



**Commission Meeting of October 18, 2006**

**Riverhead Town Hall, Riverhead, NY**

Present: Mr. Scully (New York State), Mr. Isles (Suffolk County), Mrs. Prusinowski (Brookhaven), Mr. Shea (Southampton), Mr. Kent (Riverhead)

**Resolution on the Compatible Growth Area Hardship Application  
Request of Newport Estates @ Miller Place – William Dries c/o Certilman Balin  
Alder & Hyman, LLP.**

*(Note: This was amended as noted below by Commission resolution of 2/27/08.)*

Property located approximately 1500 ft. e/o Miller Place Rd. and 175 ft. s/o NY State Route 25A, Miller Place, Town of Brookhaven.-- Tax Map #: 200-98-8-6 through 10 inclusive, 200 -98-8-29 through 34 inclusive, 200-120-3-1 through 21 inclusive

Peter A. Scully  
*Chair*

Phillip J. Cardinale  
*Member*

Brian X. Foley  
*Member*

Patrick A. Heaney  
*Member*

Steve A. Levy  
*Member*

**Whereas**, on August 22, 2003, **Certilman Balin Alder & Hyman, LLP.**, on behalf of **William Dries** filed an application with the Commission requesting a Compatible Growth Area Hardship Permit for an original proposal to subdivide 10.55 acres into 15 residential building lots. The current request and Town approved subdivision map shows the abandonment of rights-of-way, the construction of new streets and development of 15 lots on 11.78 acres. The subject property is primarily wooded and undeveloped although there are several areas of existing clearing. The parcel is zoned A Residence 1 and is vacant.

**Whereas**, this application requires permission to develop 15 single-family homes on lots created by reorganizing the old filed map underlying the proposed subdivision. The applicant seeks relief from Standards **5.3.3.6.1 Vegetation Clearance Limit, 5.3.3.6.2 Unfragmented Open Space, and 5.3.3.6.3 Fertilizer-Dependent Vegetation**; and

**Whereas**, a public hearing on the application was held by the Commission on January 21, 2004 with any interested party being given an opportunity to be heard; and

**Whereas**, the Commission, at its September 15, 2004 meeting, issued a preliminary recommendation letter indicating support for the application provided several conditions were addressed by the applicant and Town of Brookhaven; and

**Whereas**, the representatives of the applicant and Town of Brookhaven have indicated that all Commission preliminary conditions have been satisfactorily addressed and that the Town issued a final subdivision approval on September 12, 2006; and now therefore be it

**Resolved**, that the proposal for the abandonment of rights-of-way, the construction of new streets and development of 15 lots on 11.78 acres is an Unlisted Action subject to the State Environmental Quality Review Act (SEQRA), and be it further

**Resolved**, that the Town of Brookhaven has issued a negative declaration of environmental significance on September 12, 2006 and the Commission, as an involved Agency, pursuant to SEQR Part 617.6(b)(4) hereby determines that no significant environmental impact will occur and issues a notice of determination of non-significance, and be it further

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**Resolved**, that the Commission has considered the criteria for issuance of a Compatible Growth Area Hardship Permit pursuant to ECL Article 57-0121(9) and Town Law 267-b, and be it further

**Resolved**, the applicant has demonstrated the necessary hardship and will comply with the preliminary recommendations and conditions set forth in the Commission letter of September 16, 2004; and

**Resolved**, that the Commission hereby grants the necessary hardship subject to the following conditions:

1. Subject to the submission of a letter from the SCDHS indicating that the project meets ALL applicable requirements of the Suffolk County Department of Health Services or, if the project requires variances from the provisions of Article 6, meets ALL requirements of the Suffolk County Department of Health Service's Board of Review.
2. Submission of an updated letter from the Town of Brookhaven Town Attorney indicating that the underlying old filed map contained at least 15 single and separate lots on June 1, 1993. The final approved subdivision map signed by the Chairman of the Town of Brookhaven Planning Board and filed with the Office of the County Clerk may be submitted in lieu of the updated letter.
3. No more than 25 % of each lot shall be established in fertilizer dependent vegetation.
4. The Town shall impose restrictions and requirements that ensure compliance with the clearing and fertilizer dependent vegetation limits that are modified by the Commission.
5. All stormwater runoff originating from the subdivision map shall be recharged either on site and/or into the existing recharge basin in Imperial Estates, Sec. 3, and the drainage system shall not involve the use of any areas that are to be preserved as natural vegetation.
6. During construction, building envelopes on each lot shall be graded individually so as to preserve the maximum area of natural vegetation possible, including areas along lot lines, and front and side yard areas. After Certificates of Occupancy have been issued, the maximum overall clearing on the site shall be increased to be no greater than 65%. Areas to be permanently preserved within the dwelling lots shall be substantially contiguous rectilinear-shaped blocks of open space to the rear and/or side of the dwellings only. Any existing cleared areas within the areas to be permanently preserved shall be allowed to revert (succeed) to native vegetation.
7. The developer of any part of this subdivision shall be required to adhere to grading, drainage, and vegetation preservation plans that are in compliance with the Commission's conditional approval.
8. The applicant shall incorporate SCTM # 200 - 98 - 8 - 11 as part of its project.
9. ~~The road connection of Shoreham Avenue to the Imperial Estates subdivision shall be constructed.~~ (Note: Condition 9 removed as per Commission resolution of 2/27/08 attached below)

10. This approval applies to the preliminary plan, dated November - 2002 and stamped received by the Commission office on October 12, 2006, which indicates fifteen (15) or less single family lots provided that they are acceptable to the Town and in compliance with all conditions. A final plan, indicating compliance with these conditions and the Comprehensive Land Use Plan Volume I – Chapter 5 Standards shall be submitted to the Town of Brookhaven for review with an approved copy being sent to the Commission office upon completion.
11. This resolution and all conditions are to be filed with the Office of the County Clerk as a covenant on the properties within 60 days of this approval. Proof of filing shall be returned to the Commission office no later than January 18, 2007.

**Record of Motion - Decision (Approval with Conditions):**

Motion by: Commissioner Prusinowski                      Yea Votes: 5

Seconded by: Commissioner Shea                      Nay Votes: 0



**Commission Meeting of February 27, 2008  
Riverhead Town Hall, Riverhead, NY**

Present: Mr. Scully (New York State), Ms. Meek-Gallagher (Suffolk County), Ms. Prusinowski (Brookhaven), Mr. Turner (Brookhaven) Mr. Shea (Southampton), Mr. McCormick (Riverhead)

**Adopted Resolution  
Amendment of Approval for the  
Compatible Growth Area Hardship Application  
Newport Estates @ Miller Place**

**Whereas**, by resolution dated October 18, 2006, the Commission granted a Compatible Growth Area Hardship Permit for Newport Estates at Miller Place, and

Peter A. Scully  
*Chair*

**Whereas**, the project consists of a proposal to subdivide 10.55 acres into 15 lots, the abandonment of rights-of-way, and the construction of new streets, and

Phillip J. Cardinale  
*Member*

**Whereas**, the project site is primarily wooded and undeveloped, with some existing cleared areas. The project site is situated in the A-1 Zoning District (min. 40,000 sq. ft. lots) and is located approximately 1,500 ft. e/o Miller Place Road and 175 feet s/o NY State Route 25A, Miller Place, Town of Brookhaven, Suffolk County Tax Map Numbers: 200-98-8-6 through 10 inclusive, 200-98-8-29 through 34 inclusive, 200-120-3-1 through 21 inclusive, and

Brian X. Foley  
*Member*

Linda A. Kabot  
*Member*

**Whereas**, by resolution dated November 5, 2007, the Town of Brookhaven Planning Board granted condition preliminary/final re-approval of the subject application, which included a condition (#20) that states:

Steve A. Levy  
*Member*

*“Subject to complying with all conditions of the Central Pine Barrens Joint Planning and Policy Commission hardship exemption. The condition/covenant requiring construction for the road connection of Shoreham Avenue to the Imperial Estates subdivision will need to be modified;”*

**Whereas**, by letter dated January 3, 2008, the applicant submitted a request to remove condition number “9” from the Commission’s October 18, 2006 conditional approval, which states,

*“The road connection of Shoreham Avenue to the Imperial Estates subdivision shall be constructed;”*

**Whereas**, the Town of Brookhaven Planning Board approved the elimination of a road connection;

**Whereas**, the Negative Declaration adopted by the Town of Brookhaven Planning Board on September 12, 2006 was not predicated on and did not contain reference to the condition of approval that required construction of the cross access road connection;

**Whereas**, the Commission does not object to the request to eliminate the condition of approval that required construction of a cross access road connection.

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**Resolved,** that the Commission hereby grants the request to remove Condition #9 from the October 18, 2006 approval.

February 27, 2008

**Record of Motion – Amendment of Approval (Newport Estates @ Miller Place Subdivision)**

Motion by: Mr. Scully

Seconded by: Mr. Shea

Yea Votes: 5

Nay Votes: 0