area north of Sunrise Highway between Exits 62 and 63. You can see the aerial maps in Exhibit A. They are bordered by the paver streets as per the 2019 Tax Map book page in Exhibit D. The parcels are located approximately 1500 feet south of the Hampton Hills Golf Club.

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In 1995, the subject parcels were part of the larger property identified as Lot-1 according to the 1994 Tax Map book. A copy of the book's page you can see in Exhibit C. So technically the subject lots did not exist in 1995.

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In 1999, the County acquired hundreds of acres of the applicant's property including Lot-1. Please see the Exhibit D for the deed. It did not include two subject parcels due to a scrivener's error. Therefore, only part

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2 of the Lot-1 was transferred to the
3 County. Subsequently, three lots, 1.1,
4 1.2 and 1.3 were formed that did not exist
5 in 1995.

6 The applicant has been paying taxes
7 on the lots 1.1 and 1.2 since 1999. In
8 October 2020, Ms. Murphy submitted a
9 Letter of Interpretation application for
10 the subject parcels. The Plan says the
11 allocation of Pine Barren Credits is based
12 on status of the parcel as of June 1995.
13 That is the date when the Plan was
14 adopted. Since Lots 1.1 and 1.2 did not
15 exist back then, they received zero credit
16 allocation as per Letter of Interpretation
17 in Exhibit E.

18 In December 2020, the applicant's
19 representative John McHugh submitted the
20 request for an appeal of the Letter of
21 Interpretation. His letter can be seen in
22 Exhibit F. If the Plan's provision on
23 parcel status did not exist based on the
24 preliminary review, each lot would receive
25 a minimum of 0.1 credit allocation.

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Thank you. That's all I have. And I believe we should have the applicant's representative.

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MS. JAKOBSEN: First, does anyone have any questions for Jerry?

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SUPERVISOR ROMAINE: What is the total square footage or the total acreage -- however you wish to describe it -- of the lots involved?

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MR. TVERDY: So the lot that existed in 1995, the total square footage -- I mean the acreage was 1.09. The two lots that exist right now, that square footage is 1.1 is 0.21 acres and 1.2 is 0.2 -- oh, it's 0.6 acres.

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SUPERVISOR ROMAINE: So about half of an acre. A little less than half of a quarter of an acre; is that correct?

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MR. TVERDY: The total acreage of those lots, yes.

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MR. MCCORMICK: I'm sorry. Just to confirm, right, if we add those together, I get .67 acres, correct?

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SUPERVISOR ROMAINE: Two-thirds of

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an acre.

MR. TVERDY: But there is a third lot that was transferred to the County.

SUPERVISOR ROMAINE: Right. And these lots were not transferred because they weren't on the Tax Map in 1995? They weren't described in the Tax Map; is that correct?

MR. TVERDY: They weren't transferred because of an error that was made back in 1999 that got them that Lot-1 subdivided from three lots. And two lots were not transferred.

SUPERVISOR ROMAINE: Whose -- whose error was that? Was that the Real Property Tax Service Agency's error or was that some other error? No --

MR. MILAZZO: It was -- it was -- so as best we can tell -- and Mr. McHugh is here so he can perhaps give us some more information -- when Harriet Murphy sold a large holding to the County, the County in preparing its deed did not include these parcels. So she had many,

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2 many, many hold pile lots. So when they
3 were transcribing her holdings from her
4 deed onto the deed into the County, they
5 dropped off several parcels -- several
6 hold pile lots, which then were captured
7 by the Real Property Tax Service,
8 recognizing they were not transferred from
9 Ms. Murphy to the County under that bigger
10 deed. They thought -- the County for some
11 reason didn't buy them on purpose,
12 assigned them new Tax Lot numbers. And
13 that's how these parcels came in. And
14 that's why they're 1.1 and 1.2.

15 SUPERVISOR ROMAINE: So truly an
16 scrivener's error.

17 MR. MILAZZO: It was really a
18 scrivener's error on the County's deed,
19 but the error occurred in '99. Not --
20 it's nothing recent. And Ms. Murphy or
21 her Estate has been -- was assigned a tax
22 bill and was dutifully paying the taxes
23 each year since 1999.

24 UNKNOWN SPEAKER: You can't pay
25 taxes on land you don't own.

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MR. MILAZZO: What was that?

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SUPERVISOR ROMAINE: They own the land.

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MR. MILAZZO: They own it because the deed didn't transfer to them.

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SUPERVISOR ROMAINE: Right. It was mistakenly not transferred, remained in her ownership and she had to pay taxes on it. I can't imagine the taxes were that significant on vacant property.

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MR. MILAZZO: Yes.

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SUPERVISOR ROMAINE: Vacant land locked property.

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MR. MILAZZO: They're land locked property, heart of the Pine Barrens with no -- landlocked by definition means no road access.

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SUPERVISOR ROMAINE: Okay.

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MS. JAKOBSEN: Does anyone else have any questions for Jerry before we go to the applicant's representative?

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(Whereupon, there was no response amongst the Board members.)

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MS. JAKOBSEN: Okay. So we'd like

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to hear now from John McHugh, who is the applicant's representative.

Domenica, could you please swear him in?

MR. MILAZZO: You do not need to, Judy. He is an attorney.

MS. JAKOBSEN: Oh. Okay. I wasn't aware.

MR. MILAZZO: We'll just put his appearance on the record.

We'll unmute you. Mr. McHugh, you can unmute yourself as well.

MR. MCHUGH: Can you hear me now?

MR. MILAZZO: Yes, sir.

SUPERVISOR ROMAINE: Yes.

MR. MCHUGH: Okay. John F. McHugh. 233 Broadway, New York, New York 10279. My phone number is (212)483-0875.

I represent Ms. Murphy.

And she has been dutifully paying taxes on this since 1999. She just gets a bill and she pays it. This land was inherited from her mother, who owned the larger track of land.

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2 I understand there's a statement
3 here that this is a scrivener's error, so
4 it could very well be that she intended to
5 sell this. And if we can establish that,
6 she's perfectly happy with that. She just
7 wants her taxes back. So this is just a
8 great mystery. This is sort of a surprise
9 to us. So that's -- that's the position
10 we have. We do have an offer. Somebody
11 wants to buy this from us for \$4,000. But
12 if we own it, we own it. If we don't, we
13 don't.

14 SUPERVISOR ROMAINE: Mr. McHugh,
15 what are the annual taxes on these
16 properties?

17 MR. MCHUGH: Hold on one second.
18 One is \$26.36 and the other one is \$56.02.
19 So I assume that is -- has been constant,
20 so whatever that is since '99 is all that
21 she's lost on this. So we -- this is
22 obviously not really worth everybody's
23 effort here. We are talking about very
24 small numbers.

25 But we do have a sale offer for

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2 \$4,000 as of two hours ago. But if we own
3 it, fine. If we don't, we don't.

4 MS. JAKOBSEN: Thank you. John --

5 MR. MCCORMICK: I'm sorry.

6 Daniel McCormick, Town of Riverhead.

7 MR. MCHUGH: Yes, sir.

8 MR. MCCORMICK: Can you hear me?

9 MR. MCHUGH: I can, yes.

10 MR. MCCORMICK: Thank you.

11 To your knowledge in the
12 investigation, was your client compensated
13 at the time of the total land transfer for
14 these two remaining lots?

15 MR. MCHUGH: She was -- the deed
16 does recite a number of over \$200,000 for
17 whatever was there. The deed, however,
18 has an addendum, which is very difficult
19 to understand, so -- but if indeed -- and
20 certainly that was a fair price for that
21 land at that time. We don't frankly know
22 about the scrivener's error and we don't
23 know why this was left off. But certainly
24 it would not be left off deliberately
25 because this is right in the middle of

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nowhere.

MS. LONGO: I think I can
explain --

MS. JAKOBSEN: Janet, can you
identify yourself?

MS. LONGO: I'm sorry?

MS. JAKOBSEN: Can you say your
name?

LONGO: Janet Longo, Suffolk
County, Division of Real Estate.

So back in '99 when the County
purchased this property, they purchased
Lot-1. That is what existed, Lot-1, and
it's a very odd configuration. So the
deed, the contract, everything referred to
Lot-1, which is the entirety. When DPW
did the surveys, all the metes and bounds
for every lot that is attached to the
deed -- and there were numerous lots -- I
didn't count them, but pages and pages.
When the surveyor did the metes and
bounds, they only did it for the small
portion of Lot-1. He missed the rest of
it. So the metes and bounds was

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mistakenly drafted, attached to the deed
and of course that's what got recorded.

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And that's what then subdivided those

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other two lots. So, yes, it was a mistake

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at the time of the purchase. The County

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paid for the entire Lot-1, but only what

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turned into Lot 1.3 actually got

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transferred.

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MR. MCHUGH: Well, I will tell you,

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my client is inclined to just get her tax

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money back and she'd be happy to just give

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this up.

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SUPERVISOR ROMAINE: That's up to

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the County I would assume. Is it up to

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the County, Janet?

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MS. LONGO: Well, my question is,

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did she realize that at the time? She

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knew she sold the lot and then when she

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got tax bills, did she realize that there

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was an error back then and never notified

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anybody?

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MR. MCHUGH: I have no idea. This

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is a long time ago.

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MS. LONGO: I don't either.

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MR. MCHUGH: She hasn't got -- she has no recollection of this at all.

MS. LONGO: It was a long time ago.

MR. MCHUGH: A long time ago. And it could have been her mother transferring it. We don't frankly know.

SUPERVISOR ROMAINE: So what do we do now?

MR. MILAZZO: So the proposition is that the parcels didn't get credits -- or the two parcels didn't get credits because they did not exist on the 1995 Tax Lot. Now we understand why they didn't exist on the '95 because they existed as part of one in '95. And there was the mistake. And they were traded because the County didn't fully capture all of the holdings that it sought to acquire when the new tax laws were issued.

So the issue for the Clearinghouse is, how do we allocate credits to them? Parcels are likely entitled to Pine Barren Credits. There's a market for Pine Barren Credits, and people can learn the value of

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Pine Barrens Credits at the website.

So the issue is, how many credits should be allocated? And I think that the allocation should be based on the formula that the Plan has. Every once in a while we run into this scenario where a parcel didn't exist in '95, and usually Staff can make a recommendation as to how many credits to allocate to them; taking in the record, the hearing, the information that is provided at the hearing. And what would usually happen is, we'll close the hearing and then next meeting we'll have recommendation.

So really the place that Mr. McHugh finds his client is they have acquired Pine Barrens Credits and the Commission Staff said we can't do it because it's not on the Map. And the recourse is to have this hearing, make the appeal and then get a recommendation on how to get them credits if they are entitled to them.

SUPERVISOR ROMAINE: Credits have a value, do they not?

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MR. MILAZZO: What was that?

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SUPERVISOR ROMAINE: Credits have a value.

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MR. MILAZZO: Yes, credits have a value. There's a market for credits and --

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SUPERVISOR ROMAINE: Obviously, because we require credits for a number of things in the Town of Brookhaven and I'm sure other Towns do as well.

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What is a full credit, more or less, generally speaking, going for in the market today?

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MR. MILAZZO: Jerry? You're on mute.

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Jerry Tverdy, he'll have that number better than anybody else.

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TVERDY: For the lots here, we have \$85,000 as an average price for the credit.

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SUPERVISOR ROMAINE: Okay. \$85,000. Now, obviously this property isn't going to get a full credit, but it might get a partial credit. A very small

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partial credit. But even at a small

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partial credit, it might be worth more

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than the \$4,000 that is currently being

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offered for this property. I just want to

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say that on the record so that the --

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Mr. McHugh can go back to his client with

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that information.

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Is that fair, Mr. Milazzo?

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MR. MILAZZO: The market is higher

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than the market's \$85,000. If these two

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parcels existed in the '95 Tax Lot, they

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would have gotten a tenth of a credit

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each. So that would be two-tenths of a

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credit. So do the math. There's smarter

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people on this that can do that math.

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SUPERVISOR ROMAINE: Absolutely.

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MR. MILAZZO: Absolutely smarter

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people than me on the record. Thank you,

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Mr. Romaine.

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MR. MCHUGH: What did you say that

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was?

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SUPERVISOR ROMAINE: What we are

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saying is --

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MR. DALE: That's 25 percent of 85.

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You're looking at an excess of 20 grand as opposed to the four grand.

SUPERVISOR ROMAINE: Right.

That's -- I just wanted to make Mr. McHugh aware of that so his client is not shortchanged.

MR. MCHUGH: I appreciate that.

MR. MILAZZO: So if there's -- Mr. McHugh, do you have anything else to add to the hearing?

MR. MCHUGH: No. At this point, I have nothing at all.

MR. MILAZZO: Okay. Judy is there --

SUPERVISOR ROMAINE: Make a motion to close the public hearing.

MR. MILAZZO: Supervisor, I think Judy will ask if there's any member of the public who wishes to be heard.

MS. JAKOBSEN: Right. At this point, we will open it up to receive any comments from the public that is present.

Is there anyone that would like to speak at this point? I don't think we

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have any phone in people and we didn't receive anything by e-mail.

(Whereupon, there was no response amongst the public.)

MS. JAKOBSEN: I don't see anybody asking to speak at this point.

So, John, would we then close the hearing and put it on decision for the next Commission meeting on March 17th.

MR. MILAZZO: Yes. Close the hearing.

MS. JAKOBSEN: Do we need a motion for that?

SUPERVISOR ROMAINE: Motion to close the public hearing.

MS. JAKOBSEN: Thank you, Supervisor.

Second?

MR. DALE: Second.

MS. JAKOBSEN: Dorian. Thank you, Dorian.

All in favor? Please raise your hand?

(Whereupon, there was a unanimous,

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affirmative vote of the Board.)

MS. JAKOBSEN: Opposed?

(Whereupon, there was no response amongst the Board members.)

MS. JAKOBSEN: Okay. Motion passes 4-0. So that closes the hearing.

(Whereupon, this portion of the hearing was concluded at 3:20 p.m.)

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C E R T I F I C A T I O N
STATE OF NEW YORK

Ss:

COUNTY OF SUFFOLK

I, DOMENICA RAYNOR, Court Reporter
and Notary Public of the State of New York, do
hereby certify:

That the within transcript was
prepared by me and is a true and accurate
record of this hearing to the best of my
ability.

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

IN WITNESS WHEREOF, I have
hereunto set my hand this 24th day of February,
2021.