

February 20, 2024

To: The Town Board of Huntington

Edmund J. Smyth, Supervisor (2025)
Eugene Cook, Councilman (2023)
Joan Cergol, Councilwoman (2023)
Dr. Dave Bennardo, Councilman (2025)
Salvatore Ferro, Councilman (2025)

From: The Nathan Hale Nature Preserve Committee

Re: Vineyard Bay Estates Development

The Nathan Hale Nature Preserve Committee, consisting of neighbors and residents surrounding the proposed Vineyard Bay Estates development, have deep concerns over the procedures and processes involved with the review and approval of the plans for this subdivision.

Before the 2020 Purchase of the Subject Property

Since the early 1950s, a large plot of open space vacant land (actually consisting of two adjoining plots) with native tree and one-of-a kind cultivar Rhododendrons varieties and abundantly diverse wildlife has been a natural sanctuary and the “lungs” of the North Halesite/Huntington Bay area of the Town of Huntington.

This property – which lies between the easterly side of Bay Avenue, 885 feet northeast of Bay Place, and the westerly side of Vineyard Road, 137 feet northeast of Mulberry Drive, and adjacent to the southern border of the Incorporated Village of Huntington Bay – was family-owned for generations and that family had built two houses and a chicken coop on the property. The immediate neighborhood is marked by several homes of historic significance, including the 73 Bay Avenue residence of Fanny Brice, the subject of “Funny Girl.” Bay Avenue itself, a narrow (less than 30 feet along the proposed development), foliage-lined road and is our community’s artery continuously occupied with neighbors walking their dogs, families pushing their children in strollers and walkers and joggers.

The open property in question is impressively hilly and dramatically drops from the highest elevation at the Bay Avenue border to the lowest, along Vineyard Road. This glacial ravine is marked by statuesque specimen trees and lush flora and fauna in picturesque glades. In addition to native plantings, the property features historically noteworthy varieties of rhododendron and azalea, preserved here in perpetuity after being safeguarded by local garden clubs and experts for the future when hostilities between the US and Japan broke out in World War II.

Additionally, the property is home to hundreds of wildlife and bird varieties, as documented in the [1967 Huntington Audubon Society report to the Town of Huntington](#) that include Cooper’s hawks, mating pairs of Long-Horned owls, and the occasional eagle pairs. Current neighbors living adjacent to this land report the long-time presence of two signs on the property, which appeared to be Suffolk County-generated, highlighting the land as a “Bird Sanctuary.”

Post-2020 Purchase of Property by Developers

August 2020: In connection with the planned purchase of the steeply sloped property, an “Overall Steep Slope Analysis” dated August 8, 2020 (subsequently revised August 17, 2021) was prepared by R&M Engineering showing extensive steep slope areas in the property. This analysis depicts 8 proposed lots: 2 on Bay Avenue, a “flag lot” behind the Bay Avenue lots and 4 lots on Vineyard Road.

September 2020: The property, totaling almost 8 acres and located in Halesite, bordering the Incorporated Village of Huntington Bay, was sold for \$925,000. Shortly after the sale, one of the owners/developers, Walter Morris, verbally assured an adjacent neighbor that he was planning to build two houses on Bay Avenue and two houses on Vineyard.

May 2021: R&M Engineering, the developers’ engineering firm, applied to the TOH Planning Board for a sidewalk waiver.

June 10, 2021: Christian Granelli, then employed as a Senior Environmental Planner in the TOH Department of Planning and Environment, sent a formal letter reviewing the plans submitted by the developer. Among other issues, his review pointed out:

- The specimen rhododendrons on the property and azaleas should be “preserved to the greatest extent possible”
- The existing tree canopy is a rare “example of coastal oak-hickory forest,” “vulnerable to disappearing from New York State” and of which “there are less than 10 documented occurrences statewide.”
- “The coastal oak-hickory ecological community is known to be a suitable habitat for Northern long-eared bats, which are listed by the United States Fish and Wildlife Service and the NYSDEC as a threatened species.”
- “The subject property is located in the Huntington Harbor Subwatershed.” “This should be taken into account with regard to limiting [any] clearing on the property and the proposed sanitary systems.”
- The presence of Cooper’s hawks on the property was observed on the property. Cooper’s hawks are “native species of wildlife which are not yet recognized as endangered or threatened, but are determined by the NYSDEC to be at risk of becoming threatened in New York State.”

October 2021: Developers demolished the existing homes and a chicken coop that were on the property when purchased, after which the property was vacant land.

April 4, 2022: A Full Environmental Assessment Form (“FEAF”) that was prepared by the developers’ engineering firm, failed to address the concerns raised in the Planning Department’s Environmental Review by Mr. Granelli. In many instances, the engineering firm simply misrepresented the nature of the property (one example: listing “squirrels, rodents, birds, etc.” as the predominant wildlife species, but failing to mention the nesting owls, Cooper’s hawks, and eagles in recent years). Nowhere is the former Bird Sanctuary even acknowledged. The FEAF does not have **any** information filled in for Section E2. n-p, including the “natural community” of the Coastal Oak-Hickory (a Terrestrial Community defined by NY Natural Heritage Program and noted in the Mr.

Granelli's Environmental Review.) This land sits between Huntington Harbor and Huntington Bay, both active fly over hunting grounds for Osprey (NYS DEC Special Concern species) and Bald Eagle (of NYS DEC Threatened species), in close proximity to those species' nesting areas.

In 2023: Several plan iterations followed, with the Vineyard Bay Estates' owners and attorney touting that the homes exceeded zoning requirements and that 40+% of the project would be devoted to maintaining open space, in the center of the land (where steep slopes would have made building impossible anyway).

June 28, 2023: A letter announcing an [August 2 hearing before the TOH Planning Board](#) was mailed to a very limited subset of the adjacent neighborhood homes and accompanied by an ad one week prior to the meeting in the Long Island Observer. (A subsequent FOIL request dated November 9, 2023 for the mailing affidavit revealed that only two houses on Harbor Crest Court were formally notified of the hearing, though all 13 would be dramatically impacted by a major 24-month construction project at the mouth of the only entrance and egress into the court).

August 2, 2023: A group of neighbors attended a "preliminary hearing" but were informed of the "rules for the hearing," including that "each member of the public will have up to three minutes to address the Planning Board." The attendees were further instructed that, "Members of the public will not be permitted to speak again at this hearing, but are encouraged to provide any further comments in writing to the Planning Board (Hearing Transcript at page 2). After attendee residents spoke, the developers' attorney was permitted to speak at length on behalf of his developer clients both before and after the residents were afforded the opportunity to speak to the Planning Board members. A transcript of that hearing was filed with the Planning Board on October 3, 2023 and posted to the TOH website last week. The preliminary nature of that hearing was emphasized by the developers' attorney who made the following statements responsive to the initial comments made by the concerned community member:

Members of the general public may not appreciate, but we are in the midst of doing an environmental review pursuant to the New York State Environmental Quality Review Act. This Board is mandated as lead agency to do that. That environmental review is coordinated with all internal agencies of the town of Huntington and all external agencies that may have something to say about the project, whether it be the school district, a fire district, a water district, or any other town or county agency that has jurisdiction (Hearing Transcript at page 48).

Planning Board member Mr Leifson stated:

I would like to assure the people that are attending here, as well as the people that may be viewing it, the dynamic is that things are cumulative like this. So it isn't like whatever you did today, that's the end of it. We're going to have an environmental review study. We're going to find out about the bird sanctuary and look into the cesspools. So it's a process where by virtue of your comments, we're able to ascertain other things to try to address that (*Hearing Transcript at pages 51-52*)

The developers' counsel added:

So the map that you are seeing is a function of a lot of going back and forth with the planning staff to get us to this public hearing, and to your point, to the public's point, it shouldn't escape anyone's observation that the name of this hearing is a preliminary subdivision approval. This is a preliminary analysis, and we feel it's the best plan

that we can come up with. But as these things go, Judge, they're subject to conversations and subject to any type of suggestions that the Board members may have or planning members (*Hearing Transcript at pages 52-53*).

After hearing from the parties, the Planning Board chair adjourned the preliminary hearing without informing, or stating on the public record, that any future public participation and commentary was terminated at the time of that the preliminary hearing was adjourned.

October 11, 2023: Concerned residents attended a second Planning Board meeting where those attending were first informed that their right to speak, on the record, to the Planning Board, was terminated with the adjournment of the preliminary August 3rd hearing. During the October 11th "hearing," the Planning Board formally accepted the developers' revised plans. Despite knowing that the attendees' expression of their further concerns was prohibited, the Planning Board stated for the public record that the plans, as revised, addressed and ameliorated the communities' concerns. A transcript of that "hearing" has not yet been posted to the TOH website.

October 2023: Neighbors, now organized in the Nathan Hale Nature Preserve (NHNP), proposed to the EOSPA Committee of the Town of Huntington that the Town purchase the land for a nature preserve. The EOSPA Committee agreed that the land was worthy of the Town's consideration and directed Ed Gathman, attorney for the EOSPA Board, to begin discussions with the developers. Several weeks later, Ed Gathman reported that Stanley Weissberg, one of the developers, had made it clear that, "The land is not for sale." No details about Mr. Gathman's discussion(s) with the property owners/developers are known or part of the public record.

November 9, 2023: Members of the NHNP Committee submitted a FOIL request to the Town for details on the formal letter to neighbors announcing the August 2 hearing.

January 16, 2024: Members of the NHNP Committee submitted a second FOIL request to the TOH requesting "All documents submitted to the Town for Vineyard Bay Estates subdivision proposal, including all SEQRA documents." Responsive documents received included the developers' engineering firm's responses to a TOH Planning department letter from Christian Granelli (noted above).

January 22, 2024: A third FOIL request from the members of the NHNP Committee requested:

- The June 10, 2021 TOH Environmental Review Division Comment Letter prepared by Christian Granelli;
- The Full Environmental Assessment Form submitted as part of the preliminary subdivision application;
- Report on results of promised test borings;
- The TOH Planning & Environmental Department's subdivision layout approval; and
- The developers' "full engineering plan" after receiving approval.

The documents received responsive to the third FOIL request are incomplete, but what was produced showed that the Environmental Assessment Form (noted above and dated April 4, 2022) was completed by the engineering firm hired by and paid for by the developers. The answers captured in this form are marked by repeated mistruths and the absence of verifiable facts.

February 14, 2024: An agenda for a February 21st Planning Board meeting scheduled a further hearing on Vineyard Bay Estates development. Several documents were uploaded to the TOH

website from February 14-16, including one dated October 3, 2024 and another November 8, 2023, neither of which were provided earlier in response to our second FOIL request dated January 6, 2024. In addition, there is a draft resolution document, predated February 21, 2024, that the Planning Board may take action upon during the scheduled hearing.

Our Purpose in Writing to the Town Board

Our committee, and the more than 200 local community residents that reviewed and supported our EOSPA Petition, and efforts to secure EOSPA approval to acquire the subject property (signatories names and addresses attached), were and are very concerned about the processes that are currently in place. Those processes are not being implemented or executed in a way that protects steep sloped properties from being developed in the manner proposed by the developers. Those processes should work in tandem with the operation of the Town established Environmental Open Space and Park Fund, funded with \$15 million in 1998, supplemented by a second \$30 million allocation in 2003 and a third in 2008.

Despite the fact that the steep slope laws were put in place with the express intent to afford such properties protection from being developed by the uber-engineering of retaining walls one sees in commercial settings (wall behind Bottles and Cases) or along expressways (LIE). Existing slope laws, if reasonably and faithfully applied, would prevent the development of these environmentally sensitive properties, many of which are situated in long-ago, well established communities, such as Halesite and the Incorporated Village of Huntington Bay, as the subject property is.

Developers must avoid the plain application of existing slope laws in order to build on these steeply sloped properties and it has been our collective and bewildering experience to try to understand how or why the Town would be supportive of these end-around run machinations. Sequenced public hearings are held, but community discussion and participation is completely and arbitrarily cut-off after a preliminary "hearing" is adjourned, one conducted when only one party has any understanding of the end-game. Disclosure and discourse is anathema to the processes that are in place. Even when concerned residents make the effort to become informed and proactive during the process, such efforts are frustrated by the withholding or delayed release of documents in the Town's possession, some of the most important of which are the Town's own documents that should shed light on the status and inner-workings of the investigative processes. The fact that our three separate FOIL requests have not resulted in the sharing of important environmental and engineering studies conducted by the Town is very disturbing. And the process puts Town residents in a terribly stressful position of trying to get up to speed on, and understand, a myriad of documents created by a team of highly funded experts that have been retained for the express purpose of getting the Town's, in this case the Town Board's, approval to develop the very sloped properties that the Town has sought to protect by passing laws to prevent just that. And the Town's residents most adversely affected by this process must incur substantial costs to secure the protections that are afforded by these well-intentioned slope laws. Plainly stated, we do not comprehend the rational underpinning this attempt to avoid the application of the Town and State slope laws to a very steeply sloped property situated in the Town of Huntington and, in this case, situated directly in the middle of our Halesite community. We also believe the Vineyard Bay Estates subdivision effort flies in the face of the Town's "Horizons 2020 Plan," which lists "Limits subdivision of large properties into smaller lots" as its first strategy

We bring this important matter to our Town Board request that you investigate what is happening in regards to the Planning Board's consideration of this project and direct the TOH Planning Board to:

- **Mandate a POSITIVE New York State SEQRA declaration on Vineyard Bay Estates so that all environmental, water, wildlife, traffic, safety and neighborhood issues are thoroughly investigated by non-interested third parties, ones not being paid by the developers.**
- **Stay any further approvals and suspend further actions for Vineyard Bay Estates until reports from independent experts on the environmental impact of this proposed project are completed through the SEQRA process.**

Respectively Submitted on February 20, 2024,

Nathan Hale Nature Preserve Committee