

Commission Meeting of March 17, 2004
Southaven County Park, Park Police and Pine Barrens Center, Yaphank, NY
Present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County),
Mr. Hoffman (for Brookhaven), Mr. Murphree (for Southampton), and Mr. Hanley (for Riverhead)

**Resolution on the Determination of Jurisdiction
for Middle Island Country Club Property
located on Yaphank-Middle Island Road, Middle Island, Town of Brookhaven
SCTM# 200-501-1-3.001**

Whereas, the Middle Island Country Club, (hereinafter "MICC") owns a 211+/- acre parcel located on Yaphank-Middle Island Road, in Middle Island in the Compatible Growth Area of the Central Pine Barrens in the Town of Brookhaven, which parcel has the Suffolk County Tax Map identifier number 200-501-1-3.001 (hereinafter the "Property") and

Whereas, the Property is developed with an 188+/- acre golf course and 23+/- tree farm nursery, and

Whereas, the golf course portion of the Property is located within the A Residence 5 zoning district of the Town and the nursery portion of the Property is within the A Residence 1 zoning district of the Town, and

Whereas, MICC has applied to Central Pine Barrens Joint Planning and Policy Commission (the "Commission") by letter dated December 15, 2003 and supplemented by letter dated January 6, 2004 to subdivide the Property into two lots, one containing the golf course and one containing the nursery, and offer the nursery lot for sale for single family housing, (hereinafter collectively the "Lots") and

Whereas, MICC's representative, Thomas Cramer of the Cramer Consulting Group, appeared at the Commission's meetings of January 21 and February 18, 2004 to discuss the application and stated on February 18, 2004 that he was not certain that an application for development would be submitted for the nursery lot; and

Whereas, Environmental Conservation Law §57-0107(13) defines development to mean "the performance of any building activity or mining operation, the making of any material change in the use or intensity of use or any structure or land," and further states that without limitation any activity which involves "a material increase in the intensity of use of land or environmental impacts as a result thereof" is defined to be development; and

Whereas, pursuant to Environmental Conservation Law §57-0121(4)(c), the Commission was required to prepare a land use plan that with respect to the Compatible Growth Area was to be designed to, "(a) preserve and maintain the essential character of the existing Pine Barrens environment, including plant and animal species indigenous thereto and habitats therefor; (b) protect the quality of surface and groundwaters; (c) discourage piecemeal and scattered development; (d) encourage appropriate patterns of compatible residential, commercial,

agricultural and industrial development in order to accommodate regional growth influences in an orderly way while protecting the Pine Barrens environment from the individual and cumulative adverse impacts thereof . . . (f) allow appropriate growth consistent with natural resource goals pursuant to this article,” and

Whereas, the Commission adopted a Central Pine Barrens Comprehensive Land Use Plan on June 28, 1995, and which Plan was amended on May 1, 1996, and

Whereas, pursuant to Environmental Conservation Law §57-0123(3)(a) subsequent to the adoption of the land use plan, “no application for development within the Central Pine Barrens shall be approved . . . unless such approval or grant conforms to the provisions of such land use plan,” and

Whereas, pursuant to Article 57, the Town of Brookhaven amended its Zoning Code to be in compliance with the Land Use Plan, and to incorporate the Plan’s Standards and Guidelines for development in the Compatible Growth Area and subsequently has jurisdiction over development which conforms to the Standards, and

Whereas, the Commission finds that the proposed MICC subdivision does not result in a material increase in the intensity of use of land or environmental impacts as a result thereof provided that any “development” on the Property or the Lots conform to the provisions of the Land Use Plan, now therefore be it,

Resolved, that the proposed MICC subdivision is a use which does not constitute development for the purposes of ECL Article 57 because simply subdividing the Property into the Lots does not result in a material increase in the intensity of use of land or environmental impacts as a result thereof and is not violative of the Land Use Plan and thus is not subject to the Commission’s review and it is further

Resolved, that any development on the Property or the Lots must conform to the applicable provisions of the Zoning Code of the Town of Brookhaven, and it is further

Resolved, if any project sponsor applies to the Commission for further relief under Article 57 of the Environmental Conservation Law for the Property or the Lots, the Commission may consider the sponsor to be engaged in “segmentation” as defined by the State Environmental Quality Review Act and retains the right to require a full environmental review of the environmental impacts of the project including those associated with this determination and it is further

Resolved, to place subsequent owners of the Property or the Lots on notice of this determination, Middle Island Country Club shall record a copy of this resolution against the Property and the Lots with the Suffolk County Clerk within 180 days of this resolution and provide proof of recording to the Commission.

Record of Motion:

Motion by Mr. Hoffman
Seconded by Mr. Hanley

Vote:

Ayes: 5, Nays: 0