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Commission Meeting of January 16, 2013 Brookhaven Town Hall

Present: Mr. Peter Scully (New York State), Ms. Sarah Lansdale (Suffolk County),
Mr. Edward Romaine (Brookhaven), Mr. Sean Walter (Riverhead),
Ms. Anna Throne-Holst (Southampton)

Approved

Resolution on the Compatible Growth Area Hardship Application of
Longwood Public Library

Property located at 800 Middle Country Road, Middle Island, Town of Brookhaven
Tax Map Numbers: 200-402-1-23.1 and 24.9; 200-403-1-3, 4, 17, and 18

Whereas, the Board of Trustees of the Longwood Public Library (the Applicant), submitted a Compatible Growth Area (CGA) Hardship application to the Central Pine Barrens Commission to expand the existing 31,550 square foot Library building by 13,756 square feet, or 44%, to make modifications to the stormwater drainage system and to make other site improvements (the Project) on six variously zoned parcels that encompass 7.89 acres (the Project Site), and

Whereas, the Project does not conform to two Standards contained within the Central Pine Barrens Comprehensive Land Use Plan (the "CLUP"): Standard 5.3.3.6.1, Vegetation Clearance Limits and Standard 5.3.3.4.1, Nondisturbance Buffers, and

Whereas, under the CLUP, 3.57 acres or 45% of the Project Site may be cleared, and

Whereas, under the CLUP, the Project must maintain the New York State Department of Environmental Conservation (NYSDEC) minimum non-disturbance buffer distance from a NYSDEC regulated wetland, and

Whereas, 52% of the Project Site is presently cleared and the Applicant proposes to clear an additional 3% of the Project Site resulting in a total clearing of 55%, or 4.32 acres, of the Project Site, an amount in excess of the amount of clearing permitted by the CLUP, and

Whereas, the Applicant proposes to partially reduce the width of a wetland buffer from a distance of 45 feet to 15 feet on the northern portion of the Project Site, and this reduction requires a NYSDEC Article 24 permit because the buffer is less than that required by the NYSDEC, and

Whereas, on May 18, 2005, the Commission granted the Applicant a CGA Hardship Waiver to expand the parking lot and to make other site improvements on the then existing library property, which at the time of the 2005 application contained 4.54 acres, and

Whereas, in 2009, the Library acquired the 3.35-acre parcel directly adjacent to the library's southerly property line thereby creating the library's current 7.89-acre Project Site configuration, and

Whereas, the newly acquired parcel contains two buildings, a driveway, sanitary septic system and 0.65 acres of cleared area, and

Whereas, the Applicant proposes to restore 0.23 acres of wetlands adjacent to the headwaters of the Carmans River located on the parcel acquired in 2009, and this restoration activity requires a NYSDEC Article 24 permit, and

Whereas, the Commission held a public hearing on the Project on November 21, 2012 and during the hearing the Commission members recommended that Commission staff hold a meeting with the Applicant to discuss matters raised at the hearing and in the staff report, and

Whereas, on December 10, 2012, the Applicant and Commission staff held a follow-up meeting at the Library and also toured the Project Site, and

Whereas, the Library Board of Trustees, the Lead Agency pursuant to the New York State Environmental Quality Review Act, ("SEQRA"), performed a coordinated environmental review of the Project, and on August 13, 2012, adopted a Negative Declaration for the Project, and

Whereas, due to the Project's nonconformance with two CLUP standards, the Applicant applied to the Commission for a waiver from strict compliance with the CLUP provisions pursuant to Environmental Conservation Law Section 57-0123(3)(b), and

Whereas, the Applicant included an analysis of the hardship criteria contained in ECL §57-0121 in support of its Waiver application, and

Whereas, a staff report was prepared on the Project and distributed to the Commission as well as a copy of the transcript of the public hearing, and

Whereas, the Applicant's representative contends that the Project does not constitute development as defined in Article 57 of the Environmental Conservation Law because the Project is a public improvement undertaken for the health, safety or welfare of the public, and

Whereas, the Commission finds the Project is development under the Commission's jurisdiction, pursuant to ECL 57 requiring the library to obtain a Compatible Growth Area hardship permit, and

Whereas, in considering the second waiver criteria, the Commission finds that the hardship, as it relates to the Project Site, is unique because it is the only public library in the district and thus the library's inability to expand to continue to serve its residents, without

obtaining a hardship waiver authorizing the expansion, is not a circumstance that applies to a substantial portion of the neighborhood or district surrounding the library, and

Whereas, the uniqueness of the hardship is also due to the pre-existing development and clearing activity that occurred when the Library was originally constructed in 1987, prior to the Act, and

Whereas, the Library is unique as a public resource and its hardship is unique because it must expand to continue to serve its purpose and the residents within its district, and

Whereas, the Commission, in analyzing the third waiver criteria, finds that granting the requested exemption will not alter the essential character of the neighborhood because the addition is to an existing Library and is consistent with the history of development on site and pattern of development surrounding the Project Site, and that the Project is consistent with existing established land use and community character, and

Whereas, the Commission finds in analyzing the fourth waiver criteria that the alleged hardship suffered by the Library is not self created because the Library site was selected prior to the Act and was developed with the Library prior to the Act and that the need to expand to maintain and improve on existing services to a growing population is part of the core mission of any library and is consistent with expansions conducted by other libraries, and

Whereas, the Project accommodates development that is compact, efficient, and orderly as it retains the Library in its existing location while providing a compact expansion, adjacent to the existing main building, to continue to accommodate the expanding population it serves, and

Whereas, the Project provides unfragmented open space adjacent to Suffolk County Parkland known as Cathedral Pines County Park, and

Whereas, the Commission finds the Project is consistent with the Act because it has been designed to minimize clearing, alteration, and disturbance to natural ecological communities and protects the quality of surface water and groundwater resources through planned mitigation that includes the restoration of 0.23 acres of freshwater wetland habitat adjacent to the surface waters and wetlands of the Carmans River on the southerly portion of the Project Site, and

Whereas, successful implementation of the Project's mitigation plan will require the preparation, submission and approval of a complete wetland restoration plan and three year monitoring period to restore 0.23 acres of wetland habitat in accordance with "*Figure 2, Existing Disturbed and Proposed Revegetation Areas – South Parcel*" prepared by Nelson Pope & Voorhis dated April 23, 2010, and

Whereas, the Project's mitigation is consistent with previous Commission approvals in which an applicant, having demonstrated a hardship meriting a Commission waiver, has provided mitigative measures to lessen the environmental impacts associated with their respective project, and

Whereas, the Commission has accepted restoration of vegetation and habitat as a mitigation measure in the applications of the Long Island Power Authority Riverhead Substation Expansion Core Hardship, Willow Wood at Coram CGA Hardship, and The Meadows at Yaphank Planned Development District Development of Regional Significance; and

Whereas, the Applicant's mitigation measures include landscaping on the northern portion of the Project Site, the abandonment of the existing septic system associated with the existing uninhabited dwelling on the southerly portion of the property, and the demolition and removal of the existing outbuilding, currently in disrepair, on the southern portion of the Project Site, and

Whereas, the Applicant currently uses the existing dwelling on the southerly portion for dry storage, and this is expected to continue in the future, and

Whereas, the Project will comply with all other Standards of the CLUP, 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, that the above recitals are incorporated herein and made a part hereof; and be it further

Resolved, that the Project is not a public improvement undertaken for the health, safety or welfare of the public that is consistent with the goals and objectives of Article 57, and be it further

Resolved, the Project is unique as it has existed in its present location since 1987 and although the Library acquired the adjoining 3.35 acres in 2009 and added it to the Project Site to allow an increase in the sanitary flow generated by the Project and achieve conformity with CLUP and Suffolk County Department of Health Services (SCDHS) sanitary system requirements, the layout of the Project clusters the expansion to the north, while minimizing adverse environmental impacts on existing wetlands of the Carmans River and upland habitat; and the Project layout retains existing natural vegetation on the southerly portion, Lot 23.1, with the exception of an existing 0.65 acres of disturbance, and be it further

Resolved, the Project improvements will minimize disturbance to existing natural vegetation to the greatest extent practicable, while still allowing for the Project to proceed, and be it further

Resolved, the granting of this hardship exemption 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 proposed expansion will occur on property which was already previously disturbed and therefore devoid of significant natural resources, the proposed expansion area will be constructed in a compact footprint immediately adjacent to the existing main building, sanitary effluent will be discharged at the maximum distance away from surface waters as possible, wetlands adjacent to the headwaters of the Carmans River will be restored, sanitary discharge on the southerly property closer to the Carmans River will be eliminated and additional native and landscape vegetation will be installed which will provide additional wildlife habitat as well as aesthetic features, and be it further

Resolved, the Applicant shall obtain additional permits and approvals, as required by law, prior to commencement of the Project, and forward copies of such approvals and permits to the Commission Office two weeks prior to commencement of site work, and be it further

Resolved, that the Commission hereby determines the application, as submitted, meets and satisfies the criteria for a Compatible Growth Area Hardship Waiver pursuant to the Act; that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; that the Library has been established in its current location since 1987, prior to the Act, and that the population it serves has continued to grow; that the Board of Trustees took the opportunity to acquire the adjacent property, Lot 23.1, when it became available and to add 3.35 acres to the Project Site, and be it further

Resolved, that the Commission hereby determines the Application, as submitted, meets and satisfies the criteria for a Compatible Growth Area Hardship pursuant to the Act; that the requested use variance, if granted, will not alter the essential character of the neighborhood, as the Library is an established community facility in the neighborhood and is consistent with the community character of Middle Island, the hamlet in which the Library is located, and be it further

Resolved, the Commission hereby determines that the Application, as submitted, meets and satisfies the criteria for a CGA Hardship pursuant to the Act, that the alleged hardship has not been self-created because the Library acquired the adjacent southerly parcel, Lot 23.1, to add area to the Project Site for the Project to increase the level of conformity of the Project to the standards of the CLUP while meeting the Library's expansion needs but does not cause a self created hardship because the southerly parcel is not being developed but, the environmental resources of the parcel will be improved with the restoration of the wetland and the abandonment of the sanitary system, and be it further

Resolved, that the Application is approved in accordance with the Grading and Drainage Plan prepared by PW Grosser, undated, and date stamped received on September 7, 2012, subject to the following specific conditions:

1. No more than 4.32 acres of the 7.89 acre Project Site may be cleared for the Project, which includes existing cleared areas and the proposed clearing for the Project.
2. A minimum of 3.57 acres of the 7.89 acre Project Site must remain in its existing natural state; the natural area to remain includes the entirety of Lot 23.1 composed of 3.35 acres, with the exception of the existing 0.65 acre disturbed area around the existing dwelling and driveway, as per Figure 2 in the application, “Existing Disturbed and Proposed Revegetation Areas – South Parcel,” prepared by Nelson Pope & Voorhis dated April 23, 2010. No additional clearing or disturbance is permitted on Lot 23.1, with the exception of the 0.23 acre wetland restoration and abandonment of the existing septic system. However, once the 0.23 wetland restoration has been completed and new vegetation established, that area will not undergo further disturbance.

3. Mitigation - Wetland Restoration.

- a. The Applicant shall undertake mitigation for the Project which shall include the restoration of 0.23 acres of freshwater wetland habitat, as illustrated in “Figure 2, Existing Disturbed and Proposed Revegetation Areas – South Parcel” prepared by Nelson Pope & Voorhis dated April 23, 2010.
- b. Prior to implementation, submit to the Commission a complete restoration plan, which shall be subject to the Commission’s review and must be approved by the Commission prior to implementation. The Plan must include species (which must be native only), quantity, size, and source of plant material.
- c. Retain in place any existing native vegetation identified in the restoration area.
- d. Removal of invasive species must be performed using hand tools and any invasive species removed must be taken from the Project and disposed of in a manner approved by the Commission.
- e. Submit a timeline for commencement and completion of revegetation activity.
- f. Complete the wetland restoration activity within three years of the date of this approval.
- g. The Applicant shall monitor the wetland restoration area to ensure that, at a minimum, 85 percent of the plants installed in the restored areas, pursuant to the restoration plan, survive for a minimum of three (3) years from the date of completion of restoration work.
- h. No herbicides may be used on the Project Site in the restoration area for any activity, including the control of invasive species.
- i. The Applicant shall notify the Commission in writing a minimum of 72 hours prior to the commencement of restoration activity and no more than 72 hours after all work is completed to allow for Commission inspections.

- j. Once upland and wetland communities are restored, they must be protected from disturbance in the future through the installation of a split rail fence on the landward boundary of the wetland restoration area shown in Figure 2 prepared by Nelson Pope & Voorhis dated April 23, 2010.
4. Landscaping. Implementation of the “Materials & Planting Plan” prepared by Peter Gisolfi Associates dated March 7, 2012.
 - a. Since construction will need to be completed prior to planting, the Applicant must complete the planting activity in the Materials and Planting Plan within three years of the date of this approval.
 - b. Areas planted shall be protected from any future clearing or development.
 - c. After completion, the planted area shall be subject to an inspection by the Commission to ensure that it complies with the Materials and Planting Plan. The Applicant shall notify the Commission in writing a minimum of 72 hours prior to the commencement of planting activity and no more than 72 hours after all work is completed to allow for Commission inspections. Commission Staff shall be permitted site access to perform inspections during the minimum three (3) year maintenance period.
 - d. Submit, on at least a biannual basis for three (3) years, reports to the Commission which describe the status and success of planting.
 - e. Submit to the Commission color digital photographs of the planted areas taken at the time of each inspection, relative health of the planted area, including whether or not an 85 percent survival rate of native species is being attained, and, if not, corrective methods to be employed and whether or not invasive species are present and, if so, name of invasive species and corrective methods to be employed.
5. Install posted signs, which conform to New York State posting requirements and regulations, on the southern and western boundaries of the Project Site that indicate the Project Site is Library property to distinguish the Project Site from the northern border of Cathedral Pines County Park and the eastern border of the adjacent commercial property located on the west side of the Project Site
6. Within two years of the date of this resolution, submit an updated version of the plan entitled “*Preliminary Sanitary Upgrades*” prepared by P.W. Grosser dated April 23, 2012 that identifies and locates the existing sanitary system associated with the dwelling on the southerly portion of the Project Site.
7. Within two years of the date of this resolution, the Applicant shall abandon the existing septic system associated with the uninhabited dwelling on the southerly portion of the Project Site. Abandonment of the system should avoid disturbance to existing natural vegetation to the greatest extent practicable. Prior to abandonment, the Applicant shall submit a plan to the Commission indicating what methods will be used to abandon the sanitary system and will not undertake such activity until it has received approval from the Commission office. After the

sanitary system has been abandoned, the Applicant shall submit notice to the Commission which certifies the sanitary system was abandoned in accordance with the approved plan. If the abandonment requires the removal of any materials, either from the surface or subsurface, any such materials shall be removed from the Project Site and taken to a legal disposal facility.

9. Within two years of the date of this resolution, the Applicant shall remove the existing outbuilding in disrepair on the southern portion of the Project Site while avoiding disturbance to existing natural vegetation. The remains of the outbuilding shall be taken off-site to a legal disposal facility.
10. The Applicant shall obtain additional permits and approvals, as required by law, prior to commencement of the Project. The Applicant must forward copies of such approvals including, but not limited to the Suffolk County Department of Health Article 6 approval, NYSDEC Article 24 Freshwater Wetlands Permits, and any other applicable permits to the Commission Office two weeks prior to commencement of site work.

Resolved, the Applicant must satisfy the conditions of approval in this Waiver in addition to compliance with the conditions of the previous approval in 2005, and be it further

Resolved, this approval shall expire five (5) years from the date of adoption by the Commission. For an extension of this Waiver, the Applicant shall seek reauthorization from the Commission, subject to its review, and be it further

Resolved, a copy of this resolution shall be filed with the Suffolk County Clerk indexed against the property.

Motion on Project Approval

Made by: Mr. Walter

Seconded by: Mr. Romaine

Vote:

Yes: 5

Opposed: 0