

**Session of January 3, 1996**

Brookhaven Town Offices

**Present:** Mr. Cowen (for New York State) Ms. Filmanski (for Riverhead), Mr. Proios (for Suffolk County), Mr. Girandola (for Brookhaven), Mr. Freleng (for Southampton).

**Resolution on the Compatible Growth Area  
Application of Ocean Hills at Red Creek  
West of Red Creek Road and Bergen Avenue, Red Creek, Town of Southampton  
SCTM# 900-173-2-1.2**

**Whereas**, on November 20, 1995 Douglas Schmieder filed with the Commission an application pursuant to New York Environmental Conservation Law Section 57-0123(2) for a project known as Ocean Hills at Red Creek, for a major subdivision consisting of 14 single family lots on 45.622 acres with 29.95 acres of open space and,

**Whereas**, pursuant to the *Central Pine Barrens Comprehensive Land Use Plan*, (the "Plan") Volume I, Chapter 4, the project site is a designated Critical Resource Area identified as "Red Creek Site 2 and shown on Figure 4-5 as "S4" of that chapter, and,

**Whereas**, the site was designated a Critical Resource Area because it complemented the surrounding open space, and

**Whereas**, on May 12, 1988, the Town of Southampton Planning Board, pursuant to Article 8 of the New York Environmental Conservation Law ("SEQRA"), declared itself Lead Agency and issued a Determination of Non-Significance, and,

**Whereas**, a public hearing on the compatible growth area application was held by the Commission on December 6, 1995, and,

**Whereas**, the Commission has considered the application and related documents, including the SEQRA materials, now therefore be it

**Resolved**, that the Commission determines that the application meets the standards and guidelines set forth in Volume I, Chapter 5 of the Plan, and be it further

**Resolved**, that the project, through the clustering of the lots in the north, complements the surrounding open space with the addition of a contiguous forest block, and be it further

**Resolved** that the application is granted subject to the following condition:

The applicant shall comply with the soil and erosion control standards in the NYS Department of Environmental Conservation's Best Management Practices as specified in the Standards and Guidelines set forth in Volume I, Chapter 5 of the Plan.

**Record of Motion:**

Motion by Mr. Cowen

Seconded by Mr. Girandola

**Yea Votes:**

Unanimous



**Commission Meeting of July 20, 2005**

**Brookhaven Town Hall, Farmingville, NY**

**Present:** Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Mr. Kent (for Riverhead), Mr. Turner (for Brookhaven) and Mr. Shea (for Southampton)

**Resolution on the Rosko Farms, Inc. 8-lot Subdivision  
Compatible Growth Area Critical Resource Area Application  
955' north of Montauk Highway, East Quogue - Town of Southampton  
Tax Map# 900-215-1-92:**

*(Note: This was amended as noted below by Commission resolution of 7/16/08.)*

**Whereas**, on September 16, 2004, Rosko Farms, Inc., through their representative, Inter-Science Research Associates, Inc., filed with the Commission an application for development within a Critical Resource Area as defined in Chapter 4.5.4.1 of the Central Pine Barrens Comprehensive Land Use Plan, specifically on a parcel in the Henry's Hollow Region, East Quogue, NY; and

Peter A. Scully  
*Chair*

**Whereas**, a public hearing was held on the Compatible Growth Area application on December 15, 2004, January 19, 2005 and May 18, 2005 and transcripts were thereafter made available to the Commission; and

Phillip J. Cardinale  
*Member*

Patrick A. Heaney  
*Member*

**Whereas**, the applicant supplemented their application with information requested by the Commission at each public hearing including a rare species inventory, detailed steep slope analysis and revised site plan; and

John Jay LaValle  
*Member*

**Whereas**, pursuant to the New York State Environmental Quality Review Act and regulations promulgated thereunder ("SEQRA"), the Commission conducted an uncoordinated review of the application as an unlisted action; and

Steve A. Levy  
*Member*

**Whereas**, the Commission has considered all materials submitted in connection with the application; and

**Resolved**, that the Commission determined that the applicant has demonstrated compliance with the standards and guidelines set forth in Volume 1, Chapter 5 of the Comprehensive Land Use Plan, and the protection for the critical resource feature(s) designated in the Plan; and be it further

**Resolved**, that the Commission determines that the application and accompanying information, as submitted, does not need meet the criteria for a Compatible Growth hardship exemption pursuant to New York State Environmental Conservation Law Article 57-0121(10); and be it further

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2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

**Resolved**, that the application for a Compatible Growth Area Critical Resource Area Application is hereby approved subject to the attached conditions; and be it further

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**Resolved**, that the Commission hereby determines that the proposed action will not have a significant impact on the environment pursuant to SEQRA.

**Record of Motion:**

**SEQRA Determination (Neg. Dec.):**

Motion by: Mr. Shea  
Seconded by: Mr. Kent  
Yea Votes: 5  
Nay Votes: 0

**Decision (Approval):**

Motion by: Mr. Shea  
Seconded by: Mr. Kent  
Yea Votes: 5  
Nay Votes: 0

**CONDITIONS OF APPROVAL**

**Rosko Farms 8-Lot Subdivision – SCTM# 900-215-1-92**

1. Erosion control measures shall be implemented specifically at areas of the project site designated as having 10-15% slopes, and 15% or greater as illustrated by the “Slope Analysis Plan for Rosko Farms, Inc.” (Squires, Holden, Weisenbacher & Smith, 2005). “Erosion Control Notes,” listed as part of the “Slope Analysis Plan,” shall be considered incorporated verbatim for the purpose of this condition.
2. The amount of vegetative clearing shall be kept to a minimum during the construction of Malloy Dr., Candace Dr. and Clara Dr. extensions. Any clearing which occurs outside the 50’ ROW shall be revegetated to predisturbance conditions using native pine barrens plant species, consistent with **Chapter 5, Figure 5-2: Planting recommendations** of the Comprehensive Land Use Plan.

*(Note: Condition 3 was modified by Commission resolution of 7/16/08 attached below.)*

3. The area located within each lot (Lots 1-8) outside of the boundary illustrating the “PROP CLEARING LIMIT,” per the “Proposed Conceptual Site Development Plan for Subdivision Map of Rosko Farms, Inc.” (Squires, Holden, Weisenbacher & Smith, June 10, 2005) shall be protected by conservation easement.
4. Residential landscaping shall use native plantings, consistent with Section 5.3.3.6.3 of the Comprehensive Land Use Plan.
5. The areas designated as “Open Space #1” and “Open Space #2” shall be dedicated to the Town of Southampton.
6. Other mitigation measures may be applied to minimize environmental impacts caused by the project. Specifically, disturbance of scrub oaks species should be avoided.



**Commission Meeting of July 16, 2008  
Brookhaven Town Hall, Farmingville, NY**

**Present:** Mr. Scully (New York State), Ms. Meek-Gallagher (Suffolk County),  
Ms. Prusinowski (Brookhaven); Mr. Turner (Brookhaven),  
Mr. Hanley (Town of Riverhead), Mr. Shea (Southampton)

**Adopted Resolution to Amend Condition # 3 of Approval  
Subdivision Map of Rosko Farms, Inc.  
Compatible Growth Area Critical Resource Area Hardship Application**

**Whereas**, by resolution dated July 20, 2005, the Commission approved an eight-lot subdivision with 26.883 acres of open space on a 56.740 acre parcel, in the CR-120 and CR-200 Zoning Districts, in a Critical Resource Area and the Compatible Growth Area of the Central Pine Barrens, in the hamlet of East Quogue, Town of Southampton (SCTM No. 900-215-1-92); and

Peter A. Scully  
*Chair*

Phillip J. Cardinale  
*Member*

Brian X. Foley  
*Member*

Linda A. Kabot  
*Member*

Steve A. Levy  
*Member*

**Whereas**, by letter dated June 10, 2008, the applicant requested clarification of Condition of Approval #3, which stated, "*The area located within each lot (Lots 1-8) outside of the boundary illustrating the "PROP CLEARING LIMIT," per the "Proposed Conceptual Site Development Plan for Subdivision Map of Rosko Farms, Inc." (Squires, Holden, Weisenbacher & Smith, June 10, 2005) shall be protected by conservation easement;*" and to remove the building envelopes shown on said plan on Lots 1 through 4 to allow flexibility in placement of building envelopes, while maintaining the same allowable clearing limits;

**Whereas**, Lots 5 through 8 are encumbered by areas of steep slope topography; said slopes have been identified and will be protected through the filing of conservation easements; no changes are proposed to Lots 5 through 8; and

**Whereas**, Lots 1 through 4 are not encumbered by steep slopes, and the areas of natural vegetation to remain on Lots 1 through 4 will be protected by the filing of a Declaration of Covenants and Restrictions, prior to signature of the final plat by the Town of Southampton.

**Now therefore be it**

**Resolved** the Commission hereby amends Condition #3 of its July 20, 2005 resolution by substituting for the requirement that a Conservation Easement be filed on Lots 1 through 4, a requirement that a Declaration of Covenants and Restrictions be filed on Lots 1 through 4 to implement the clearing and fertilization restrictions as set forth in the resolution; be it further

**Resolved** the Declaration of Covenants and Restrictions on Lots 1 through 4 and the Conservation Easement on Lots 5 through 8 shall be granted to the Commission or Southampton Town, subject to third party enforcement rights to the non-receiving entity; and be it further

**Resolved** copies of the referenced legal documents shall be reviewed and approved by the Commission, prior to filing with the Suffolk County Clerk, and copies of the final signed subdivision plat and legal documents shall be forwarded to the Commission after recording.

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**Record of Motion**

Motion by: M. Shea  
Seconded by: J. Turner  
Yea Votes: 5  
Nay Votes: 0



Commission Meeting of January 18, 2006  
Brookhaven Town Hall  
1 Independence Hill  
Farmingville, NY

Present: Peter Scully (for NYS), (Janet Longo (for Suffolk County), John Turner (for Brookhaven), Chris Kent (for Riverhead), Marty Shea (for Southampton)

**FINAL**  
**Resolution on the Compatible Growth Area Hardship**  
**Application of Hamptons Club at Eastport**

Property located on the South side of CR 111, west of the intersection of Sunrise Hwy (Rte 27) and east of East Moriches - Riverhead Road (CR 51), Eastport, Town of Brookhaven

Peter A. Scully  
*Chair*

Brian X. Foley  
*Member*

Phillip J. Cardinale  
*Member*

Patrick A. Heaney  
*Member*

Steve A. Levy  
*Member*

**Whereas**, Robert Antounucci of CASCO I, LLC, C/O Nelson, Pope & Voorhis submitted a Compatible Growth Area Hardship application on September 20, 2005 to the Central Pine Barrens Joint Planning and Policy Commission (“the Commission”) that requests relief from the 53% clearing limit to construct 64 residential homes with individual septic systems, that will be clustered on the western portion of a 76.44 acre site, zoned A-1 residential, and

**Whereas**, the lots will range in size from 14,700 sf to 41,744 sf and the development will include a recreation building, pool, tennis courts, a tot lot, dog run, lawn/grassy areas for games, and a system of walking trails, in addition to planned surface water features that will occupy 5.9 acres to serve aesthetic and stormwater drainage purpose,

**Whereas**, the project could not meet the clearing standard since the site was cleared and used for farming prior the 1993 Long Island Pine Barrens Protection Act, and

**Whereas**, the Town of Brookhaven Planning Board performed coordinated environmental review of the project pursuant to the New York State Environmental Quality Review Act, (“SEQRA”), and was established as lead agency, and

**Whereas**, the parcel is located in an area designated as a high quality scenic resource as listed in the scenic resource inventory in Chapter 8.5.9 in the Central Pine Barrens Comprehensive Land Use Plan, Volume 2.

**Whereas**, the applicant has worked closely with Town of Brookhaven staff to cluster down the project to the western half of the site, that retains a large unfragmented area to remain as open space and also retains an important viewshed corridor along Sunrise Highway through to CR 111(Wading River Manorville Road), and

**Whereas**, the Commission held a public hearing on the project on November 16, 2005 and a transcript was made available to Commission members thereafter, and

**Whereas**, the Commission has considered all materials submitted in connection with the application including the transcript of the public hearing, and

**Whereas**, the Town of Brookhaven Planning Board (“the Planning Board”) determined the project to be an unlisted action pursuant to SEQRA that will not have a significant adverse impact on the environment, and

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**Whereas**, the Planning Board adopted a Negative Declaration for the Preliminary Cluster Subdivision and Road Improvement Hamptons Club At Eastport on January 9, 2006,

**Now therefore be it resolved**, that Article 57 provides that no application for development shall be approved by any municipality or agency thereof unless such approval or grant conforms to Article 57 and the Plan and absent a hardship exemption granted by the Commission the project does not conform, and be it further,

**Resolved**, the project as depicted on the **Preliminary Cluster Map With Footprints For the Hamptons Club At Eastport**, prepared by Nelson & Pope, revised 11/22/05, retains a 32 acre contiguous open space area and important viewshed corridor from Sunrise Highway through to CR 111 that would not have occurred if it was developed primarily within the cultivated field portion of the site to retain the woods on both the eastern and western portion of the site, and be it further

**Resolved**, that the applicant has demonstrated that the hardship is unique to the project, since it contains a cultivated field that significantly fragments the wooded areas on the eastern and western portion of the site, that does not apply to a substantial portion of the community surrounding the project, and be further

**Resolved**, the vegetation of the aforementioned farm field will be maintained as a successional field that will provide important habitat for various avian and insect species, and be it further

**Resolved**, there is an existing 240 unit residential development project (Eastport Senior Living aka Bristol Estates) immediately adjacent to the west side of this site and there are agricultural areas to the northeast of the site and in the general vicinity, therefore the relief granted will not alter the essential character of the community, and be it further

**Resolved**, the applicant has demonstrated that in order to alleviate a hardship it is necessary to waive strict compliance with the Plan and Article 57 to allow the project as previously described, and be it further

**Resolved**, the application is approved as depicted on the **Preliminary Cluster Map With Footprints For the Hamptons Club At Eastport**, prepared by Nelson & Pope, revised on 11/22/05, subject to the following conditions:

1. The easement area in the rear yards along the western portion of the project is not a Commission requirement, and may be retained or eliminated by the Town.
2. The buffer area along CR 111 is to be planted with large native nursery stock (3" caliber or larger) to adequately screen the project from CR 111.
3. Grading should be performed in a manner to retain natural vegetation where possible during construction.
4. A complete set of site plans shall be submitted to the Commission for review and approval prior to initiation of construction.
5. Landscaping shall incorporate native plants and the landscape plans shall limit fertilizer dependent vegetation to 15% of the project site area. This must be provided to the Commission prior to construction.
6. An educational signage system shall be installed near the pond system area and along the trails and open space area to explain the purpose and importance of these habitat areas to remain natural.

7. The Town shall require a conservation easement on the open space area that requires the applicant or successors to allow the cultivated field portion of the open space to succeed and be managed as successional old field as defined by Eddinger, 2002.
8. No fencing shall be installed along Sunrise Way in order to retain connectivity of the residential development and the open space.
9. The applicant shall implement a contaminated soil management plan as per the draft guidance document prepared by the Suffolk County Department of Health Services Division Of Environmental Quality, "Procedures for Subdivisions, Developments, or Other Construction Projects With Potentially Contaminated Soils" (Draft dated 04/24/03) that is acceptable to the Town to ensure adequate protection of the residents and the environment from prior onsite use of chemicals associated with the agricultural use of the site. A final copy of this plan shall be submitted to the Commission.
10. A copy of this resolution shall be filed with the Suffolk County Clerk and such resolution shall be deemed a covenant on the future use of the property and proof of recording must be provided to the Commission.

**Resolved**, the granting of this hardship exemption is consistent with the purposes and provisions of Article 57 and will not result in a substantial impairment of the resources of the Central Pine Barrens.

Motion on Approval

Made by: J Turner      Seconded by: M. Shea

Vote: Yes    4  
      No      1



**Commission Meeting of June 20, 2007  
Brookhaven Town Hall, Farmingville, NY**

**Present:** Mr. Scully (for New York State), Ms. Carrie Meek Gallagher (for Suffolk County), Mr. Bartunek (for Riverhead), Ms. Prusinowski (for Brookhaven) and Mr. Shea (for Southampton)

**Resolution on the Red Creek Vistas 13 lot Subdivision  
Compatible Growth Area Critical Resource Area Application**

**Property located on the west side of Red Creek Road and the north side of  
Old Squires Road, Hampton Bays - Town of Southampton  
Tax Map# 0900-173.00-02.00-008.001**

Peter A. Scully  
*Chair*

Philip J. Cardinale  
*Member*

Brian X. Foley  
*Member*

Patrick A. Heaney  
*Member*

Steve A. Levy  
*Member*

**Whereas**, on November 28, 2006, James F. Baird & John F. Baird, c/o Inter-Science Research Associates, Inc. filed with the Commission an application for development known as Red Creek Vistas that is located within a Critical Resource Area (CRA), identified in Chapter 4.5.4.1 of the Central Pine Barrens Comprehensive Land Use Plan (“the Plan”) in Figure 4-1 as Red Creek Site 3 West of Red Creek Road and in Figure 4-5 as S5; and

**Whereas**, the project involves the construction of a 13 lot subdivision on a 40.5 acre parcel, zoned CR-120 (1 residence per 3 acres) that is currently partially developed with one dwelling, and

**Whereas**, the subject parcel is designated a CRA pursuant to the Plan because it is part of the corridor for the proposed Paumanok Path segment heading towards Squire Pond; and

**Whereas**, the application was reviewed by staff and considered incomplete, therefore additional information was requested from the applicant; and

**Whereas**, the applicant submitted additional information on February 5, 2007 and the application was deemed complete on February 21, 2007, with a public hearing scheduled for March 21, 2007; and

**Whereas**, a public hearing was held on the Compatible Growth Area-CRA application on March 21, 2007, and the applicant submitted a revised plan entitled “Timothy Kaywood – Red Creek Vistas Cluster Plan II with slope easements” (not a survey), dated March 15, 2007, last revised March 21, 2007; and

**Whereas**, during the Commission’s hearing on this project, Mr. John Bennett, the applicant’s attorney, testified that the common open space shall be deeded to the Town of Southampton and conservation easements shall be placed on the sloped areas; and

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**Whereas,** during the course of the public hearing any interested party was given an opportunity to be heard and transcripts were thereafter made available to the Commission; and

**Whereas,** pursuant to Article 8 of the New York State Environmental Quality Review Act (“SEQRA”), the Town of Southampton Planning Board serving as lead agency classified the project as an unlisted action and conducted a coordinated review; and

**Whereas,** the Town of Southampton Planning Board in its capacity as Lead Agency issued a Determination of Non-Significance (Negative Declaration) for the project, on September 21, 2006; and

**Whereas,** the Commission has considered all materials submitted in connection with the application;

**Now therefore be it**

**Resolved,** the Commission determines that the applicant has demonstrated compliance with the standards and guidelines set forth in Volume 1, Chapter 5 of the Central Pine Barrens Comprehensive Land Use Plan (“the CLUP”), and the protection for the Critical Resource Area by incorporating the existing onsite trail, envisioned to become part of the Paumanok Path, within the open space area to be dedicated to the Town; and be it further

**Resolved,** that the Commission determines that the application and accompanying information, as submitted, does not require a Compatible Growth Area hardship exemption pursuant to New York State Environmental Conservation Law Article 57-0121(10), because it meets the CLUP’s Standards and Guidelines for development; and be it further

**Resolved,** that the application for a Compatible Growth Area Critical Resource Area Application is hereby approved subject to all of the following conditions:

**CONDITIONS OF APPROVAL**

1. The owner must satisfy the requirements as outlined in the Town of Southampton Planning Board Conditional Preliminary Approval, dated April 19, 2007 prior to a building permit being issued.
2. A copy of the final stamped approved subdivision map must be provided to the Commission prior to a building permit being issued.
3. The final subdivision map shall indicate the following requirements as a covenant on the property
  - a. 15% limit on fertilizer dependent vegetation
  - b. 30% overall clearing limit for the subdivision that includes existing clearing and the proposed Red Creek Road realignment. Clearing in violation of the Long Island Pine Barrens Act will be subject to the penalty provisions of NYS ECL Article 57-0136.
  - c. Open Space area is dedicated to the Town of Southampton
  - d. The common open space shall be established and dedicated to the Town of Southampton through the filing of a covenant and deed with the Suffolk County Clerk’s Office.

- e. Sloped areas within the lots as indicated on this map are to be preserved in their natural state through the filing a covenant with the Suffolk County Clerk's Office to establish a slope easement.
4. The property owner must notify the Commission one week prior to the commencement of the construction of roads and drainage.
5. Prior to a building permit being issued, the applicant must provide copies of the approval letters or letters of non-jurisdiction for
  - a. Suffolk County Department Health Services -SCDHS Article 6 requirements
  - b. Town wetland permit
6. A copy of this resolution and the required covenants to satisfy Commission requirements must be filed with the County Clerk's Office and proof of recording provided to the Commission prior to Town of Southampton Planning Board subdivision map signature.

**Record of Motion:**

**Decision (Approval):**

Motion by: Mr. Shea

Seconded by: Ms. Prusinowski

Yea Votes: 5

Nay Votes: 0