



TOWN OF EAST HAMPTON

300 Pantigo Place – Suite 105
East Hampton, New York 11937-2684

Planning Department
Marguerite Wolffsohn
Director

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April 15, 2020

To: Planning Board

From: JoAnne Pahwul, AICP
Assistant Planning Director

Re: EEB LLC Final Subdivision
SCTM#300-166-4-3.2

Last Review Date: November 6, 2019

Items Received: The following information has been submitted:

- Proposed Agricultural easement;
- Filed Covenant & Restriction required by the Suffolk County Department of Health Services;
- Letter from the East Hampton Fire Department dated February 7, 2020.

Background Information:

The subject application proposes to subdivide a 20.59 acre lot situated on Spring Close Highway in an A3 Residence zoning district into four lots, ranging from 87,104 sq. ft. to 100,623 sq. ft., served by a common driveway, with a 7.7 acre agricultural reserved area and a 3.1 acre reserved area containing a man-made pond. 3.2 acre wooded reserved area with a 15' deep, 42,000 sq. ft. man-made pond. are proposed. An open space map with a minimum of 50% open space was mandatory and the two proposed reserved areas equal 52% of the parcel. A 20' wide access easement over Lot 2 allows for access to the reserved area. The map also depicts a 20' wide vegetated area on the west side of the common driveway to buffer the neighboring property.

The yield map indicated a yield of five lots and since the open space map only proposes four lots, the applicant is not subject to the Long Island Workforce Housing Act and is not required to provide a lot for affordable housing in return for a bonus unit of density based on the reduction in density.

§193-2-50 of the Town Code mandates preservation of prime agricultural soils on lands whose preservation would implement the Town's Comprehensive Plan. The site contains

two relatively small areas of prime agricultural soils. However, the size, configuration and location of these soils do not lend themselves to be a basis for creating an agricultural reserved area that is conducive to farming. One area consisting of a narrow sliver of prime soils will be included in the agricultural reserved area. The second area will be located in the proposed "natural" reserved area and in the area of Lots 3 and 4. This second area is represented by a finger shaped area approximately 190' at the widest point and surrounded by three soil types that have characteristics described as not being conducive to agriculture by the USDA. A map preserving 70% of this area would not be conducive to agriculture and the Planning Board did not require such.

The Town's CPF plan recommends that the existing fields along Springs Close Highway be preserved and that development of the parcel be coordinated with lots SCTM#300-166-4-22 to the east and SCTM#300-189-1-4 to the south. The two reserved areas have been designed to facilitate this. The CPF plan also recommends that a trail/bicycle easement be obtained along the LIRR right of way. The applicant has not agreed to provide this and the Board has requested that the easement over the reserved area be written so as to not preclude this in the future.

Issues for Discussion

Proposed Agricultural Easement

The wooded reserved is proposed to be owned by a homeowner's association and a scenic easement dedicated to the Town of East Hampton will be required over this reserved area.

The applicant has submitted a draft agricultural easement proposed over the agricultural reserved area that will be dedicated to the Town. Section 2. B. (iv) of the easement allows for the future use of a twenty (20) foot right of way to be used as a bicycle path constructed running east to west along the northern boundary of the easement area, at the sole discretion of the applicant.

However, 3. (c) on page 6 reads "GRANTOR may at GRANTOR's sole discretion construct a 20' wide bicycle path across burdened premises." The Planning Department notes that the applicant is the Grantor and the Town of East Hampton the Grantee. The intention is that with the applicant's permission, the Town would be able to construct a bicycle path at some point in the future. It was not intended that the applicant have this responsibility.

Covenants & Restrictions

The Covenants and Restrictions required by the Suffolk County Department of Health Services require an easement for the installation, maintenance, repair and inspection of public water lines and that the public water lines be installed before any lots in the subdivision are conveyed. The Covenants and Restrictions also require that the existing dwelling on Lot 1 be removed and the sanitary system serving that residence be abandoned prior to the conveyance of any lots.

Fire Department Comments

The East Hampton Fire Department reaffirmed a prior 2014 determination that there is no further review needed for fire protection devices.

Public Hearing

The Board held a public hearing on the preliminary map on June 22, 2016 and there were no public comments. The Planning Department notes that the final map submitted for EEB Farms is substantially the same as that of the preliminary approval.

§220-2.13 of the Town Code allows the Planning Board to waive a public hearing on a final subdivision where there is no substantial difference between the map in the preliminary approval and that in the final submission. It has been the Board’s practice to waive the public hearings in such circumstances.

Conclusion

The applicant has submitted all of the requested information. The Planning Board should review the agricultural easement and discuss any comments. The Board should also determine whether the application is complete and whether to waive the public hearing.

Planning Board Consensus:

The Planning Board should discuss any comments on the agricultural easement.

Additional comments: _____

The board should determine whether the application is complete.

Additional comments: _____

The Board should determine whether to waive the public hearing on the final map.

Additional comments: _____

Additional Board Comments:

JP

**GRANT OF AGRICULTURAL, SCENIC AND CONSERVATION
EASEMENT**

THIS INDENTURE, made this ____ day of _____, _____,
by and between EEB Farms LLC, a limited liability company having an office at 175
Springs Fireplace Road, East Hampton, New York 11937.

(“GRANTOR”), and the Town of East Hampton, a municipal corporation having its
principal offices at 159 Pantigo Road, East Hampton, New York 11937 (“GRANTEE”).

WHEREAS, GRANTOR owns certain lands situate at 78 Springs Close Highway,
Town of East Hampton, County of Suffolk, State of New York and described as follows:

See Schedule A

AND WHEREAS, the said lands constitute an area of natural scenic beauty,
which is desirable and productive for farming and agricultural purposes, and whose
openness and existing state of use enhances the present and potential value of abutting
and surrounding properties, enhances the conservation of natural agricultural, and scenic
recourses, and yields a significant public benefit; and

WHEREAS, Section 247 of the New York General Municipal Law authorized
designated governmental bodies, including Towns, to acquire fee title or lesser interests
in land, including development rights, restrictive and affirmative easements, covenants,
and other contractual rights which may be necessary or desirable for the preservation and
retention of open spaces and natural or scenic resources including agricultural lands; and
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PLANNING BOARD

WHEREAS, it is GRANTEE's policy to conserve, preserve, and protect the Town's natural resources and the natural and man-made attributes of its land, including farmland, as fundamental to maintaining and improving the agricultural economy, recreational opportunities, community attractiveness, balanced growth, and the quality of life in the Town generally; and

WHEREAS, in furtherance of GRANTEE's policies and in accordance with Section 247 of the General Municipal Law, GRANTOR wishes to convey and GRANTEE wishes to accept this scenic and conservation easement;

NOW THEREFORE, in consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration to GRANTOR, the receipt of which is hereby acknowledged, this agreement

WITNESSETH

1. GRANTOR does hereby grant, transfer, bargain, sell, and convey unto GRANTEE, in perpetuity, a scenic and conservation easement in gross, of the nature, character, and to the extent hereinafter set forth over and upon all that certain parcel of land set forth and described above (hereinafter sometimes referred to as the "burdened premises" or the "premises").

2. The nature, character, and extent of the easement hereby granted are as follows:

(a) The use and development of the burdened premises shall forever be restricted to some or all of the following activities:

(i) agricultural operations, including soil preparation, cultivation, drainage, fertilization, irrigation, pest control, erosion control, and other normal and customary agricultural practices, all as designed and intended to promote and enhance open, undeveloped land and agricultural production, encompassing the production or raising of field crops, vegetables, fruits, trees, horticultural specialties, flowers, livestock (including cattle, sheep, goats, horses and poultry) and livestock products, and other ordinary farm products; and

(ii) the use of farm vehicles and equipment in connection with agricultural operations.

(b) The term "agricultural operation" shall be construed so as to exclude the following activities:

(i) operation of riding academies, stables, dude ranches or the like, in which the use of the burdened premises includes the letting of horses or other animals for hire, or the giving of riding instruction on a commercial basis;

(ii) the holding of horse shows, rodeos, or similar events on other than a one-time basis;

(iii) recreational pursuits, whether commercial or in the nature of a membership club, such as the racing of horses or the holding of polo matches, on other than a one-time basis;

(iv) operation of zoos, in which admission or other fees are charged for viewing animals; and

(v) sod farming or other activities involving the repeated removal of topsoil from the burdened premises.

(c) In furtherance of the restrictions imposed by this paragraph, the following activities are regulated as set forth below:

(A) Except to the extent specifically required for, or in direct aid of, the uses of the burdened premises which are permitted by paragraph 2 (a) above:

(i) no existing trees or shrubs shall be destroyed, cut, or removed from the premises;

(ii) no dump or storage area for the disposal of ashes, trash, rubbish, sawdust, garbage, offal, or any unsightly or offensive material shall be established or permitted to exist on the premises, nor shall any burning of refuse be permitted thereon; and

(iii) the natural contours and subsurface conditions of the premises shall remain generally undisturbed, and in their present natural state;

(B) In all events:

(i) no permanent or temporary residential or nonresidential buildings or structures, including any billboards or other advertising signs, shall be constructed, erected, maintained, or moved onto or within the premises, except as provided in paragraph 3 (b) below;

(ii) no commercial lumbering operations shall be undertaken on the premises, other than those associated with forestry management and approved by the Regional Forester of the State of New York;

(iii) no portion of the premises shall be used for a leaching or sewage disposal field; nor shall any portion of the premises be used for a drainage basin or sump, except in accordance with sound agricultural management practices and in order to control flooding or soil erosion on the premises;

burdened premises (or the portions of taken or condemned) shall not be subject to the restrictions set forth herein. In any such event, GRANTOR shall no be required to pay any penalties, nor shall the value of the burdened premises be in any way diminished or limited by this easement (even for the purposes of computing severance damages, if any, as to those parts of the premises not taken or condemned), nor shall any part of the condemnation award belong to or be payable to GRANTEE.

8. This easement shall be deemed a Conservation Easement subject to the provisions of Chapter 16 of the East Hampton Town Code.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the date and year first above written.

[Name of Grantor] (GRANTOR)

ATTEST:

TOWN OF EAST HAMPTON (GRANTEE)

Town Clerk

By: _____
Supervisor

ACKNOWLEDGMENT

State of New York, County of }ss.:

On the day of in the year before me, the undersigned, personally appeared personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

RECORD AND RETURN TO:

Town Clerk
Town of East Hampton
159 Pantigo Road
East Hampton, New York 11937

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SCHEDULE A

ALL that certain plot, piece, or parcel of land situate, lying and being in the Town of East Hampton, County of Suffolk and State of New York, being bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Long Island Railroad (MTA) and the easterly side of Springs Close Highway;

THENCE North 66 degrees 59 minutes 14 seconds East along the southerly side of Long Island Railroad (MTA) 2,065.34 feet to land now or formerly of Finah Limited;

THENCE the following six (6) courses and distances along land now or formerly of Finah Limited:

1. South 23 degrees 14 minutes 14 seconds East 234.88 feet;
2. North 74 degrees 59 minutes 02 seconds East, 699.42 feet;
3. South 65 degrees 04 minutes 11 seconds West, 408.41 feet;
4. South 76 degrees 49 minutes 14 seconds West, 66.00 feet;
5. South 79 degrees 24 minutes 04 seconds West along land now or formerly of Frank Bistran, 324.84 feet ;
6. South 10 degrees 35 minutes 56 seconds East along land now or formerly of Frank Bistran 253.58 feet to the northerly side of Spring Close Highway;

THENCE the following two courses and distances along the northerly side of Spring Close Highway:

1. North 88 degrees 30 minutes 56 seconds West, 104.89 feet;
2. North 85 degrees 58 minutes 16 seconds West, 76.35 feet;

THENCE North 23 degrees 23 minutes 46 seconds West along the easterly side of Spring Close Highway, 256.97 feet to the point or place of BEGINNING.