



**Central Pine Barrens Joint Planning and Policy Commission
Commission Meeting of September 16, 2026**

Adopted Resolution
49 and 63 Oakcrest Avenue, Middle Island, Town of Brookhaven
Compatible Growth Area Hardship Waiver Application
Suffolk County Tax Map Number 200-343-6-20.1

Present:

Mr. McGarry, for the New York State Governor
Ms. Juengst, for the Suffolk County Executive
Ms. DiBrita, for the Brookhaven Town Supervisor
Mr. Charters, for the Riverhead Town Supervisor
Ms. Moore, Southampton Town Supervisor

I. The Project, Application and Project Site

Ryan P. McGarry
Chairman

Jerome Halpin
Member

Maria Z. Moore
Member

Daniel J. Panico
Member

Edward P. Romaine
Member

Oakcrest Avenue Realty LLC, the Applicant, owns the 4.4-acre property located at 49 and 63 Oakcrest Avenue in Middle Island, Town of Brookhaven, in the Compatible Growth Area (CGA) of the Central Pine Barrens. The property is in the Nursing Home Zoning District. The Applicant is represented by Michael Brusseau of Nelson and Pope and Keith Brown of Brown Altman LLP.

The Project Site, identified as SCTM Number 200-343-6-20.1, is developed with an estimated 32,020 square feet in two three-story nursing home buildings: Surge Nursing and Rehabilitation, 18,050 square feet, and Quantum Nursing and Rehabilitation, 13,970 square feet. The buildings were developed in 1972, prior to the Long Island Pine Barrens Protection Act (the Act) and the adoption of the Central Pine Barrens Comprehensive Land Use Plan (the Plan). The site is currently cleared of natural vegetation except for a limited number of native and non-native trees on the perimeter and other natural vegetation in landscaped areas.

The Applicant requests a CGA Hardship Waiver of three standards in the Plan: vegetation clearance limit, natural open space and fertilizer-dependent vegetation limit. The waiver would allow for additional development on the Project Site, including construction of a 3,350-square-foot building addition and construction of 37 additional parking spaces, regrading, drainage and other infrastructure improvements. The Applicant seeks relief from the vegetation clearance limit standard (5.3.3.6.1), open space standard requirement, unfragmented open space and habitat standard (5.3.3.6.2) and fertilizer-dependent vegetation limit, described in the Plan.

The standard permits a clearing limit of 60% (2.64 acres) and a minimum open space requirement of 40% (1.76 acres). The maximum fertilizer dependent vegetation limit is 15% (0.66 acres). The Project includes planting trees and vegetation in landscaping and constructing a rain garden for stormwater control. An area of 0.42 acres will be planted with native species. The area to remain natural is not considered open space. No natural open space in conformance with the intent or quantity of open space required in this standard is provided. Fertilizer-dependent vegetation will be reduced from its current extent of 32% to 22.1%; therefore, it will continue to exceed the 15% maximum limit. The Site Plan dated

624 Old Riverhead Road
Westhampton Beach, NY
11978

Phone (631) 288-1079
www.pb.state.ny.us

June 2024, last dated September 2, 2026, prepared by Nelson and Pope depicts the Project.

The Project Site lot coverages on 4.4 acres include: 2.26 acres of impervious surfaces, 1.3 acres of landscaping and 0.84 acres of building area.

The Applicant requires the Commission's approval because the Project is in the CGA of the Central Pine Barrens and the activity constitutes development, as defined in Article 57 of the New York State Environmental Conservation Law. The Project does not conform with the Vegetation Clearance Limit Standard, 5.3.3.6.1, and Open Space Standard, 5.3.3.6.2, and 5.3.3.6.3 Fertilizer-dependent Vegetation Limit, outlined in the Plan and implemented in the Town Code, therefore a CGA hardship waiver is required.

II. The Long Island Pine Barrens Protection Act of 1993, the Commission, Development, and the Central Pine Barrens Comprehensive Land Use Plan

The Commission was created by the Long Island Pine Barrens Protection Act (the Act) adopted in 1993 and codified in Article 57 of the Environmental Conservation Law (ECL). The Act empowered the Commission to, among other things, oversee land use activities within the specially designated Central Pine Barrens area. The Commission has jurisdiction over development in the Central Pine Barrens area as such term is defined in the Act. Development includes excavation or the material alteration of grade or vegetation. In 1995, the Commission adopted the Central Pine Barrens Comprehensive Land Use Plan (the Plan), last revised April 19, 2023. In the Plan are Standards and Guidelines to govern development in the Central Pine Barrens.

III. The Application and Materials Submitted to the Commission

On June 4, 2026, the Applicant submitted to the Central Pine Barrens Joint Planning and Policy Commission a CGA Hardship Waiver Application for the Project. The Application contained items including a project description, a review of Standards of the Comprehensive Land Use Plan, a review of Town Law Section 267-b, an existing conditions survey and site plan package dated September 2, 2026 prepared by Nelson and Pope, a notarized owner's affidavit, Full Environmental Assessment Form Part 1 and aerial photographs.

IV. Public Process

On June 17, 2026, the Commission scheduled a public hearing for July 15, 2026. At the public hearing, a Commission Staff Report with eight items, Exhibits A through H, were introduced into the record. The Staff Report was made available to the Applicant prior to the meeting.

At the July 15 Hearing, the Commission received sworn testimony from the Applicant's representatives, who also provided a PowerPoint presentation. A stenographic transcript was made of the hearing. A one- week written comment period was provided. One member of the public representing the Middle Island Civic Association submitted written comments dated July 15, 2026. The comments discussed focused on consideration for facility improvements related to signage, runoff, lighting traffic and architectural elements.

On September 2, the Applicant submitted a revised Landscape Plan last dated September 2, 2026 prepared by Nelson and Pope and information regarding additional plantings and a reduced area of fertilizer dependent vegetation. The Landscape Plan was revised in response to feedback in the staff report. Native plant coverage was expanded by 3,744 square feet for a total of 0.42 acres. The extent of fertilizer dependent vegetation was reduced by 3,744 sf to 22.1%, continuing to exceed the maximum limit of 15% on the Project Site. The sanitary leaching system and other utilities are present underneath the large lawn area requiring it to remain free of tree roots and other plants that could cause access and other obstructions.

V. The Study Area

The Staff Report defined a Study Area which analyzed, in general, the land use, ownership, and zoning categories within a one-half-mile radius of the Project Site. To analyze the Project in relation to its environs, a Study Area was defined, and the land use therein analyzed. The Study Area is defined to be all the land within a one-half-mile radius around the Project Site.

The Study Area is centered on the northeast corner of Church Lane and Oakcrest Avenue. It is bound on the east by Brookhaven Town open space, opposite Pine Lake Park, a 3.4-acre surface water wetland feature, and residential development to the north and west.

Land uses within the Study Area include single-family residential communities and natural open space. Ten acres of natural open space owned by Suffolk County is located approximately 600 feet to the south, opposite Pine Lake Park. Brookhaven Town owns approximately 10 acres of natural open space in the Study Area.

The residential zoning district A Residence 1 surrounds the Project Site in the Study Area, with the exception of four parcels on Half Mile Road in the J2 Business District.

Compatible Growth Area Hardship Waiver applications similar in nature include:

- 10/11/1995 - Mavis Development Corp. (SCTM # 200-378-3-49). Developed site approved for gas station and convenience store with parking.
- 2/7/1996 - Aroya and Brodbeck (SCTM # 200-402-1-16.12 and 16.2). Developed site approved for new construction and parking.
- 5/18/2005 and 1/16/2013- Longwood Public Library (SCTM # 200-402-1-23.1, 24.9; 200- 403-1-3, 4, 17, 18). Parking lot expansion and drainage improvements.
- 8/16/2017 - R.N. Middle Island, 7-Eleven Middle Island (SCTM # 200-378-2-37.2 and 200-403-1-2.1 and 2.3). Two developed parcels and one undeveloped parcel approved for change of zone to develop a gas station and convenience store with a natural restoration area of 0.35 acres.
- 7/16/2025 - 599 Middle Country Road (Starbucks Middle Island) (SCTM # 200-402-2-2). Developed site approved for clearing and open space relief for a change of zone to reuse commercial building formerly used as a bank as a drive through restaurant.

VI. State Environmental Quality Review Act (SEQRA) and Other Agency Jurisdictions

The Commission classified the Project as an Unlisted Action and performed an uncoordinated review. The Commission prepared Environmental Assessment Form Parts 2 and 3. No significant adverse environmental impacts were identified.

The Commission requested information from the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) on whether the Project would impact State listed historic or prehistoric resources. OPRHP replied on July 16, 2026 that no properties, including archaeological and/or historical resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by the Project.

The Application refers to a letter dated July 19, 2023 from the New York Natural Heritage Program. It identified listed species including the threatened Bald Eagle and endangered Northern Long-

Eared Bat (NLEB) as documented within one mile and 2.5 miles, respectively. The Applicant concluded that the location of bald eagles is just below the one mile threshold within an area containing significant wooded habitat, homes and other development between the project site and the nesting location. No tree cutting activity will occur in the NLEB protective window of March 1 to November 30 to protect this species and its habitat.

The Project requires additional permits or approvals from other involved agencies including the Town of Brookhaven and Suffolk County Department of Health Services (SCDHS) Articles 6, 7 and 12.

VII. Conformance Review of Project with Plan Standards and Impact on Goals of the Plan

Commission review of the Application requires a Project to demonstrate conformance with the Standards set forth in Volume 1, Chapter 5 of the Plan. If the Project does not conform with one or more provisions, and is not modified to conform, the Act authorizes the Commission, by majority vote, to waive strict compliance with the Plan upon finding that such waiver is necessary to alleviate a demonstrated hardship. Standards that do not apply to the Project are noted in the review. This review identifies where conformance is deferred to other agencies that regulate uses and activities to protect public health, water and natural resources. The Applicant must adhere to applicable regulations and permit requirements of other agencies.

The following sections evaluate the potential impacts of the Project based on the complete information submitted by the Applicant and conformity with the Plan's Standards. Conformance requires that any and all applicable approvals and permits will be obtained by the Applicant.

A. Water Resources

The Plan's Standards related to water resources are identified below. Also included is a discussion of the Project's potential impacts to water resources, mitigating measures and conformance.

1. Sanitary waste, nitrate-nitrogen and other chemicals of concern

a. Standard 5.3.3.1.1 Suffolk County Sanitary Code Article 6 compliance

The Project must continue to conform with Article 6. It is expected that the Applicant will satisfy the procedural requirements of the SCDHS. Conformance of the Project with this standard is conditioned on the Applicant obtaining SCDHS approval of Article 6 compliance.

b. Standard 5.3.3.1.2 Sewage treatment plant discharge – An existing sewage treatment plant accommodates sanitary wastewater. No additional flow is proposed. This standard is not applicable since no change will occur that affects conformance.

c. Standard 5.3.3.1.3 Suffolk County Sanitary Code Articles 7 and 12 compliance

The Project must satisfy the requirements of the Suffolk County Sanitary Code as per this standard. Conformance of the Project with this standard is conditioned on the Applicant satisfying SCDHS compliance with the Sanitary Code.

d. Standard 5.3.3.1.4 Commercial and industrial compliance with Suffolk County Sanitary Code

The Project must satisfy the requirements of the Suffolk County Sanitary Code as per this standard. Conformance of the Project with this standard is conditioned on the Applicant satisfying

SCDHS compliance with the Sanitary Code.

2. Wellhead and groundwater protection

a. Standard 5.3.3.3.1 Significant discharges and public supply well locations

No significant discharges are proposed in groundwater contributing areas of existing public water supply well field locations. The Project conforms with Standard 5.3.3.3.1.

3. Wetlands and surface waters

The Project Site is not within the jurisdictional limits of freshwater or tidal wetland regulations; therefore, this section is not applicable.

a. Standard 5.3.3.4.1 Nondisturbance buffers – Not applicable

b. Standard 5.3.3.4.2 Buffer delineations, covenants, and conservation easements – Not applicable

c. Standard 5.3.3.4.3 Wild, Scenic and Recreational Rivers Act compliance – Not applicable

4. Stormwater runoff

a. Standard 5.3.3.5.1 Stormwater recharge

Stormwater runoff must be retained on the Project Site based on stringent retention and design standards. The Project's drainage system is subject to the review and approval of the Town engineer and planning staff. The drainage system will be upgraded. Stormwater recharge will be improved through upgrades to the drainage system. The project involves ground disturbance of 1.67 acres and is subject to the State Pollutant Discharge Elimination System (SPDES) General Permit for construction activity requirements. The Project conforms with Standard 5.3.3.5.1.

b. Standard 5.3.3.5.2 Natural recharge and drainage

The Project includes regrading and alteration of the drainage system including construction of a 2,660-square-foot rain garden and 2,338 square feet of "new seeded area and dogwood trees and foundation plantings." This aids in improving natural recharge on-site, demonstrating conformance with Standard 5.3.3.5.2.

c. Standard 5.3.3.5.3 Ponds – The Project does not include ponds; therefore, this standard is not applicable.

d. Standard 5.3.3.5.4 Natural topography in lieu of recharge basins – The Project does not include excavated recharge basins; therefore, this standard is not applicable.

e. Standard 5.3.3.5.5 Soil erosion and stormwater runoff control during construction - The Project involves ground disturbance of 1.67 acres and is subject to the requirements of a Stormwater Pollution Prevention Plan and SPDES General Permit for stormwater discharges from construction activity. The Applicant will apply for and obtain the required permits prior to site disturbance to conform with this standard.

B. Land Use and Ecology

The Plan's standards related to natural vegetation and plant habitat are identified below. Also included is a discussion of the Project's potential impacts to natural vegetation and plant habitat, mitigating measures and conformance.

1. Natural Vegetation and Plant Habitat

a. Standard 5.3.3.6.1 Vegetation clearance limits

The maximum clearing limit is 60% (2.64 acres) of the Project Site. The clearing limit is based on the non-residential zoning category in Figure 5-1 of the Plan.

The Project is designed to clear the limited area of existing natural vegetation including native trees on the perimeter, leaving only landscaped areas to contain trees and other vegetation. One exception is the large existing oak tree that will remain in place on the southwest corner of the Project Site, where Oakcrest and Church intersect. Therefore, the Applicant is seeking relief from conformance with this standard or a waiver of the maximum limit of 60%.

The building and parking lot expansions will increase footprint and impervious. The site does not contain non-contiguous parcels, split zoning, residential overlay districts, areas of environmental restoration pursuant to ECL §57-0107(13)(c) and is not split between the Core Preservation Area and CGA. Therefore, Standards 5.3.3.6.1.1, 5.3.3.6.1.2, 5.3.3.6.1.3, 5.3.3.6.1.4, and 5.3.3.6.1.6 do not apply. Standard 5.3.3.6.1.5 includes the filing of the CGA Hardship Waiver Application which was received June 4, 2026.

b. Standard 5.3.3.6.2 Open space standard requirement, unfragmented open space and habitat

The minimum open space requirement is 40% (1.76 acres) of the Project Site. The minimum is based on the non-residential zoning category in Figure 5-1 of the Plan.

The Project Site was developed to its current extent approximately 54 years ago. No areas of natural open space are present and none are available on the Project Site to set aside to conform with this standard. The Project utilizes the existing cleared areas for development to expand and upgrade facilities.

With an extremely limited amount of existing natural vegetation on the Project Site, no open space is present either. Therefore, the Applicant is seeking relief from the minimum open space requirement of 40%. No mitigation is proposed. The Landscape Plan last dated September 2, 2026 prepared by Nelson and Pope depicts landscaping including native plant species. Planting native species in landscaping does not constitute open space or restoration. Plantings in the Project will not be protected as open space in a covenant or easement.

The rain garden is a constructed system, albeit a green infrastructure alternative stormwater collection and treatment system, that is designed for drainage and not intended to achieve conformance with the open space standard and it does not achieve the intent of this Standard. Although it includes the installation of native plants, it does not constitute open space or a restoration area. No area of open space on or off site that meets the intent of this standard is provided due to 1) extent of pre-existing development on the Project Site and 2) the fact that the Applicant does not own contiguous or non-contiguous property that is offered to be set aside as natural open space. Therefore, the Project requires

a waiver from the minimum 40% open space requirement.

c. Standard 5.3.3.6.3 Fertilizer-dependent vegetation limit

The maximum fertilizer-dependent vegetation limit is 15% (0.66 acres) of the Project Site. The Landscape Plan last dated September 2, 2026 depicts a reduction in fertilizer-dependent vegetation from 32% (1.4 acres or 61,500 square feet) to 22.1% (0.974 acres or 42,429.6 sf). The Project Site continues to exceed the limit and does not conform with Standard 5.3.3.6.3.

d. Standard 5.3.3.6.4 Native Plantings

The Landscape Plan depicts the use of native species of trees, shrubs and groundcovers to be planted in the parking lot for a rain garden to collect stormwater and in landscaping including the easternmost corners on the Project Site. Native plantings are included in parking lot islands, existing lawn areas and adjacent to the buildings. The Project conforms with Standard 5.3.3.6.4.

e. Standard 5.3.3.6.5 Receiving entity and protection for open space areas

Not applicable. Landscaping and stormwater drainage or rain gardens with planted areas do not constitute natural open space in this Project and therefore will not be protected.

2. Species and Communities of Special Concern

a. Standard 5.3.3.7.1 Special species and ecological communities

The Project Site is within one mile of threatened nesting bald eagles and 2.5 miles from endangered Northern long-eared bats. The Applicant will seek any permits or approvals necessary from other agencies such as USFWS and NYSDEC for the Project and adhere to protection requirements for species and their habitats to conform with this Standard.

b. Standard 5.3.3.7.2 Bird conservation and protection

The Applicant will utilize bird friendly decals or other measures in the Project where feasible. The Project conforms with Standard 5.3.3.7.2.

C. Other Resources

The following Standards apply to projects not subject to local municipal review. Therefore, this section is not applicable.

1. Dark sky compliance

a. Standard 5.3.3.9.1 Light pollution prevention – The Project will utilize dark skies compliant fixtures as per town code regulations. The Project conforms with Standard 5.3.3.9.1.

2. Scenic, historic and cultural resources

b. Standard 5.3.3.11.1 Tall structures and scenic resources – Not applicable

VIII. The Commission Review of the Act's Extraordinary Hardship Criteria and Findings

The Commission has considered all materials submitted in connection with the Application including the transcript of the public hearing.

The Commission finds the Applicant has established the existence of a hardship pursuant the criteria set forth in New York State Town Law §267-b.

The site is zoned for a health care facility and it has been developed and used for this purpose since 1972, or 54 years, and preceded the Act by 21 years. The Project seeks to construct or reconstruct areas to achieve essential improvements and upgrades that will help to provide the best possible nursing and rehabilitation services while remaining a competitive and viable health care facility. The Project activities that cause the hardship accommodate residents, patients, visitors and staff of the facility.

The hardship is not just financial or a matter of inconvenience; it is a hardship to users of the facility. The upgrades seek to modernize the facility and are essential to resident and patient long-term physical and cognitive well-being, recovery and long-term sustainability. Adaptive reuse of the developed site can provide opportunity for a reasonable return to the Applicant.

The Project is unique and does not apply to a substantial portion of the district or neighborhood. The site contains a pre-existing facility constructed prior to the Act and the Project will continue to allow the use of the facility that is integral to its patients and staff with updates to infrastructure to improve conditions for the community and the facility. To accommodate the Project the Applicant seeks to clear the limited amount of natural vegetation left on a developed site in a densely developed single-family residential neighborhood. Native plantings and infrastructure upgrades as well as meeting room space and parking additions will improve conditions on the Project Site and in the neighborhood.

The Project will not negatively alter the essential character of the neighborhood; in fact, the Project is anticipated to improve the neighborhood character, site conditions and use. It will help to address neighbor and community concerns regarding on street parking, noise and public safety, while also accommodating changes needed to the facility itself.

The Project reduces the extent of fertilizer-dependent vegetation, including lawn and ornamental plants and invasive species and replaces these with native species to reduce the extent to maintained vegetation and nitrogen loading. The Application explains that seed mixes will be applied to reduce fertilizer use, however the existing area of grass is where the onsite STP subsurface leaching system is located to support natural recharge. Extensive root systems could grow and adversely affect the subsurface leaching system and its maintenance therefore the lawn cover over the sanitary leaching field is necessary. Native landscaping will be installed, however it is not scaled to contribute at a meaningful scale to conform with the open space standard, therefore it will not be considered natural open space and it will not be protected in a covenant or easement.

According to testimony in the public hearing, the community is concerned about parking on and around the Project Site. The Applicant seeks to alleviate these concerns through the Project improvements and upgrades.

The Commission finds that the Project Site was significantly developed prior to the Act with buildings, parking lots and septic system installations. The pre-existing developed area coverages leave limited undeveloped area on the project site except on the perimeter. It determines that upgrades to reconfigure parking and allot more parking spaces to accommodate the use on the project site, a facility and use constructed prior to the Act, are necessary and improve environmental conditions including traffic circulation,

neighborhood character and quality of life in the community. The Project will not alter the essential character of the neighborhood. It continues to operate as a nursing care facility consistent with the existing use. Planting native vegetation where feasible in undeveloped sections of the project site will support and improve natural recharge, drainage conditions and aesthetic features.

The Commission determines that the Applicant has demonstrated that the alleged hardship has not been self-created because the Project Site was developed prior to the adoption of the Act and the Project including upgrades to the parking lot, stormwater and interior space for residents and visitors aim to meet current nursing industry standards for this type of facility, while not adding beds or wastewater in the use. Only necessary elements are proposed for the use to remain viable on the Project Site and to provide quality care for users of this facility.

The Project is not inconsistent with the purposes and provisions of ECL §57-0123(3)(b) and would not result in substantial impairment of the resources of the Central Pine Barrens area. The Project supports the continued use of a previously cleared and developed property within the CGA while also providing improvements to accommodate the use on the Project Site. There is no increase in the number of beds or patient rooms; improvements to services, infrastructure and the community are necessary to remain in conformance with modern standards, needs and requirements for this type of land use.

The Applicant explained that the Project is needed to accommodate and update conditions in existing nursing facilities. The Application explains:

“The proposed Surge building addition and previously disturbed outdoor amenity space will be used by patients and residents as places to enjoy time with their family and friends. These types of spaces help to create a comfortable homestyle atmosphere that is essential to physical, mental, and emotional health and well-being. Such spaces help patients combat loneliness and isolation and provide opportunities to meet new people and create long lasting friendships, enabling human interaction and new social connections with other similarly situated individuals. Social interaction has been shown to reduce patient/resident anxiety, provide mental stimulation which may help slow the pace of cognitive decline and instill a more positive outlook on the future. In addition, such amenities provide a neutral space and change of scenery outside of patient rooms, where social engagement, passive physical activities, special events, games, and other group activities can occur. The proposed indoor and outdoor amenity spaces will not only improve the quality of life and overall experience of residents at these facilities but is essential to Surge and Quantum’s future success and long-term sustainability. This is because improvements to patient care, convenience, and patient health, helps these rehabilitation and nursing facilities to remain competitive with larger modern facilities, at a time when such services are in great demand as overall population increases and the Baby Boomer generation ages.”

The Applicant explains that the nursing facility is currently in operation and economically viable, however, it is compromised and lacks sufficient parking. The Application states, “If the hardship is not granted the facility could be subject to a loss of revenue as a result of competition with other more optimized facilities, thus stressing the ability to continue in a manner that provides a reasonable return.” The site’s zoning for nursing home provides no other viable use, and land use conforms with the zoning code.

The Applicant maintains that the Project will not increase the capacity of uses on the Project Site such as beds, kitchens or other uses that generate septage. Although the Project does not conform with the Plan, the Commission determines that the inability to conform is based on the pre-existing development on the Project Site and requiring a site developed to this extent to conform with current Plan’s vegetation and open space limits would be unreasonable. The Commission determines that continuing to use a site that is developed is preferable to developing a wooded or “green” site and potentially granting a waiver to exceed standards on an

undisturbed site. The Application indicates the Applicant does not own other property contiguous or non-contiguous that could be protected to achieve greater conformance with the Plan and requiring acquisition is not feasible or reasonable.

The Applicant intends to develop a Project that will modernize and improve existing facilities to make them safer, healthier and more enjoyable as well as improve the quality of life on the Project Site and in the community. The Project aims to achieve a greater level of economic competitiveness and sustainability.

The Applicant seeks to “maintain and improve facilities to remain competitive and provide a better workplace for staff, minimize impacts on neighbors and improve health and safety of the facility’s clientele. Relocating to another location after 54 years serving the community is not an option.”

IX. Conclusion

The Commission determines that the Project as depicted in the Site Plan package last dated September 2, 2026 prepared by Nelson and Pope, complies with Standards outlined in the Plan, except for compliance with three Plan Standards: Standard 5.3.3.6.1, 5.3.3.6.2 and 5.3.3.6.3. The Commission finds that the Applicant has established that an extraordinary hardship exists and, therefore, grants an extraordinary hardship exemption for the reasons set forth above. The Commission issues a Negative Declaration for the Project pursuant to the SEQRA regulations.

The Commission further imposes the following conditions on the Project:

Other agency approvals and permit requirements

The Project requires satisfaction with the requirements of other agencies including the Town of Brookhaven and Suffolk County Department of Health Services. The Applicant must seek and obtain other agency review and permit approvals, including but not limited to:

1. NYSDEC Stormwater Pollution Prevention Plan
2. Suffolk County Department of Health Services approval for Article 6
3. Suffolk County Department of Health Services for Articles 7 and 12
4. Town of Brookhaven site plan approval and any other approvals

Conditions

1. No disturbance on the Project Site unless and until all permits and approvals have been received.
2. This decision grants three waivers of Plan Standards due to the pre-existing developed condition of the Project Site and continued use of the Project Site including:
 - a. 5.3.3.6.1 Vegetation Clearance limit to a limit from 60% to zero.
 - b. 5.3.3.6.2 Open Space to a limit from 40% to zero
 - c. 5.3.3.6.3 Fertilizer-dependent vegetation limit to a maximum limit of 22.1%.
3. Implement the Landscape Plan last dated September 2, 2026 prepared by Nelson and Pope. Notify the Commission office when landscaping is complete to perform an inspection with 30 days of completion.
4. This hardship is valid only for the Project under review in this application. Any substantive changes require a new application including expansion of the project or substantial redesign is subject to

Commission review discretion.

5. The Commission's approval is valid for five (5) years from the Commission's date of approval.
6. Record a copy of this document including an 8.5"x11" black and white copy of the Site Plan in the Office of the Suffolk County Clerk and distribute to involved agencies.

Motion to Approve: 49 and 63 Oakcrest Compatible Growth Area Hardship Waiver

49 and 63 Oakcrest Avenue, Middle Island, Town of Brookhaven

Project Site Suffolk County Tax Map Number 200-343-6-20.1

MOTION BY: Ms. DiBrita

SECONDED: Ms. Moore

VOTE:

YES: 5

NO: 0

ABSTAIN: 0

ABSENT: 0

DATE: September 16, 2026

cc:

NYSDEC Region 1 Permits

Suffolk County Department of Health Services

Town of Brookhaven Supervisor

Town of Brookhaven Town Clerk

Town of Brookhaven Planning Environment and Land Management

Applicant