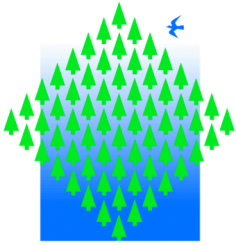


Commission Meeting of October 19, 2005  
Quogue Wildlife Refuge Nature Center  
Old Country Road, Quogue, NY



**CENTRAL  
PINE  
BARRENS**  
JOINT  
PLANNING  
&  
POLICY  
COMMISSION

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

**Final**

Resolution on the Compatible Growth Area Hardship  
Application of Eastern Suffolk Development  
Property located east of Wading River Road, on the NW Corner of Kay Road  
and Route 25, Wading River, Town of Riverhead  
Tax Map Number: 600-115.01-1-22

Peter A. Scully  
*Chair*

Philip J. Cardinale  
*Member*

Patrick A. Heaney  
*Member*

John Jay LaValle  
*Member*

Steve A. Levy  
*Member*

**Whereas**, Eastern Suffolk Development Corp. (Eastern) by its attorney Stephen R Angel, submitted a Compatible Growth Area (CGA) hardship waiver application to the Central Pine Barrens Joint Planning and Policy Commission (the “Commission”) on June 23, 2005 to construct three separate shopping/office commercial buildings totaling 17,731 square feet, to construct a 71 car parking lot, to clear 76% and to place fertilizer dependent vegetation on the remaining 24% of the above referenced 2.269 acre parcel which is zoned RB-80 (the “Project”) claiming that the Central Pine Barrens Comprehensive Land Use Plan’s (the “Plan”) provision which limit clearing and the amount of fertilizer dependent vegetation that may be placed on the parcel caused Eastern unnecessary hardship, and

**Whereas**, when Eastern acquired the property in November 2002 the zoning of the parcel was Business CR, and

**Whereas**, Eastern submitted a site plan to develop the Project pursuant to the Business CR zone to the Town of Riverhead in July 2003, which application was not approved by the Town, and

**Whereas**, Eastern commenced an action against the Town seeking to have the denial of the Project reviewed and annulled and for an approval of the Project, and

**Whereas**, Justice Oliver of the New York Supreme Court granted Eastern’s petition, “subject to the approval of the Pine Barrens Commission,” and

P.O. Box 587  
3525 Sunrise  
Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
www.pb.state.ny.us

**Whereas**, subsequent to the entry of the Court's order, the Town of Riverhead rezoned the property from Business CR to RB-80, a residential zone, which allows, inter alia, the construction of a single family home on 80,000 square feet, which action was not challenged by Eastern, and

**Whereas**, pursuant to the Court order, Eastern submitted an application to the Commission for approval of the Project, and

**Whereas**, the Project is depicted on site plan S-1.1, entitled: *East Suffolk Shoppes Route 25 and Kay Road, Wading River, NY*, prepared by Searles, Stromski, Associates, with a revision date of October 8, 2004, and

**Whereas**, the Commission performed an uncoordinated review of the project pursuant to the New York State Environmental Quality Review Act, ("SEQRA"), and

**Whereas**, the Commission held a public hearing on August 10, 2005 on the CGA hardship application and a transcript of such hearing was made available to the Commissioners thereafter, and

**Whereas**, the Commission has considered all materials submitted in connection with the application, including the transcript of the public hearing, now therefore be it

**Resolved**, that the Commission finds that the application of the Plan's provisions do not cause an unnecessary hardship to Eastern because the parcel is not within the CR zoning district and thus the application must be reviewed against the Plan's provisions for residentially zoned parcels, and be it further,

**Resolved**, Eastern's application is denied, not on the basis of the uses proposed for the site but rather because the Project requires clearing exceeding the Plan's clearance standards for either "commercial, industrial and other or mixed uses" or for parcels residentially zoned with a 80,000 square foot minimum lot size and because the Project exceeds the fertilizer-dependent vegetation limit of 15%, and be it further,

**Resolved**, the Commission finds that granting a waiver from strict compliance with the Plan for the Project would be inconsistent with the purposes and provisions of Article 57 of the Environmental Conservation Law which include for the Compatible Growth Area, preserving and maintaining the "essential character of the existing Pine Barrens environment, including plant and animal species indigenous thereto," protecting the quality of surface and groundwaters and to allow growth consistent with the natural resource goals of Article 57 because Eastern seeks to clear over two times the amount permitted by the Plan and leave no areas of the parcel free of fertilizer dependent vegetation and be it further,

**Resolved**, that the Commission finds that granting the relief requested herein, to exceed

the Plan's clearing limits and fertilizer dependent vegetation standards would result substantial impairment of the resources of the Central Pine Barrens area. Pursuant to Article 57 the Plan is designed to protect, preserve and enhance the functional integrity of the Pine Barrens ecosystem and its significant natural resources including plant communities, and be it further,

**Resolved**, the Commission denies the Project without prejudice allowing Eastern to resubmit an application to the Commission which conforms to the Plan's provisions, and be it further,

**Resolved**, that the Commission finds that the denial of this project will not have a significant adverse impact on the environment and a negative declaration will be issued.

Motion on SEQRA Determination and Project Application

By: Mr. Kent  
Seconded: Mr. Deering

Vote:  
Yes: 5  
No: 0