



Commission Meeting of September 19, 2018 Southampton Town Hall

Present: Ms. Carrie Meek Gallagher (State of New York),
Mr. Dorian Dale (Suffolk County), Mr. Edward P. Romaine (Brookhaven),
Mr. Daniel McCormick (Riverhead), Mr. Kyle Collins (Southampton)

Adopted Resolution

Critical Resource Area Compatible Growth Area Application
Peconic Baykeeper

Hampton Bays, Town of Southampton
Suffolk County Tax Map Number 900-151-1-6.2

Carrie Meek Gallagher
Chairwoman

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

Sean M. Walter
Member

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I. The Project

Whereas, on June 22, 2018, Sean O'Neill, Executive Director of The Peconic Baykeeper (the "Applicant"), submitted a Compatible Growth Area ("CGA") Application to the Central Pine Barrens Commission (the "Commission") to convert an existing residential property developed with a single-family residence on a 2.8301-acre parcel (the "Project Site") to the Applicant's office headquarters, in the hamlet of Hampton Bays, in a Critical Resource Area in the Compatible Growth Area of the Central Pine Barrens, in the Town of Southampton (the "Application"), and

II. The Act and the Commission

Whereas, the New York State Legislature passed the Long Island Pine Barrens Protection Act (the "Act") and it is codified in Article 57 of the Environmental Conservation Law (ECL). The Act created the Central Pine Barrens Joint Planning and Policy Commission (the "Commission"), to, among other things, oversee land use activities within the specially designated Central Pine Barrens Area, and

Whereas, in furtherance of its mission and in compliance with the directives set forth in the Act, the Commission drafted the Central Pine Barrens Comprehensive Land Use Plan (the "Plan"), which was officially adopted on June 28, 1995, and

Whereas, Section §57-0107(13)(a) of the ECL defines development to be the "change in type of use of a structure or land... a change from one class

of use designated in an ordinance or rule to a use in another class so designated,” and

III. The Project Site, The Project and The Application

Whereas, the Project Site is located at 167 Upper Red Creek Road, in the Country Residence 120,000 Zoning District (CR 120), in Hampton Bays, in the Town of Southampton, and

Whereas, the Project Site, in Groundwater Management Zone III, is subject to a wastewater flow rate of 300 gallons per day, and

Whereas, the Project Site was formerly part of a larger 12.8-acre parcel, containing a four acre surface water body known as Wehrmann Pond, identified as a CRA in Figure 4-1 of Chapter 4 of the Plan, and

Whereas, in 2014, a two-lot subdivision occurred that created the 2.8 acre Project Site and a separate 9.9 acre parcel, which was purchased by the Town of Southampton, as per the request of the Last Will and Testament of Howard Wehrmann. Mr. Wehrmann deeded the Project Site to the Peconic Baykeeper for use as their headquarters, and in his Will, he requested the Town of Southampton purchase the separate parcel containing Wehrmann Pond for preservation using the Community Preservation Fund, which subsequently occurred; and

Whereas, the Project Site presently contains a one-story, 1,865 square foot, single-family dwelling that existed before 1957; a 377 square foot detached garage; driveway; and fenced rear yard. Cleared areas, totaling 57% of the site, exist around the dwelling, and the remaining portion of the Project Site contains pine barrens vegetation in a pitch pine-oak heath woodland ecological community. The site also contains freshwater wetland habitat on its east side associated with Wehrmann Pond, and

Whereas, the Project will utilize existing structures; no expansions, additions or exterior modifications to the structures are proposed. No clearing or disturbance to existing natural vegetation is proposed as per the Site Plan prepared by Raynor, Marcks and Carrington last revised August 14, 2018, and

Whereas, the Project includes the construction and installation of an alternative onsite wastewater treatment system and creation of 11 pervious parking spaces in existing cleared areas except for one paved handicapped space compliant with the Americans with Disabilities Act, and

Whereas, the Project establishes a 25 foot natural buffer on the south side of the rear yard, adjacent to naturally-vegetated publicly owned open space, and minimum 100 foot non-disturbance non-fertilization buffers to wetland habitat are also maintained, and

IV. Public Process

Whereas, on August 15, 2018, the Commission held a public hearing on the Project. During the hearing, the Commission introduced a Staff Report and Exhibits A through M and developed a record consisting of the hearing transcript, the Application and the materials marked as Exhibits by the Commission and the Applicant (the Record), and

Whereas, the Applicant submitted the revised Site Plan prepared by Raynor, Marcks and Carrington last revised August 14, 2018, indicating no clearing of natural vegetation will occur; therefore, no hardship waiver is required, and existing cleared areas will be utilized for parking, and

V. The Study Area

Whereas, the Staff Report defined a Study Area consisting of all of the property within a one-half mile radius of the Project Site, and

Whereas, the dominant land uses in the Study Area are low-density single-family residential and natural public open space, and

VI. Other Required Approvals

Whereas, the Project is a Type II Action pursuant to the State Environmental Quality Review Act (SEQRA), and

Whereas, the Commission coordinated the Application with the New York State Department of Environmental Conservation (NYSDEC) for review and input on the presence of and potential impacts to New York State-listed Endangered species as a result of the Project, and

Whereas, by email correspondence dated August 8, 2018, the NYSDEC stated, “Since the project will not be clearing any vegetation there doesn’t appear that there will be any impacts to mud turtles. When they excavate for the new sanitary system they should make sure to keep the pit surrounded by silt fence so they don’t create a trap for any turtles that may be moving over land,” and

Whereas, the Commission received a referral response from the New York Natural Heritage Program by letter dated August 18, 2018 indicating the documented presence of two wildlife species identified as a New York State-listed Endangered species and a New York State-listed and Federally-listed Threatened species, both of which will remain undisturbed and will be protected due to lack of clearing of natural vegetation and habitat in the Project. The report also identified three wetland/aquatic communities and nine New York State-listed Endangered, Threatened and Rare vascular plant species, none of which will be disturbed by the Project, and

Whereas, the Project Site is within an area identified as archaeologically sensitive according to the New York State Cultural Resource Information System (CRIS) database, and

Whereas, notwithstanding the Project Site's location in an archaeologically sensitive area, the Commission received a referral response from the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) by letter dated July 20, 2018 stating the Project will have no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places, and

Whereas, no further environmental review is required, and

Whereas, the Project obtained permits and approvals from other involved agencies including, but not limited to, Suffolk County Department of Health Services and the Town of Southampton, and

VII. Potential Adverse Environmental Impacts

Whereas, the Commission did not identify significant adverse environmental impacts as a result of the Project, and

Whereas, no significant adverse impacts on groundwater or surface waters were identified, and

Whereas, the Project utilizes a nitrogen-reducing alternative onsite wastewater treatment system. The Project will employ stormwater control measures to avoid adverse impacts on groundwater and surface water resources and adjoining properties, and

Whereas, no significant adverse impacts to New York State-listed protected species of plants and wildlife are anticipated, and

Whereas, no significant adverse impacts to open space will occur because the Project maintains buffers to protected lands and adjacent freshwater wetland habitat, and

Whereas, on July 20, 2018, the New York State Historic Preservation Office stated the Project will have no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places, and

Whereas, the Project Site was previously developed with a residence, and due to the reuse of existing facilities and low impact use of the Project, no significant adverse impacts on traffic are proposed nor will the Project significantly alter the present pattern of movement of people or goods, and

VIII. Commission Review of the Application

Whereas, pursuant to the Act, to determine whether an applicant has demonstrated the Project conforms to the Act and the Plan, the Commission shall consider, among other things, the criteria set forth in Section 57-0123(2)(a) of the Act and determine whether the Project is consistent with the purposes and provisions of the Act and whether the Project will result in significant adverse impacts on the goals of the land use plan and consider the criteria in ECL §57-0123(3)(b), and

Whereas, the Commission finds the Applicant will retain existing vegetation on the Project Site and will reuse existing structures and cleared areas for the Project, and

Whereas, the Applicant will obtain any and all applicable permits to conform to the Standards and Guidelines of the Plan, and

Whereas, the Project accommodates development that is compact, efficient, and orderly as it reuses a pre-existing structure and adaptively reuses a previously developed site with a use that is conforming to the zoning district, instead of utilizing an undeveloped site, while providing a compact expansion and land use consistent with the character of the area, and

Whereas, the Commission finds the Project is consistent with ECL Article 57 because it has been designed for compact, efficient and orderly development by minimizing clearing, alteration, and disturbance to natural ecological communities and protecting the quality of surface water and groundwater resources, and

Whereas, the Project will conform to other Standards of the Plan including, but not limited to, conformance with Article 6 of the Suffolk County Sanitary Code, the site is not within the groundwater contributing area of a public water supply wellfield; the Project supports the protection of the NYS-listed Endangered Eastern Mud Turtle; and the Project avoids fertilizer-dependent vegetation, conforming to the maximum 15% Fertilizer Dependent Vegetation Limit, and

Whereas, the Commission has considered all of the materials submitted in connection with the application including the transcript of the public hearing, now, therefore, be it,

Resolved, the Commission hereby determines that the Application conforms to the Standards and Guidelines for Land Use outlined in Chapter 5 of the Plan, and

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

Resolved, that the Project is consistent with the goals and objectives of ECL Article 57 to protect groundwater resources and quality, natural ecological communities of the Central Pine Barrens, and accommodate development consistent with the long-term integrity of the Pine Barrens ecosystem and to ensure the pattern of development is compact, efficient, and orderly, and be it further

Resolved, the Project is consistent with the Study Area, and be it further

Resolved, the granting of this decision is consistent with the purposes and provisions of ECL Article 57 and will not result in a substantial impairment of the resources of the Central Pine Barrens because the Project will occur on property which was already previously disturbed, and will be constructed in an efficient pattern consistent with maintenance of the long term integrity of the Central Pine Barrens; and be it further

IX. Critical Resource Area and Compatible Growth Area

Resolved, the Commission determines that the Applicant has demonstrated conformance with the Standards and Guidelines set forth in Volume 1, Chapter 5 of the Plan, and be it further

Resolved, the Project Site will remain in its current state with the exception of the installation of a nitrogen reducing alternative wastewater treatment system and establishing pervious formalized parking spaces in existing cleared areas around the dwelling, and be it further

Resolved, the remaining area is currently naturally vegetated and wooded and no expansions or construction of new facilities is proposed under the Project; therefore, it will remain in its natural state under the Project; in the future if development activity, as per the Act, is proposed in the CRA, it is subject to Commission review in accordance with the Plan; and be it further

X. Commission Determinations

Resolved, that the above recitals are incorporated herein and made a part hereof, and be it further

Resolved, the Commission finds the granting of a Hardship Waiver is not required as the Project conforms with the Standards and Guidelines set forth in Volume

1, Chapter 5 of the Plan and this will not have a significant adverse environmental impact, and be it further

Resolved, that the Application is approved in accordance with the Site Plan prepared by Raynor, Marcks and Carrington last revised August 14, 2018 received on August 15, 2018, subject to the following specific conditions:

1. The Applicant shall obtain additional permits and approvals, as required by other agencies.
2. If any element of the Project is proposed to be modified, the Applicant must seek the review and obtain the approval of the Commission, prior to undertaking the modification.

Resolved, the Applicant shall have until September 19, 2023 to obtain a Certificate of Occupancy from the Town of Southampton for the improvements authorized herein. If this is not done, this approval shall expire on September 19, 2023 and require reauthorization, if necessary.

Peconic Baykeeper Critical Resource Area and Compatible Growth Area
Hampton Bays, Town of Southampton, SCTM # 900-151-1-6.2

Record of Motion:

Motion by: Mr. Collins

Seconded by: Mr. Romaine

In Favor: 5

Opposed: 0

Abstain: 0

cc: Town of Southampton Planning Board
Town of Southampton Conservation Board
Suffolk County Department of Health Services
New York State Department of Environmental Conservation Region 1

