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PUBLIC HEARING NOTICE

COMPATIBLE GROWTH AREA

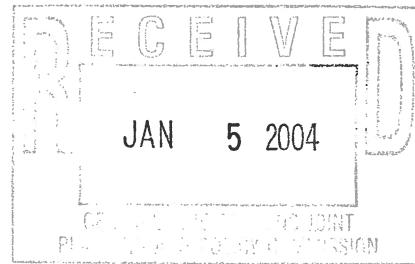
DRA GONE VEGETATION CLEARING FOR
EXISTING HOME

MANORVILLE (200-590-3-28.2)/HARDSHIP

Southaven County Park
Yaphank, New York

December 15, 2004
3:03 p.m.

Before Patricia A. Reed, a Notary Public
in the State of New York.



REALTIME REPORTING, INC.
183 Broadway
Hicksville, New York 11801
516-938-4000



1
2 A P P E A R A N C E S:

3 JOHN C. MILAZZO, ESQ.

4 Attorney for Central Pine Barrens Joint
5 Planning & Policy Commission

6 P.O. Box 587

7 3525 Sunrise Highway, 2nd Floor
8 Great River, New York 117399
10 ALSO PRESENT:

11 PETER SCULLY, CHAIR

12 JUDY JAKOBSEN, COMMISSION

13 BRENDA PRUSINOWSKI, JOHN JAY LaVALLE

14 JOHN TURNER, JOHN JAY LaVALLE

15 NEIL THOMPSON, TOWN OF SOUTHAMPTON

16 JILL LEWIS, RIVERHEAD TOWN

17 JOHN PAVACIC, NEW YORK STATE DEPARTMENT

18 OF ENVIRONMENTAL CONSERVATION

19 MICHAEL DEERING, DIRECTOR OF ENVIRONMENTAL
20 AFFAIRS

21

22

23

24

25

1

2 (Staff's Exhibit 1, Cover sheet,

3

marked for identification.)

4

(Staff's Exhibit 2, 2001 aerial

5

photo, marked for identification.)

6

(Staff's Exhibit 3, Digital photo
prints, marked for identification.)

7

(Staff's Exhibit 4, Staff report
prepared 12/14/04, marked for
identification.)

8

(Staff's Exhibit 5, Survey, marked
for identification.)

9

(Staff's Exhibit 6, Map of SCWA
distribution system, marked for
identification.)

10

(Staff's Exhibit 7, MapQuest map,
marked for identification.)

11

(Staff's Exhibit 8, 2003 Suffolk
County real property division, Suffolk
County tax map, marked for identification.)

12

MR. SCULLY: If I could call the
meeting to order. We'd like to begin our
first public hearing on the agenda on the
Dragone matter.

13

I'll read the notice. Pursuant to

1
2 Prusinowski, representing the Brookhaven
3 supervisor, John Jay LaValle.

4 MR. MILAZZO: John Milazzo, staff
5 counsel.

6 MR. THOMPSON: Neil Thompson,
7 representing the Town of Southampton
8 supervisor.

9 MR. PAVACIC: John Pavacic, New York
10 State Environmental Conservation.

11 MS. JAKOBSEN: Judy Jakobsen,
12 commission staff.

13 MR. SCULLY: Peter Scully,
14 representing the governor of the State of
15 New York.

16 MR. TURNER: John Turner,
17 representing the Town of Brookhaven as
18 well. With regard to this meeting, I would
19 just like to say that we got correspondence
20 in the reducing courses themselves in
21 regards to this meeting.

22 MR. MILAZZO: I'm just going to add
23 that to the report.

24 MR. SCULLY: Ms. Jakobsen?

25 MS. JAKOBSEN: I have eight staff

2 exhibits I'd like to admit into the record.
3 I asked the stenographer to enter them in.
4 The first of which is a cover sheet which
5 is also Staff Exhibit 1. I'll move forward
6 to highlighting some points on the staff
7 report that you should have in front of
8 you.

8 MR. SCULLY: I'm sorry, the lot size
9 again?

10 MS. JAKOBSEN: The lot size was
11 54,450 square feet. This is one lot out of
12 a four-lot subdivision that was granted
13 approval in 2000 and all the lots had
14 35 percent clearing limit placed on each
15 lot.

25 The applicant should explain why the

1
2 two and a half inch caliber trees were
3 planted near the home and would these now
4 be removed and whether this was part of
5 some type of revegetation requirement.

6 There is, on the survey, an indication of a
7 revegetation line and that needs to be
8 clarified as to what that refers to.

9 There were concerns mentioned with
10 regard to fire and the proximity of the
11 woods to the home. Again, there was no
12 vegetation within five feet of the home
13 other than what was planted and the --
14 there is public water available as noted in
15 a nearby residential development.

16 You'll have attached there a copy of
17 a Suffolk County Water Authority
18 distribution map that is shown on the back
19 of your staff report. It shows the subject
20 site in pink and then the lines you'll see
21 are the distribution system. The light
22 blue squares are water counts. In
23 addition, the Manorville firehouse
24 headquarters is located to the north of the
25 property at 16 Cilas Carter Road and is

2 approximately 1.4 miles from the subject
3 site and this is shown on the MapQuest
4 photo attached to your staff report. In
5 addition, the MapQuest program estimated
6 this was a four-minute drive from that
7 location to the subject site.

I also attached on the back of the staff report a copy of the tax map sheet for the area that the applicant is proposing to purchase property to contribute to the Suffolk County Nature Preserve area.

2 here as a shared common driveway for these
3 other lots. So there has to be some kind
4 of clarification on what's going on with
5 those lot lines in reference to what's
6 presented in the tax map and the survey.

Again, I'll refer to the photos taken of the subject site that are attached to the staff report. You can see the overall character of the size of the home, the nature of the vegetation in proximity to the house. You could see there's pretty much lawn area immediately adjacent to the house. You could see also the trees within five feet of the site appear to be planted trees. They have some type of burlap covering on the trunks. And that's all I have.

19 MR. SCULLY: Questions from staff?

20 No. May we hear from the applicant.

24 MR. CRAMER: For the record, my name
25 is Tom Cramer, principal of the firm of

1 Cramer Consulting Group with offices at 54
2 North County Road in Miller Place. I'm
3 here today representing Vincent and Judy
4 Dragone on this hardship. Some of you have
5 the additional information we prepared that
6 went along with the application. I'd like
7 to submit one for the record and I'll be
8 referring to that for my presentation.
9
10 I'll also have some copies of a colored up
11 tax map that shows the area that we're
12 talking about.

13 As stated this site is flag lot.
14 It's 54,364 square feet in size,
15 approximately one and one-quarter acres in
16 about 80,000 square foot category which is
17 a A-2 in the Town of Brookhaven. Currently
18 there lists a little over 18,000 square
19 feet of clearing on the site which
20 translates to 33,000 -- 33.8 percent under
21 the vegetation clearing limit 35 percent is
22 allowable.

23 As stated before, the lot is as a
24 result of the grant of the Town of
25 Brookhaven Board of Appeals for a four-lot

1 subdivision. These lots ranged in size
2 from 48,000 to a little over 56,000.

3 Reference was made to the tax map layout
4 that is incorrect in the tax maps.

5 We all know that real property
6 doesn't make many mistakes, but this was
7 one of them. They have been notified. It
8 was supposed to be rectified this year, it
9 hasn't been. The layout shows what we
10 have. This lot should be just flipped over
11 with both flag lots go together.

12
13 And if you look at the presentation
14 that I provided for the -- and here I have
15 another layout which is a blowup of what's
16 found in the document that I gave the
17 board. The two flag lots joined as a
18 common driveway with a large cul-de-sac at
19 the end that provided access the two
20 western most lots, this being a northern
21 lot on the subdivision or could be the
22 northwest lot on the subdivision.

23 The Dragones received a CO on the
24 property in June of 2000 or 2002. The
25 planting that took place because of the

2 construction of the house, there was
3 additional clearing that was done adjacent
4 to and these parts -- there was a
5 restoration done in the area which goes out
6 along the side of the house. The
7 restoration was done to bring in
8 conformance with the plans. Part of this
9 restoration would be removed if this
10 hardship application is granted especially
11 the area immediately to the north of the
12 site, but as stated, there is vegetation
13 within five feet of the existing house.

1

2 Chief James Ditmer (phonetic), provided a
3 letter in which he stated a series of
4 concerns about protecting the home from
5 brush fires because of close proximity to
6 the tree line, insufficient water supply
7 and response time to a dangerous situation.
8 A copy of the letter is found in the back
9 of what I provided the commission with.

10

11 Reference was also made by the staff
12 with regard to the Suffolk County Water
13 Authority distribution maps. There is no
14 water available to the site. If you look
15 at the distribution maps there are no
16 connections to the Silas Carter Road,
17 although from a, you know, a profile it
does appear to be relatively close.

18

19 However, to bring water to this
20 particular site, it would have to come over
21 a thousand yards, I believe. I make
22 specific reference to it in my document,
23 but it's a significant distance for a
24 single-family house to come in. That's why
25 at that time when the subdivision was
constructed, the Suffolk County Health

1
2 Department did not require installation of
3 public water because there is no direct
4 connection to this piece of property.

5 As stated, we are proposing to clear
6 a 6,650 square foot parcel which will
7 result in a total clearing of a little over
8 5,000 square feet for this site. It
9 translates to approximately 46 percent.
10 Since Pine Barrens' standards, the clearing
11 vegetation is 35 percent. We require this
12 variance to all other standards and most of
13 the guidelines within the plan have been
14 met. And these are discussed in detail
15 within the document I have provided the
16 commission with.

17 This significant hardship is
18 resulting from a configuration in lot size
19 of a particular parcel. This lot, as I
20 said, this lot is commonly referred to as a
21 flag lot. We only have two. One is Silas
22 Carter Road and extends back to 300
23 something feet so it widens out to a piece
24 of property that's a 150 feet approximately
25 by 300 feet.

1
2 The plans that I have provided the
3 commission with does illustrate how the
4 site has been presently cleared and also
5 how we would intend to do the clearing, but
6 the flag lot portions of the piece of
7 property it's representing 7,863 square
8 feet of parcel providing this with the
9 turnaround and the driveway at the end
10 represents approximately 9,120 square feet
11 or 17 percent of the site. That's 147
12 percent of the site required to access this
13 piece of property in the rear which is
14 within one half of the required 35 percent.

15 As stated, it's an A-2 zone, but the
16 site is only one and a quarter acres in
17 size. As such, it falls approximately
18 between the one acre and a half acre
19 standards which are 35 -- 53 percent for
20 the one acre zoning and for the one and a
21 half acre zone, it's 46 percent. Looking
22 at it strictly mathematically, one and a
23 quarter acre site. Therefore, if you take
24 an average between the two, it would turn
25 out to be about 49.5 percent.

Again, we are proposing a 46 percent clearing of the site which is approximately the same as a five acre, so we would be less than if we looked at it as a one and a quarter acre site if there was such a standard. Look at it in a different way. If you cleared a conforming two acre site at 80,000 square feet, it would result in 28,000 square foot of clearing being allowed, 60,000 square foot site would result in 87 point -- 87,600 square feet and a 40,000 square foot site would result in a 28,759 square foot.

15 Again, I provided the commission
16 with a copy of that map and the location.
17 It is in -- it's referred to as a Miller
18 Place-Yaphank Road Nature Preserve. We
19 have a letter from the planning commission,
20 a letter stating that they would be willing
21 and interested to accept privately owned
22 parcel.

23 One of the points in part of this
24 proposal is that we are proposing to
25 dedicate a piece of open space line side a

1
2 mitigation considerable measure of the
3 6,006 -- 6,650 square foot of land. We're
4 proposing to dedicate another parcel of
5 land to the County of Suffolk of compatible
6 size of the proposed clearing. This parcel
7 falls within an area of the CGA that the
8 County is interested in reserving as open
9 space.

10 Again, I provided the commission
11 with a copy of that map and the location.
12 It is in -- it's referred to as a Miller
13 Place-Yaphank Road Nature Preserve. We
14 have a letter from the planning commission,
15 a letter stating that they would be willing
16 and interested to accept privately owned
17 parcels in this area.

18 In the original proposal, we
19 proposed an 8,000 square foot parcel. We
20 were in contract for that and, however,
21 there's title problems for that particular
22 piece of property. And so the County --
23 we've contacted the County, they would not
24 be interested in properties that have title
25 problems. So that particular piece has

1

fallen through.

3

We are in contract for another piece and we're also investigating a couple other pieces in the same area which, even though, it may not be the 8,000 square foot one, we're still looking at single and separate parcels within the map to preserve and dedicate to the County.

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We are in contract for another piece and we're also investigating a couple other pieces in the same area which, even though, it may not be the 8,000 square foot one, we're still looking at single and separate parcels within the map to preserve and dedicate to the County.

I think it's important to note that while the parcel may not necessarily equal the size of the clearing that we're taking -- plus what we'd be doing with the dedication of it -- under the Town's single and separate ordinance you're allowed to build on these single and separate lots.

So what would be happening is the potential threatening of family houses on a significantly subdivided lot and dedicating it to the Town of Brookhaven, that would remove the threat for some other homeowner coming in somewhere along the lines and building on this particular piece of property. Again, it would be donated to the County of Suffolk for the preservation

1

2 purposes.

3 As I said, we conformed to all the
4 other standards within the Pine Barrens'
5 plans with the exception of the clearing
6 standard. With the proposed dedication,
7 this would also remove a potential
8 detrimental impact that would not conform
9 to the Pine Barrens' plan on another piece
10 of property also within the compatible
11 growth area.

12 If the commission has any questions,
13 I'd be glad to try to answer them or if
14 there was any other staff, I know the staff
15 had received complaints that they wish to
16 have clarified. I think I touched on most
17 of them. If there is anything else that
18 the commission brought up, I'd be glad to
19 try the answer it.

20 MR. SCULLY: Could you just clarify
21 that also, are there other approvals
22 required for the Town of Brookhaven?

23 MR. CRAMER: We would have to go
24 back to the Board of Zoning Appeals to have
25 the cover lifted for the 35 percent

2 clearing limit. The covenant that was put
3 on, we chose first to come to the
4 commission to secure, you know, the input
5 from you. If that's successful, then we
6 will go back to the Board of Zoning Appeals
7 and request a lifting of the covenant.

10 MR. CRAMER: Yes, that's part of it.
11 As I said, the original proposal was for
12 8,000 square feet. However, that piece of
13 property that we were in contract for has
14 fallen through, they were unable to provide
15 a clear title. There are a couple of other
16 parcels that we are currently in
17 negotiations with and the proposal, at this
18 point, we're not sure of that size of that
19 parcel.

20 MR. TURNER: What's the range?

21 MR. MILAZZO: Off the record.

22 (Discussion off the record.)

23 MR. MILAZZO: Back on the record.

24 MR. SCULLY: What's the range?

25 MR. CRAMER: We're probably looking

1
2 six, three, somewhere in there. There is
3 an application of 40,000. There's -- they
4 broke it up and I think each lot is. I
5 think it --

6 MR. SCULLY: You don't have
7 definitive information?

8 MR. CRAMER: I think the file map is
9 20 width so...

10 MR. SCULLY: Questions?

11 MR. TURNER: None for me.

12 MR. MILAZZO: I have some if no one
13 else does.

14 As you know, the commission has a
15 standard that has to go through which is
16 based on section 267B. If you could just
17 go through the elements on that on the
18 record. Do you have it somewhere?

19 MR. CRAMER: Yeah. With regard to
20 reasonable return, presently there is a
21 five foot vegetation. Within five feet of
22 the subject house there's a -- they do not
23 have the ability to utilize their property
24 even to provide recreation areas for the
25 children. There's a significant concern

2 with regard to the safety associated with
3 fires as demonstrated by the fire chief's
4 letter that we presented.

5 The hardship is related to this
6 particular piece of property because of the
7 configuration of the lot and the width of
8 the area of the property. The
9 configuration being that it's a 20 foot
10 front yard coming all the way in the amount
11 of clearing that was required to install
12 the driveway that was approved as part of
13 the Town of Brookhaven Zoning Board of
14 Appeals approval.

1
2 we're providing a wheat field which
3 protects the character of the neighborhood
4 and the health safety and welfare of the
5 community, particularly, in light of the
6 response from the fire commission and also
7 the part of the dedication that's proposed
8 to remove the threat of development on a
9 single and separate parcel within the
10 compatible growth area.

11 MR. MILAZZO: Was it subgraded?

12 MR. CRAMER: In that he brought the
13 parcel, the lot was. The real problem is
14 the configuration of the lot and the square
15 footage of the lot which was as result of
16 the grant by the Board of Appeals for this
17 particular layout.

18 MR. MILAZZO: Who did the
19 subdivision?

20 MR. CRAMER: The record shows it was
21 granted to a builder, I think it's in the
22 back of the file.

23 MR. MILAZZO: Who owns the property
24 that the builder applied for?

25 MR. CRAMER: I don't know if the

1
2 builders were in contract at that time, at
3 the time it was T&S Builders Incorporated.

4 I don't know the relationship to the
5 Dragones and I don't know whether the
6 Dragones were in contract at that time.

7 MR. MILAZZO: Could you find that
8 out for us?

9 MR. CRAMER: Yeah.

10 MR. SCULLY: The staff observed that
11 there are what appears be the ornamental
12 plants that are within close proximity of
13 the structure. Do you know if it's the
14 intention to remove those?

15 MR. CRAMER: The ornamental
16 immediately adjacent to the structure would
17 not be removed. There are plants that are
18 set back that were part of the revegetation
19 that, as I said, the original clearing took
20 place when they constructed the house that
21 went out 10 to 15 feet around the property
22 and those plants, which I believe, are all
23 consistent with the natural vegetation.
24 Standards of the plants, they would be, in
25 part, some of those would be removed, but

1
2 that was so they could get their CO to
3 bring into the compliance.

4 MR. SCULLY: Was revegetation
5 required?

6 MR. CRAMER: No, there was
7 revegetation that was done.

8 MR. SCULLY: In order for them to
9 get their CO, there needs to be what?

10 MR. CRAMER: They needed to
11 revegetate parts of the site because when
12 the house was constructed, they went beyond
13 50 feet over.

14 MR. SCULLY: Any other questions for
15 Mr. Cramer?

16 MR. MILAZZO: I have a question. I
17 have a copy of the deed from November of
18 '03 and I believe it's from tax file parcel
19 number 259328.3 and the way I read this
20 deed is, it appears to describe the parcel
21 as it's depicted on the tax map and that
22 deed indicates that it's subject to an
23 easement -- 16-foot easement for access to
24 28.0. 2000 indicates that the tax map is
25 backwards and the lots are flipped.

1

MR. CRAMER: That's correct.

3

MR. MILAZZO: Could you clarify that for me or get an updated survey?

5

MR. CRAMER: Well, we have a survey
I presented the commission with a survey.

7

MR. MILAZZO: That's dated 1998.

8

The commission needs an up-to-date survey just to see what the site is.

10

MR. CRAMER: I may have one in my file.

12

MR. MILAZZO: The reason I'm asking this question is it may go to, I think, the commission needs to understand what the site is, of what in the area is owned by the applicant before they can determine what is even being requested. That's incorrect and these areas may be different than what we have.

20

MR. CRAMER: As far as I know, the survey is correct and the tax map is incorrect.

23

MR. MILAZZO: Then this deed is, how does --

25

MR. CRAMER: I've never seen that

1 deed so I can't comment on the deed.

2 MR. SCULLY: According to the deed,
3 it appears to describe this easement.

4 MR. MILAZZO: It describes that
5 parcel being in that location which is
6 inconsistent with Mr. Cramer's
7 representation that the flag is on the
8 southerly part of the applicants' property.

9 MR. CRAMER: What I've been told by
10 the applicant and the surveys that I have
11 and what I've been told by the applicant is
12 that the this is the way the property
13 layout from that the tax lot is on the
14 south side of the property and the tax maps
15 are incorrect and that the tax, the real
16 property has been notified and they were
17 supposed to correct the situation. I can
18 attempt to clarify that for the commission,
19 but as I said, that's what I was told and I
20 don't have a copy of that deed, so I can't
21 comment on it. If you could provide me
22 with a copy of the deeds.

23 MR. MILAZZO: Here you go (handing).

24 MR. CRAMER: I'm not going to state

1

2 on it --

3

MR. MILAZZO: I'm not asking you --

4

I think the commission needs to understand.

5

MR. CRAMER: You're correct. If

6

there is a question?

7

MR. MILAZZO: It needs to understand

8

of what the applicant owns to determine

9

permission of what is being requested.

10

I'd like to address the -- at one

11

point it talks about 7,600 and 480 feet of

12

clearing, at another point it talks about

13

6,650 feet of clearing is being requested

14

by the applicant, which one is it?

15

MR. CRAMER: 6,650 is what's being
requested.

17

MR. MILAZZO: Okay.

18

MR. SCULLY: Other questions for the
applicant, any further comments?

20

Members of the public have any
questions? If not I guess we'll close the
hearing for further consideration and await
the receipt of additional information
requested.

25

(Applicants' Exhibit 1, Letter dated

1
2 December 10, 2004, marked for
3 identification.)

4 (Time noted: 3:37 p.m.)

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----- I N D E X -----

3

----- EXHIBITS -----

4 STAFF'S FOR I.D.

5			
6	1	Cover sheet	3
7	2	2001 aerial photo	3
8	3	Digital photo prints	3
9	4	Staff report prepared 12/14/04	3
10	5	Survey	3
11	6	Map of SCWA distribution system	3
12	7	MapQuest map	3
13	8	2003 Suffolk County real property division, Suffolk County tax map	3
14			
15			

16 APPLICANTS' FOR I.D.

17	1	Letter Dated December 10, 2004	29
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C E R T I F I C A T E

STATE OF NEW YORK)
COUNTY OF SUFFOLK)

I, PATRICIA A. REED, a Notary

Public within and for the State of New York, do hereby certify that the within is a true and accurate transcript of the proceedings taken on December 15, 2004.

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.

IN WITNESS WHEREOF, I have hereunto
set my hand this 31st day of December,
2004.

Patricia A. Reed

PATRICIA A. REED

