

## 5. Standards and Guidelines for Land Use

### 5.1 Central Pine Barrens overall area

The following sets forth the standards and guidelines for land use within the Central Pine Barrens.

Standards are to be implemented, and are enforceable, by municipalities, municipal agencies and the Commission, or any other agency with enforcement powers within the Central Pine Barrens. Discretionary decisions regarding standards are to be made by the Commission, under the provisions set forth in Volume I, Chapter 4 of this Plan. These standards are in addition to all other regulatory requirements and do not exempt any entity from complying with applicable federal, state, county, or local laws.

Guidelines are to be utilized by municipalities and municipal agencies with discretionary decisions determined at the municipal level, unless a project is before the Commission due to its location within a Critical Resource Area, because it is a Development of Regional Significance or because there was an assertion of jurisdiction as described in Volume I, Chapter 4 of this Plan. (Source: Guidelines are incorporated into standards.)

The municipalities may adopt standards and guidelines which are more restrictive than those contained in this Plan.

Present land uses Pre-existing structures or uses (as defined in Chapter 4 of this Plan) that comply with existing laws, including legal non-conforming uses, may be continued in accordance with their current approved use(s). (Source: “Pre-existing structure or use” is now a defined phrase in Section 4.3.7 that is used in the Plan. Definition 4.3.7 establishes 6/1/93 as the historical date for these items, the same date used in the Act for other “grandfathered” items.)

Pursuant to Section 57-0123(3)(a) of the Act, “...no application for development within the Central Pine Barrens area shall be approved by any municipality or county or agency thereof or the commission, and no state approval, certificate, license, consent, permit, or financial assistance for the construction of any structure or the disturbance of any land within such area shall be granted, unless such approval or grant conforms to the provisions of such land use plan; provided, however, that the commission by majority vote is hereby authorized to waive strict compliance with such plan or with any element or standard contained therein, for an application for development of any person, upon finding that such waiver is necessary to alleviate hardship for proposed development...”

## 5.2 Core Preservation Area

The Core Preservation Area is to be preserved by a strategy of government land acquisition, the transfer of development rights, conservation easements, gifts, land swaps, and donations. Development in the Core Preservation Area shall be prohibited or redirected, and hardship exemptions granted by this Commission as provided for in the Act.

Allowable uses within the Core Preservation Area shall be limited to those operations or uses which do not constitute development, or hardship exemptions granted by this Commission pursuant to the Act.

Any existing, expanded, or new activity involving agriculture or horticulture in the Core Preservation Area is an allowable use if it does not involve material alteration of native vegetation. The erection of agricultural buildings, including but not limited to barns, greenhouses and farm stands, required for the production of plants or animals as reflected under ECL Section 57-0107(14), shall constitute an allowable use. If such activity does involve material alteration of native vegetation, the use will require a hardship exemption from the Commission.

## 5.3 Compatible Growth Area

### 5.3.1 Applicability and other policies

The Central Pine Barrens Joint Planning and Policy Commission adopts the following standards and guidelines for development and development project sites within the Compatible Growth Area in accordance with applicable state law. *(Source: ~~Guidelines are incorporated into standards (former) and staff recommendation for clarification (latter).~~)*

These standards shall be incorporated into local land use and development review procedures, ordinances and laws by the local municipalities. The Commission shall also apply these standards to those development projects that it directly reviews within the Compatible Growth Area. *(Source: ~~Staff recommendation for clarification.~~)*

These guidelines shall be incorporated into land use and development procedures, and utilized by municipalities and municipal agencies on a discretionary basis.

All standards and guidelines for land use in this section are based on the best available scientific evidence and municipal laws and practices.

Agriculture or horticulture in the Compatible Growth Area is encouraged to comply with best management practices. Best management practices are, for purposes of this Plan, the same practices stated in the document entitled Agricultural Management Practices Catalogue for

*Nonpoint Source Pollution Prevention and Water Quality Protection in New York State*, prepared by the New York State Nonpoint Source Management Practices Task Force, New York State Department of Environmental Conservation, 2007 the most recent version of *Controlling Agricultural Nonpoint Source Water Pollution in New York State* (Bureau of Technical Services and Research, Division of Water, New York State Department of Environmental Conservation, 1991 and as later amended). *(Source: Relocated from 5.3.3.10 and reworded as a policy statement. This document reference may need to be updated.)*

Projects proposed in the Compatible Growth Area must conform to all other involved agency jurisdictions and permit requirements in effect on the project site. The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

### 5.3.2 State Environmental Quality Review Act (SEQRA)

A generic environmental impact statement (GEIS) has been completed for the Plan, including the standards and guidelines for land use set forth in this section.

A supplemental environmental impact statement may be required for individual development projects by the appropriate town or other governmental agency, if a significant environmental effect is identified that is outside the scope of the standards and guidelines set forth in this chapter. If a potentially significant environmental effect is not identified, a Supplemental Environmental Impact Statement or an Environmental Impact Statement should not be required. *(Source: Staff recommendation for clarification.)*

The scope of the supplemental EIS should be limited to subjects that are not addressed by the standards or guidelines or the GEIS.

### 5.3.3 Intent and Compatible Growth Area standards\*

The Commission recognizes the need for balanced growth and development consistent with the water resource protection and habitat preservation goals provided for in the Act.

Development projects in the Compatible Growth Area are required to meet all of the standards in this chapter unless a permit has been issued under the provisions of Volume I, Chapter 4 of this Plan.

Where standards contained in the Plan differ from state, county, or local law requirements, the stricter standard(s) shall apply.

**5.3.3.1 Sanitary waste, nitrate-nitrogen and other chemicals of concern** *(Source: Sections 5.3.3.1 (originally titled “Nitrate-nitrogen”), 5.3.3.2 (originally titled “Other chemical contaminants of concern”), and 5.3.3.12 (originally titled “Commercial and industrial*

*development”) were combined for clarity due to their topical overlap. Standards and former guidelines were therefore relocated and renumbered as described below and on succeeding pages. New text.)*

Nitrate-nitrogen, a contaminant that emanates from numerous types of land uses, is a recognized indicator of groundwater quality. The Suffolk County Department of Health Services abides by the New York State nitrate-nitrogen standard for drinking water. In addition to the specific standards for nitrate-nitrogen, other contaminants of concern may be relevant in specific applications or in specific areas. This is particularly true for organic contaminants of anthropogenic origin. *(Source: New text added due to merger of sections.)*

### *Standards*

#### 5.3.3.1.1 **Suffolk County Sanitary Code Article 6 compliance**

All development proposals subject to Article 6 of the Suffolk County Sanitary Code (“Realty Subdivisions, Developments and Other Construction Projects”) shall meet all applicable requirements of the Suffolk County Department of Health Services. Development Pprojects which require variances from the provisions of Article 6 shall meet all requirements of the Suffolk County Department of Health Service's Board of Review in order to be deemed to have met the requirements of this standard. Compliance with this standard shall only be determined to exist by the Commission upon receipt of a final, official copy of the Suffolk County Department of Health Services permit(s) Commission approval shall be conditioned upon receipt of a final official copy of the SCDHS permit. *(Source: Staff recommendation for clarification.)*

#### 5.3.3.1.2 **Sewage treatment plant discharge**

Where deemed practical by the County or State, sewage treatment plant discharge shall be outside and downgradient of the Central Pine Barrens. Denitrification Treatment systems that are approved by the New York State Department of Environmental Conservation or the Suffolk County Department of Health Services may be used in lieu of a sewage treatment plant. *(Source: Staff recommendation for clarification.)*

#### 5.3.3.1.3 **Suffolk County Sanitary Code Articles 7 and 12 compliance**

All development projects must comply with the provisions of Articles 7 (“Water Pollution Control”) and 12 (“Toxic and Hazardous Materials Storage and Handling Controls”) of the Suffolk County Sanitary Code, including any provisions for variances or waivers if needed, and all applicable state laws and regulations in order to ensure that all necessary water resource and wastewater management infrastructure shall be in place prior to, or as part of, the commencement of construction. Compliance with this standard shall only be determined to exist by the Commission upon receipt of a final, official copy of the

~~Suffolk County Department of Health Services permit(s). Commission approval shall be conditioned upon receipt of a final official copy of the SCDHS permit. (Source: No change, except for addition of clarifications in parentheses, and requirement to submit the final SCDHS permit(s) to the Commission. Relocation of prior standard 5.3.3.2.1 for clarity.)~~

5.3.3.1.4 **Commercial and industrial compliance with the Suffolk County Sanitary Code**

All commercial and industrial development applications shall comply with the provisions of the Suffolk County Sanitary Code as applied by the Suffolk County Department of Health Services, and all other applicable federal, state or local laws. Development projects which require variances from the provisions of the Suffolk County Sanitary Code shall meet all requirements of the Department of Health Service's Board of Review in order to be deemed to have met the requirements of this standard. ~~Compliance with this standard shall only be determined to exist by the Commission upon receipt of a final, official copy of the Suffolk County Department of Health Services permit(s). Commission approval shall be conditioned upon receipt of a final official copy of the SCDHS permit. (Source: No change except for addition of "Development" before "projects", and requirement to submit the final SCDHS permit(s) to the Commission. Relocation of prior standard 5.3.3.12.1 for clarity.)~~

**Guideline**

5.3.3.1.3

5.3.3.1.5 **Nitrate-nitrogen goal**

~~For development which is a Development of Regional Significance as defined in this Plan, or which is within a Critical Resource Area as defined in this Plan, or is the subject of an assertion of jurisdiction by the Commission pursuant to the Act, AaA more protective goal of two and one half (2.5) ppm mayshall be achieved for new development projects through an average residential density of one (1) unit per two (2) acres (or its non-residential equivalent), through clustering, or through other mechanisms to protect surface water quality for development projects in the vicinity of ponds, other surface waters and wetlands. (Source: Renumbering based upon Staff and Advisory Committee recommendation. Addition of "development" adjective and "other surface waters" suggested by Commission staff for clarity.)~~

5.3.3.2 **Other chemical contaminants of concern Reserved**

In addition to the specific standards for nitrate-nitrogen above, other contaminants of concern may be relevant in specific applications or in specific areas. This is particularly true for organic contaminants of anthropogenic origin. ~~(Source: The~~

*preceding introductory text was struck. The standard below was relocated above as 5.3.3.1.3. This section number is now reserved for possible future use to minimize renumbering of succeeding sections.)*

### *Standard*

#### 5.3.3.2.1 ~~Suffolk County Sanitary Code Articles 7 and 12 compliance~~

All development projects must comply with the provisions of Articles 7 and 12 of the Suffolk County Sanitary Code, including any provisions for variances or waivers if needed, and all applicable state laws and regulations in order to ensure that all necessary water resource and wastewater management infrastructure shall be in place prior to, or as part of, the commencement of construction.

#### 5.3.3.3 Wellhead and groundwater protection

The New York State Department of Health requires minimum separation distances for public water supply wells from contaminant sources pursuant to Appendix 5D of 10 NYCRR Part 5, Subpart 5-1 Public Water Supply Systems in order to protect these public water supplies from contamination. advocates the exclusion of potentially contaminating activities from an area extending for 200 feet in all directions from a well site. Although this may have been considered adequate to prevent the rapid drawdown of bacterial contamination or its entry into groundwater through poorly constructed wells, it does not necessarily ensure an adequate level of protection against the suite of organic and inorganic pollutants that may threaten community water supplies. *(Source: Original text is outdated.)*

The federal Safe Drinking Water Act (SDWA) Amendments of 1996 created a Source Water Assessment Plan (SWAP) to evaluate existing and potential threats to the quality of public drinking water supplies throughout the United States. Source water assessments were performed for all public water supplies in Suffolk County, in accordance with the final New York State SWAP Plan prepared by the New York State Department of Health and approved by the United States Environmental Protection Agency (USEPA) in November of 1999. The potential for existing land uses and regulated activities located within each well's source water area to introduce contaminants to the aquifer was evaluated using various computer modeling and data research tools. The assessments provide a reminder that the activities of Suffolk residents living above their water supply have the potential to impact source water quality.

It is important to remember that the source water assessments only indicate the potential for contamination of a supply well, based on the likelihood of the presence of contaminants above ground in the source water recharge area and upon the possibility that any contaminants present

can migrate down through the aquifer to the depth at which water enters the well screen<sup>1</sup>. Therefore, utilization of the SWAP information is presently on an advisory basis to evaluate potential impact of existing and proposed activities within the Central Pine Barrens. *(Source: New text.)*

### *Standard*

#### 5.3.3.3.1 **Significant discharges and public supply well locations**

The location of nearby public supply wells and their surface contributing areas shall be considered in all applications involving significant discharges to groundwater, as required under the New York State Environmental Conservation Law Article 17. As part of the application review process, staff shall consider information readily available through the Source Water Assessment Plan (SWAP) when determining potential public groundwater well impacts. *(Source: New text incorporating latest knowledge of source of water to public supply wells.)*

### *Guideline*

#### 5.3.3.3.2 **Private well protection**

The Suffolk County Department of Health Services' guidelines for private wells should be used for wellhead protection. Development project applications shall identify all known and permitted private supply wells within 500 feet downgradient of the project site, and all projected impacts to those wells. For all identified impacts, the application must identify mitigative measures and provide the Suffolk County Department of Health Services with a copy of the application and provide that agency with the option of providing technical comments. *(Source: Staff recommendation.)*

**5.3.3.4 Wetlands and surface waters** Wetlands, surface waters and stormwater runoff *(Source: Sections 5.3.3.4 (originally titled "Wetlands and surface waters") and 5.3.3.5 (originally titled "Stormwater runoff") were combined for clarity due to their topical overlap. Standards and former guidelines were therefore relocated and renumbered as described below and on succeeding pages.)*

Freshwater wetlands that exist within the Central Pine Barrens are considered to be an important natural resource, providing flood and erosion control, the filtering of contaminants and sediments from stormwater runoff, and habitat for plants and wildlife, including those species which are designated as rare, endangered, threatened or special concern. Furthermore, such wetlands may

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<sup>1</sup> Long Island Source Water Assessment Summary Report (2003) produced for the New York State Department of Health by CDM (engineering firm).

also constitute rare ecological community types themselves, such as coastal plain pond shores which in New York State are found only on Long Island

Tidal wetlands existing within the marine environment bordering portions of the Central Pine Barrens are equally valuable natural resources. These wetlands support the reproduction of finfish and shellfish, provide habitat for waterfowl and other species which are designated as rare, endangered, threatened or special concern, and contribute a scenic quality that supports recreational economies.

Surface waters, including freshwater ponds, lakes, streams, rivers, and creeks, occur throughout the Central Pine Barrens. These are considered to be resources of significant value in economic, aesthetic and ecological terms. Their protection is judged to be vital to the dynamics of the pine barrens.

The New York State Department of Environmental Conservation and local municipalities, including the Towns of Brookhaven, Riverhead and Southampton, have the authority to regulate various activities occurring within, adjacent to and in proximity to wetlands and surface waters. In their regulatory processes both the New York State Department of Environmental Conservation and local municipalities have established upland boundaries bordering the landward side of wetlands within which they regulate activities. These upland boundaries, known variously as adjacent areas, jurisdictional areas or regulated areas, have a prescribed numerical width measured as extending a certain distance away from the landward boundary of the wetland. Within these upland boundaries, the New York State Department of Environmental Conservation and local municipalities also require and impose buffer zones of a certain width adjacent to the landward boundary of a wetland and often comprised of existing natural vegetation, which are to be maintained as such in order to ensure permanent protection of the wetland and its functions.

In addition, the Commission has the authority, through its Comprehensive Land Use Plan, to ensure the continuation of Pine Barrens environments existing within the Compatible Growth Area, such as wetlands, through the protection and preservation of ecological functions, and hydrological functions, including the quality of surface and groundwaters.

Development of lands within the pine barrens inevitably results in an increase of runoff water following precipitation. Runoff water originating from the roofs of buildings, from driveways and from parking lots is usually discharged directly to subsurface dry wells situated on the building lot. However, the great volume of runoff water originating from paved streets and roads is usually discharged by pipes into large open recharge basins or sumps, as also sometimes occurs in regard to parking lots. These basins may cover several acres and require the removal of considerable native vegetation to the detriment of the site's ecology and aesthetics. (Source: ~~Pre-existing text relocated from original 5.3.3.5., addition of parking lots is a staff recommendation)~~

## *Standards*

### 5.3.3.4.1 **Nondisturbance buffers**

Development proposals for sites containing or abutting freshwater or tidal wetlands or surface waters ~~must~~ shall be separated by a nondisturbance buffer area which shall be ~~no less than~~ at least that required by the New York State Tidal Wetland, Freshwater Wetland, or Wild, Scenic and Recreational Rivers Act or local ordinance, whichever is greater. The Commission reserves the right to require a stricter and larger nondisturbance buffer as warranted in a specific , instance, particularly in situations in which the wetland involved is representative of a rare ecological community type, such as a coastal plain pond shore, or provides habitat, including breeding habitat, for species which are designated as rare, endangered, threatened or special concern. Distances shall be measured horizontally from the wetland edge as mapped or determined by the New York State Department of Environmental Conservation, ~~field delineation or~~ and/or the local municipality, as applicable. Development Projects which require variances or exceptions from these state laws, local ordinances and associated regulations, shall meet all requirements imposed in a permit by the New York State Department of Environmental Conservation or a municipality in order to be deemed to have met the requirements of this standard. Commission approval, where applicable, shall be conditioned upon receipt of a final official copy of all New York State Department of Environmental Conservation and municipal permits(s) and satisfaction of any conditions on such permit. Compliance with this standard shall only be determined to exist by the Commission upon receipt of final, official copies of all New York State Department of Environmental Conservation and municipal Town permit(s) and satisfaction of any conditions on such permits.

In those rare situations in which a wetland is not subject to the regulatory authority of either the New York State Department of Environmental Conservation or the local municipality and the wetland is located on a project site and a development project proposed for that project site requires a Hardship Waiver approval from the Commission, in such circumstance the Commission shall assert jurisdictional authority over such wetland. In these situations, the Commission shall oversee the delineation of the wetland boundary (for which the applicant shall have primary responsibility for initial field delineation), shall determine the adjacent area and shall require and determine the width of a nondisturbance buffer in accordance with the provisions of the applicable state statutes utilized by the New York State Department of Environmental Conservation, including Articles 24 and 25 of the Environmental Conservation Law; the applicable state regulations utilized by the New York State Department

of Environmental Conservation, including 6 NYCRR Parts 661 and 663; and the applicable local municipal requirements, including Chapter 81 of the Brookhaven Town Code, Chapter 107 of the Riverhead Town Code and Chapter 325 of the Southampton Town Code. In the aforementioned situation, the nondisturbance buffer required by the Commission shall be at least that which would have been required by the State or local ordinance, whichever is greater. *(Source: Staff recommendations for clarification.)*

5.3.3.4.2 ~~Buffer delineations, covenants and conservation easements~~

~~Buffer areas shall be delineated on the site plan, and covenants and/or conservation easements, pursuant to the New York State Environmental Conservation Law and local ordinances, shall be imposed to protect these areas as deemed necessary. *(Source: Relocated to Section 5.3.3.6, “Coordinated design for open space and habitat protection”, with text change to broaden its applicability, and restated as 5.3.3.6.7.)*~~

5.3.3.4.3

5.3.3.4.2 **Wild, Scenic and Recreational Rivers Act compliance**

Development shall conform to the provisions of the New York State Wild, Scenic and Recreational Rivers Act, where applicable. Development Pprojects which require variances or exceptions under the New York State Wild, Scenic and Recreational Rivers Act shall meet all requirements imposed by the New York State Department of Environmental Conservation in order to be deemed to have met the requirements of this standard. Compliance with this standard shall only be determined to exist by the Commission upon receipt of final, official copies of all New York State Department of Environmental Conservation Wild, Scenic and Recreational Rivers Act permit(s). Commission approval shall be conditioned upon receipt of a final official copy of the NYSDEC permit. *(Source: No change except for addition of “development” adjective for clarity suggested by staff; requirement to submit final WSRR permits, and renumbering.)*

5.3.3.4.3 **Stormwater recharge**

Development projects ~~must~~ shall provide that stormwater runoff originating from development on the ~~property~~ project site is recharged on the project site unless the Commission by waiver of this standard approves the discharge of the stormwater to a documented surplus capacity in an off site drainage system. *(Source:*

*Relocation of prior standard 5.3.3.5.1, and clarification regarding when alternative off site discharges are allowed.)*

**5.3.3.4.4 Reduction of Impervious Surfaces**

Development project sites requesting new or expanded development that have been previously cleared and established with impervious surfaces shall reduce previously cleared areas, including impervious surfaces, to comply with the applicable open space standard. Permanent relaxation waiver of excess required parking spaces, removal of unused pavement areas, installation of tree pits and vegetative buffers may be counted towards meeting the open space standard. Temporary waivers of paving (e.g., landbanking) of parking shall not be counted toward meeting the open space standard. *(Source: New standard with staff clarification.)*

**5.3.3.4.5 Natural recharge, drainage, and ponds**

Natural recharge areas and/or drainage system designs that cause minimal disturbance of native vegetation and preserve the native habitat shall be employed, where practical, when also approved by the municipal highway superintendent or public works department head, in lieu of recharge basins or ponds that would require removal of significant areas of native vegetation, and shall count towards satisfaction of Standard 5.3.3.6.2. Creation of ponds shall require approval from the Commission under this standard, but creation of ponds shall not count towards satisfaction of Standard 5.3.3.6.2. *(Source: This combines former 5.3.3.5.2 “Natural recharge and drainage”, 5.3.3.5.3 “Ponds”, and 5.3.3.5.4 “Natural topography in lieu of recharge basins”, and restates them as a single unified standard. It also incorporates the stipulation agreed to at the 9/5/07 Advisory Committee meeting that natural areas designated for this purpose shall count towards the new open space standard, while requiring that native habitat not be destroyed.)*

**Guideline**

**5.3.3.4.4 Additional nondisturbance buffers**

Stricter nondisturbance buffer areas may be established for wetlands as appropriate. *(Note: Incorporated into 5.3.3.4.1 as a reserved right of the Commission in specific instances.)*

5.3.3.4.6 ~~**Soil erosion and stormwater runoff control during construction**~~

~~Those development projects for which a stormwater plan is required by another agency shall file a copy of such plans with the Commission when they are available. (Source: Replacement for prior 5.3.3.5.5.)~~

**5.3.3.5 Stormwater runoff** (Source: The original content of Section 5.3.3.5 is now combined with Section 5.3.3.4 above due to topical overlap. This section number is now used below for “Development in the Compatible Growth Area that requires Pine Barrens Credit redemptions”.)

Development of lands within the pine barrens inevitably results in an increase of runoff water following precipitation. Runoff water originating from the roofs of buildings and from driveways is usually discharged directly to subsurface dry wells situated on the building lot. However, the great volume of runoff water originating from paved streets and roads is usually discharged by pipes into large open recharge basins or sumps. These basins may cover several acres and require the removal of considerable native vegetation to the detriment of the site's ecology and aesthetics.

**Standard**

5.3.3.5.1 **Stormwater recharge**

Development projects must provide that all stormwater runoff originating from development on the property is recharged on site unless surplus capacity exists in an off site drainage system.

**Guidelines**

5.3.3.5.2 **Natural recharge and drainage**

Natural recharge areas and/or drainage system designs that cause minimal disturbance of native vegetation should be employed, where practical, in lieu of recharge basins or ponds that would require removal of significant areas of native vegetation.

5.3.3.5.3 **Ponds**

Ponds should only be created if they are to accommodate stormwater runoff, not solely for aesthetic purposes.

5.3.3.5.4 **Natural topography in lieu of recharge basins**

The use of natural swales and depressions should be permitted and encouraged instead of excavated recharge basins, whenever feasible.

**5.3.3.5.5 Soil erosion and stormwater runoff control during construction**

During construction, the standards and guidelines promulgated by the New York State Department of Environmental Conservation pursuant to state law, which are designed to prevent soil erosion and control stormwater runoff, should be adhered to.

**5.3.3.5 Development in the Compatible Growth Area that requires Pine Barrens Credit redemptions.**

*(Source: ~~Pine Barrens Credit Clearinghouse resolution of 3/20/09 recommending the addition of this section, and the 4/22/09 Pine Barrens Advisory Committee resolution endorsing that Clearinghouse recommendation. The Clearinghouse reiterated its support for this provision at its 10/9/09 meeting. At its 1/15/10 meeting, the Clearinghouse revised its recommendation, with the major change being the replacement of their original recommendation for a 50% requirement with a 25% requirement, and no specific waiver mention. As noted above, this new text reuses Section number 5.3.3.5, previously assigned to a different, and now relocated, standard.)~~*

Each town shall require the redemption of Pine Barrens Credits for those development projects within the Central Pine Barrens Compatible Growth Area, without regard to the type of “sewage disposal system” (as defined by the Suffolk County Department of Health Services, Division of Environmental Quality, “Standards for Approval of Plans and Construction for Sewage Disposal Systems for Other Than Single-Family Residences”, hereinafter referred to within this section as the “SCDHS standard”) proposed for the development project, that increase the density, intensity, or other measures of land use development, including, but not limited to, changes of zone.

**Standard**

**5.3.3.5.1 Pine Barrens Credit Redemption Requirement**

Each Town shall require the redemption of Pine Barrens Credits in an amount equal to no less than twenty five percent (25%) of the difference between the development project’s “density load” (as defined by the SCDHS standard) in excess of the development project site’s “population density equivalent” (as defined by the SCDHS standard), divided by 300 for any development project in the Compatible Growth Area that increases the density, intensity, or other

measures of land use development, including, but not limited to, changes of zones. The type of “sewage disposal system” (as defined by the SCDHS standard) proposed for the development project shall have no effect in determining the required number of Pine Barrens Credits to be redeemed on such a development project.

**5.3.3.6 Natural vegetation and plant habitat Coordinated design for open space, habitat and soil protection** *(Source: This section combines the prior section 5.3.3.9 “Coordinated design for open space management” with new text and material, and a title change to recognize importance of soil conservation.)*

Comprehensive, coordinated planning and design of development proposals within the pine barrens is essential to ensure maximum preservation of open space and habitat linkages. Development projects ~~shall~~ must be designed with full consideration of the existing development and known future plans for the adjacent parcels. Otherwise, inefficient road patterns ~~may result requiring~~ unnecessary clearing and lot layout that may hinder or entirely prevent the preservation of large, unbroken blocks of open space.

Conservation design principles must be utilized in creating development project plans.

Conservation design is a method of site planning ~~which that~~ emphasizes the preservation of natural, historic or other significant features of a development project site, including its the natural landscape and ecology, while allowing other, more appropriate locations on the parcel to be developed. This approach first identifies areas of conservation value to be permanently protected as open space, such as natural vegetation, prime habitat for endangered species, wetlands, fields and meadows, buffer zones, significant topographical features and historic and cultural resources, while shifting clustering development away from these environmentally-valuable areas onto areas of lesser conservation value on a project site. Conservation design ensures the most valuable natural features and functions of a project site are maintained and set aside as open space. At a minimum, it encourages building with contours instead of mass grading, using pervious surfaces such as grassways (instead of paved sidewalks), reducing lot size to preserve larger contiguous natural areas, and incorporates natural landscaping to reduce stormwater management problems. Conservation design also requires ongoing monitoring and permanent protection of areas which have been set aside through covenant, dedication or easement. Conservation design shall be required for all development projects as described in Standard 5.3.3.6.2, “Open space requirement, unfragmented open space and habitat.

One means of complying with ~~When applied as one possible tool within~~ the required Conservation Design methodology ~~is~~ ~~the~~ use of the clustering technique within the Central Pine Barrens ~~which~~ preserves open space, preserves habitat, protects important resource areas, improves infrastructure efficiency and furthers the ~~statute's~~ Act's goals of compact, efficient and orderly development in the Central Pine Barrens. When this method of development is applied, residential lots are concentrated on a particular section of a project site by allowing individual lots to be smaller than the required minimum lot size prescribed by the zoning district in which the project site is located and the remaining portion of the project site is set aside as common open space. Accordingly, clustering shall be required for single-family residential developments with the Central Pine Barrens.

Open space is defined as any essentially undeveloped and unimproved, publicly or privately-owned open area, which can be comprised of either land or water, that either remains in its natural state or is used for agriculture and is permanently preserved and will not be developed. Open space includes agricultural and forest land, grasslands, wildlife habitat, undeveloped coastal and estuarine lands, aquifer recharge areas, wetlands, undeveloped scenic lands, public parks and preserves as well as water bodies such as lakes and bays. The existing open quality, natural condition or current state of use of open spaces protects, conserves, maintains or enhances natural or scenic resources including waterways and riverine systems, soils, scenic vistas, wildlife preserves, nature sanctuaries and cultural resources or enhances the present or potential value of development which abuts or surrounds it. This open land can be characterized by natural scenic beauty or may also help maintain or enhance the quality and character of the lives of area residents or help preserve their common heritage. Open space is intended to be available, where applicable, for low-intensity recreational activities which have nominal environmental impact and have no effect on the environmental integrity of the open space, including hiking, hunting, nature study, bird watching and orienteering. In no case does open space mean active recreational facilities such as golf courses, amusement parks and ballfields. Additionally, proper management of these areas, including assignment of responsibility for such management, is essential in order to protect open spaces from illegal dumping, clearing, motor vehicle trespass and other abuses.

Buffer areas are defined, for the purposes of this section, as areas incorporated into a development project site design for purposes including, but not limited to, conservation area compliance, habitat preservation, open space protection, separation ~~to~~ between wetlands and development, visual consideration, or mitigation of environmental impacts. These, too, must be properly managed and protected to prevent damage and deterioration.

Clearing is defined, for the purposes of this standard, as the removal, cutting or material alteration of any portion of the natural vegetation found on a development project site exclusive of any vegetation associated with active agricultural or horticultural activity or formalized landscape and turf areas. Excessive clearing of natural vegetation can result in severe soil erosion, excessive stormwater runoff, and the destruction or reduction of pine barrens plant and wildlife habitat, and shall be minimized on development project sites through the provisions of this section. Revegetation of a development project site, or a portion thereof, may be used as a mitigative tool for the re-establishment of appropriate vegetation on a previously cleared area of a development project site. However, revegetation may not be used to meet the clearing standard.

Further, the *Long Island Comprehensive Waste Treatment Management Plan* (the "208 Study"; Long Island Regional Planning Board, Hauppauge, NY, (1978)) indicated that fertilizers are a significant source of nitrogen and phosphorous contamination to ground and surface waters. Due to their low fertility, soils common to the pine barrens (e.g., Carver, Haven, Plymouth and Riverhead) require both irrigation and fertilizer application for establishment and maintenance of turf and nonnative vegetation. As native pine barrens vegetation is replaced with turf through development, increased contamination and a general change in the ecosystem may be expected. Therefore, the use of non-native, fertilizer-dependent vegetation must be minimized in the Central Pine Barrens.

Over time, non-native species of vegetation have been transported from foreign locations and have become established throughout the United States. This includes the Central Pine Barrens where various types of alien plant species may be found. Unfortunately, some of these species of plants are invasive, i.e. non-native plants that have already or are likely to spread into an established vegetative system or community, develop a self-sustaining population, become dominant in or disruptive to the pre-existing vegetative systems or communities and may result in long-term adverse alteration of such systems or communities. Accordingly, provisions to actively monitor, support, and manage the health and preservation of natural ecological communities in the Compatible Growth Area that may be overtaken or supplanted by invasive species and to prevent and/or reduce the spread and extent of invasive species coverage in the Compatible Growth Area over time, especially proactively in coordination with other local and regional initiatives, are encouraged and supported.

It is recognized that the pine barrens ecosystem has a unique and powerful ability to recover from disturbance and invasion by non-native species returning itself to a diverse and intact local-genotype habitat either naturally or with active ecological oversight, maintenance and monitoring. This concept is known as "self-heal." Further, it is recognized that native plantings, regardless of how ecologically well designed, cannot compare to the habitat originally found on a

project site in configuration or diversity. In fact, plants horticulturally introduced so successfully may suppress whatever seed-bank and diversity remaining on a project site that may otherwise emerge and such introduced plants may be counterproductive to the goals and objectives of the Act and the CLUP. Accordingly, where appropriate, the implementation of a self-heal approach is preferred in place of the reintroduction of horticulturally-generated native plants derived from off-site sources.

### *Standards*

#### 5.3.3.6.1 **Vegetation clearance limits**

The clearance of natural vegetation shall be strictly limited. Site plans, surveys and subdivision maps shall delineate the existing naturally vegetated areas and calculate those portions of the site that are already cleared due to previous activities.

Areas of the site proposed to be cleared combined with previously cleared areas shall not exceed the percentages in Figure 5-1. These percentages shall be taken over the total site and shall include, but not be limited to, roads, building sites and drainage structures. The clearance standard that would be applied to a development project site if developed under the existing residential zoning category may be applied if the proposal involves multi-family units, attached housing, clustering or modified lot designs. Site plans, surveys and subdivision maps shall be delineated with a clearing limit line and calculations for clearing to demonstrate compliance with this standard. ~~(Source: Staff recommendation for clarification.)~~

To the extent that a portion of a development project site includes Core property, and for the purpose of calculating the clearance limits, the site shall be construed to be the combined Core and CGA portions. However, the Core portion may not be cleared except in accordance with Section 5.2 of the Plan. ~~(Source: Staff recommendation for clarification.)~~

5.3.3.6.1.1 Development project sites which consist of non contiguous parcels shall be treated as if the parcels were contiguous for purposes of determining compliance with Standard 5.3.3.6.1. ~~(Source: Commission decision of 2/21/96.)~~

5.3.3.6.1.2 Development project sites which consist of parcel(s) that are split among two or

more zoning categories shall have a total clearing allowance for the entire site which is the sum of the individual clearances for each separately zoned portion of the site. ~~(Source: Commission decision of 9/5/01.)~~

5.3.3.6.1.3 Development project sites which are also Residential Overlay Districts and which include the redemption of Pine Barrens Credits shall apply Figure 5-1 based upon the actual resulting average lot size after the redemption of Credits, rather than the base zoning lot size. This actual average lot size shall be used to interpolate between the two rows of Figure 5-1 which contain the immediately surrounding lot sizes for the actual one under consideration in order to determine the maximum site clearance percentage to be applied to the development project site, as long as the requirements of the Town Code and of Section 6.4.2.2.2 of this Plan are met. ~~(Source: Commission resolution of 9/26/01.)~~

5.3.3.6.1.4 Land cleared for purposes of conducting environmental restoration pursuant to ECL 57-0107(13)(c), immediately after revegetation, shall be considered “natural vegetation”, and shall not be considered “cleared” or “previously cleared” land in determining conformance with Standard 5.3.3.6.1. ~~(Source: Commission resolution of 5/8/02. May need to review for clarity during public process, e.g. if developer keeps site cleared such as by continued mowing.)~~

5.3.3.6.1.5 Persons seeking relief from clearing requirements on individual lots must file a CGA hardship application ~~(Source: Commission decision of 9/24/03.)~~

5.3.3.6.1.6 For a project site which is split between the Core Preservation Area and the Compatible Growth Area, and within which Pine Barrens Credits have been issued for the Core Preservation Area portion, only the Compatible Growth Area acreage shall be used to determine the amount of clearing allowed according to Figure 5-1 of Standard 5.3.3.6.1. ~~(Source: Commission resolution of 2/21/07. Cross references with Section 6.3.3.5.)~~

5.3.3.6.1.7 For those development project sites which propose development entirely and exclusively within a previously cleared portion of the development project site and where the previously cleared portion of that site was either (a) cleared prior to the effective date of the Pine Barrens Act (July 14, 1993) or (b) was cleared after that date either under a permit from the Commission or pursuant to a nondevelopment provision of the Pine Barrens act, and where no violation of the

clearing standard has occurred, then the “maximum site clearance” provisions of Figure 5-1 are not applicable. ~~(Source: Current Commission practice.)~~

**5.3.3.6.2 Open space standard requirement, unfragmented open space and habitat** ~~(Source: New standard to complement clearing standard with staff clarification.)~~

All development project sites shall provide an open space set aside area equal to or greater than those minimum percentages of open space set forth in Figure 5-1. In determining appropriate areas to designate as open space, ~~the reviewer~~ the following principles of Conservation Design, as described in the Commission-adopted document entitled “*Conservation Design Manual for Development Projects in the Central Pine Barrens,*” shall be utilized.

~~Conservation design is a method of site planning that takes into account the natural landscape and ecology of a development project site and locates development such that the most valuable natural features and functions of the site are maintained. It preserves prime habitat, wetlands, and other natural areas while clustering development into lesser quality areas of the land. Conservation design, at a minimum, encourages building with contours instead of mass grading, using pervious surfaces such as grassways instead of paved sidewalks, reducing lot size to preserve larger contiguous natural areas, and incorporates natural landscaping to reduce stormwater management problems. Set aside areas may include, but are not limited to, natural vegetation, successional areas, habitat areas, fields and meadows, buffer zones, topographic features, and historic features.~~

~~The clustering technique shall be required for subdivision design to enhance adjacent open space or provide contiguous open space connections with adjacent open space parcels. In so doing, preference shall be given to setting aside open space as separate parcels or blocks of land devoid of development but open space may be allowed within lots, particularly in the case of the establishment of agricultural reserves.~~

Subdivision and site design shall also support preservation of ~~natural vegetation~~ open spaces in large unbroken blocks that allow contiguous ~~open spaces~~ habitat to be established when adjacent parcels are developed. Subdivision and site designs ~~should~~ shall also be configured in such a way so as to prioritize the preservation of designated open spaces and/or native pine barrens vegetation and to minimize the division and fragmentation of vegetated areas through clearing activities that

isolate the species and habitat within them and cut these areas off from surrounding vegetated areas to the maximum extent practicable.

In designing plans Conservation design to satisfy this open space standard primary conservation areas and secondary conservation areas shall be delineated within the development project site both. Primary conservation areas shall be defined first, and are comprised of and shall include all portions of a site which are statutorily protected from development or disturbance by any federal, state, county, town, or other law or regulation, including, but not limited to, wetlands; the habitats of endangered, threatened and special concern species; floodplains; archaeological sites and burial grounds and cemeteries. Secondary conservation areas shall then be designated defined within the development project site to complement the primary conservation areas, and may include, but shall not be limited to natural areas which provide a connection between areas of open space, natural areas which abut existing open space, habitats of rare species such as certain forest interior-dependent birds, rare ecological communities such as grasslands, assemblages of rare plants, scenic vistas, steep slopes, farmland and significant topographic features such as kettleholes, drumlins and kames.

Areas within development project sites that include established old field and/or successional vegetation at the time of application may be used to meet the open space standard and the set aside percentage, provided that these areas can be, and are, permanently protected in accordance with Standard 5.3.3.6.6 and other complementary standards. Areas within development project sites that contain bare disturbed soil, formalized landscape, and turf may not be counted towards satisfaction of the open space standard the set aside percentage without prior review and determination of the Commission.

shall be of sufficient area that tThe combined total of the primary and secondary conservation areas on the development project site shall meet or exceed the applicable minimum open space requirement for that development project site, as indicated in Figure 5-1.

On development project sites for which either new or expanded development has been requested and which were previously cleared prior to the effective date of the Act (July 14, 1993), and which remain in their cleared state at the time of application, or were cleared pursuant to a nondevelopment provision of the Act,

and where no violation of the clearing standard has occurred, a portion of the area previously cleared shall be revegetated, either passively, utilizing a “Self-Heal” approach or actively with natural vegetation, as prescribed in the Commission’s general planting specifications and list of acceptable and unacceptable plants, in order to bring the site into compliance with the applicable open space standard.

Site plans, surveys and subdivision maps shall be delineated with open space boundary lines and calculations of open space area provided to demonstrate compliance with this standard.

**5.3.3.6.2.3 Unfragmented open space and habitat**

For the purpose of this paragraph, native pine barrens vegetation shall include pitch pines and various species of oak trees, understory and ground cover plants such as blueberry, wintergreen, bearberry and bracken fern, grasses and sedges such as little bluestem, Pennsylvania sedge and indian grass as well as those ecological communities listed in sections 5.6 and 5.7 in Chapter 5, Volume 2 of the Plan.

~~It is recognized that t~~The preservation of nonnative but ecologically important habitats shall be permitted and shall be considered to may be consistent with the intent and goals of the plan when such action would result in the creation of large contiguous natural open space areas and/or the protection of rare, threatened or endangered species or their habitat.

When utilizing the principles of Conservation Design to design development projects, the preservation and protection of significant natural resources, such as wetlands and the habitats of rare, endangered, threatened and special concern species, shall be given priority over the requirement to create large blocks of unfragmented open space.

Furthermore, an applicant shall prioritize the use, for development, of any existing cleared area on a project site prior to clearing areas of natural vegetation. Where additional area is needed for development, in no case shall the combined area of existing clearing and new clearing of existing natural vegetation exceed the applicable clearing requirement in Figure 5-1 nor shall the open space set-aside area be less than that required pursuant to the applicable open space set-aside in Figure 5-1.

Municipalities are strongly urged to maximize the use of the clustering technique for any development where its usage would. For subdivisions involving more than five lots, open space areas proposed to remain within individual, privately owned lots shall not count towards meeting this unfragmented open space requirement.

### ***Guideline or Standard***

#### **5.3.3.6.3**

#### **Self Heal Implementation**

On project sites that contain areas in which the original ground surface and grade or vegetation was previously disturbed or original vegetation was cleared and/or contain areas of invasive or non-native species and all or a portion of these previously disturbed areas are included in the area to be set aside as open space, the self-heal approach shall be applied, where deemed appropriate by the approving authority, to assist in and promote the natural self-restoration of the site, with minimal human intervention.

In implementing the self-heal method, applicants shall remove invasive species by hand, to allow the site to revert its natural state where it has the potential to recover on its own. The applicant shall employ the self-heal approach on a total area of no more than two acres of disturbed area within the open space area. The self-heal approach requires the applicant to prepare a plan, subject to review and approval by the reviewing agency, which implements a schedule for monitoring the re-emergence and re-colonization of native species, the frequent hand removal of invasive species to facilitate the re-emergence and re-colonization of native species and monitoring of invasive species over a period of three years. The plan must provide a detailed description of the number of personnel to implement the plan, the labor effort required, the number of man-hours required over the course of the self-heal restoration project, sampling points from which monitoring will be conducted, a photographic documentation effort which includes photographs of the self-heal area taken prior to project commencement, the qualifications of the personnel involved and other information deemed necessary. A qualified professional who has expertise in identifying both native Long Island plant species and non-native and invasive species of plants shall be required to prepare the plan and supervise its implementation. All invasive plants which have been removed shall be removed from the project site and disposed in a lawfully-

approved location and manner.

Invasive species shall be identified according to the inventory of unacceptable plants described in Commission's "list of acceptable and unacceptable plants" and other widely-accepted lists of invasive plants. Success of the self heal approach shall be determined by the approving authority three years after project commencement. The success of the self-heal effort may be affirmed prior to three years at any time when the self heal area appears to have restored itself naturally and/or reverts to native vegetation naturally without active planting. No less than once per year the applicant shall submit a written status report, which includes both a narrative and photographs, a description and listing of species of native plants which have re-colonized the area and a description and listing of invasive species which have been removed, on the progress of the self-heal area in achieving success.

If after a period of three years, the approving authority has determined that the self-heal effort has failed and has not produced clear and convincing evidence of recovery to the area's prior natural state (including a confirmation that hand removal of invasive species has failed to prevent them from dominating the site), then the applicant must notify the approving authority and prepare and submit, to the approving authority for its review, a restoration plan for active restoration. The active restoration plan must aim to replant the "self-heal" area with native species from either nursery stock and/or natural, native, healthy transplanted or salvaged plant material, which shall be sourced from other sites in the Central Pine Barrens that were cleared in preparation of site development. The active restoration plan must contain relevant information including, but not limited to, planting specifications, species, size, quantity, spacing, identification of the source(s) of material, a planting schedule, and a three year maintenance schedule. Planting activity must occur within the next available planting season after the self-heal approach has failed. A three year maintenance schedule is required to ensure survival and replacement of dead plantings. If dead plant material (e.g., trees, shrubs) is removed and replaced, the three year period is restarted for the replacement plantings. All plantings must be tracked accordingly. Since the self-heal or restoration area will be within the open space area, the self-heal or restoration area, as well as the open space of which it is a part, must be protected in accordance with Standard 5.3.3.6.6, "Receiving entity and protection for open space areas." The self-heal area or restoration area shall be considered natural

once it has become re-established as a naturally-vegetated area. This requirement shall not preclude other restoration requirements on the project site including, but not limited to landscaping, revegetation, and/or other active planting requirements.

#### 5.3.3.6.3.4 **Fertilizer-dependent vegetation limit**

No more than 15% of an entire development project site shall be established in fertilizer-dependant vegetation including formalized turf areas. Generally, nonnative species require fertilization therefore, planting of such nonnative species shall be limited to the maximum extent practicable. Development designs shall ~~shall be~~ in conformance with the Commission's general planting specifications and list of acceptable and unacceptable plants, which shall be adopted by resolution and periodically amended and updated by the Commission by a majority vote after consideration of other regulations and new scientific research findings applicable to Long Island native ecological communities. Landscaping and restoration plans shall strive to use only Long Island native genotypes, unless the plants are not available. The use of the nonnative plants in the Commission's general planting specifications and list of acceptable and unacceptable plants Figure 5-2 is specifically not recommended prohibited in a development design. *(Source: New text to require native species with staff clarification.)*

#### 5.3.3.6.4.5 **Native plantings**

Development designs shall ~~consider shall be~~ incorporate the planting suggestions of only those species listed as "recommended" contained in and shall be in conformance with the Commission's general planting specifications and list of acceptable and unacceptable plants. Landscaping and restoration plans shall strive to use only Long Island native genotypes, unless the plants are not available. Figure 5-2. *(Source: New text to require native species. The rationale for deleting Figure 5-2 from the CLUP and incorporating it into a separate, stand-alone document is due to the dynamic nature of vegetation recommendations, particularly those regarding invasive species. The stand-alone list should reference the new Suffolk County invasive species legislation. The Commission should also consider that New York State is currently discussing new invasive species legislation and that the plant lists in Suffolk County invasive species legislation change periodically based on continuing scientific research and phase-out provisions. A "scientific review committee" has completed extensive*

*research on the invasiveness of plant genus and species since the drafting of this CLUP and are beginning to review cultivars. Overall, this gives the Commission the freedom to adopt and amend separate specifications without having to amend the plan, which can be a lengthy process and may prevent rapid response to a particular invasive species that arises anew.)*

#### 5.3.3.6.6      **Receiving entity and protection for open space areas**

Proposed open space protections shall consider use, maintenance and future management of any designated area.

When open space areas are proposed to be dedicated to another party, either a government land preservation and management entity or private not for profit conservation land management organization, aApplications must specify the entity to which dedicated open space will be transferred.

Protection of open space areas shall be guaranteed through either (1) a transfer of the open space property title to a government land preservation and management entity or a federally certified not for profit conservation land management organization, or (2) imposition of a permanent conservation easement on the open space area, with the easement grantee being either a government land preservation and management entity or a federally certified not for profit conservation land management organization in accordance with New York State Environmental Conservation Law Article 49, or (3) recording of a conservation easement by a private landowner and filed in the Office of the Suffolk County Clerk, with the easement grantee being either a government land preservation and management entity or a federally certified not for profit conservation land management organization in accordance with New York State Environmental Conservation Law Article 49.

In the specific case of open space areas protected as a result of a Critical Resource Area development approval by the Commission, the Commission shall have enforcement authority for any conservation easement(s) on such areas. (Source: Relocated from prior 5.3.3.9 and strengthened to assure permanency of open space protection.)

#### 5.3.3.6.7      **Buffer delineations, covenants and conservation easements**

Buffer areas shall be delineated on the site plan, subdivision map, project plan and/or survey. Covenants and/or conservation easements shall be imposed to protect these areas as deemed necessary. (Source: Renumbering and rewording of former 5.3.3.4.2. with staff clarification)

#### 5.3.3.6.8 **Invasive plant species mitigation**

Invasive species are plants that have or are likely to spread into an established vegetative system, develop a self-sustaining population and become dominant or disruptive to the pre-existing systems. Development on sites of ten (10) acres or greater shall assess the extent of invasive plant species listed in the Commission's general planting specifications and list of acceptable and unacceptable plants. Figure 5.2 if any, and shall specify mitigation measures for the removal and management of the invasive species present, and restoration of the site with native species or non-invasive alternatives. This standard shall neither require the removal of existing native vegetation, native habitat nor any local, state, or federally protected species. (Source: Staff recommendation.)

Where a development application proposes to set aside an open space area of ten (10) acres or greater on a project site, the applicant shall identify the presence or absence of invasive plant species according to the inventory of unacceptable plants described in the Plan's general planting specifications and list of acceptable and unacceptable plants. The identification may include mapping of the areas of invasive plants, a description of the species of invasive plants found in the open space area and a description of the extent of invasive species. Development projects are prohibited from planting species in the Plan's list of unacceptable plants and those listed in applicable State, County, and local regulations including, but not limited to, lists adopted by Suffolk County entitled "*Suffolk County's Do Not Sell/Transfer List of Invasive Species*" (2011) and New York State regulations pursuant to 6 NYCRR Part 575 entitled "*Prohibited and Regulated Invasive Species*."

#### **Guideline**

#### 5.3.3.6.8.1 **Invasive Species Mitigation**

When areas of invasive plants have been identified, project applicants may propose to remove and eradicate the invasive plants as part of any environmental mitigation offered pursuant to SEQRA, mitigation in a CGA Hardship Waiver application, Developments of Regional Significance, Critical Resource Area applications, assertions of jurisdiction, or any other municipal or State requirement or obligation. To minimize disturbance to open space and habitat, and in keeping with the conservation design approach for open space outlined in the Plan to identify and develop appropriate locations on a project site while preserving natural features, protected species, habitats, and cultural resources, a total area of no more than two acres shall be identified and targeted-for invasive species removal, unless specified, required or authorized otherwise. Identified invasive species shall be removed entirely by hand; no applications of herbicides or the use of machinery are permitted, unless the applicant makes a

demonstration, with sufficient supporting documentation, of need and the removal is expressly authorized by the approving authority.

In the course of removing the aforesaid invasive vegetation, no disturbance may occur to existing native vegetation, native habitat or any local, state, or federally protected species within the two acre area or any other area of open space, unless otherwise permitted. Prior to removal of invasive plant material, a restoration plan must be prepared for the targeted area. As project site conditions vary due to prior disturbance, area of natural cover, location and proximity to other natural and developed landscapes, restoration techniques and opportunities for recovery are also varied and may be adapted accordingly. A range of one or more restoration methods may be applied and include, but are not limited to, the “self-heal” approach, active restoration with nursery stock, and/or transplantation activities. The site specific restoration plan shall be subject to review and approval. The restoration plan must contain specifications including, but not limited to, species, size, spacing, quantity, source of material, and other relevant information, as well as a schedule for planting in the first available planting season and a three year maintenance plan. A three year maintenance plan is required to replace any dead plantings and ensure recovery in the two acre or less area. Removal of invasives may occur within the three year maintenance period. No maintenance shall be required after three years, unless otherwise required by the approving authority. A written annual report in regard to the status of the success of the invasive plant removal and restoration shall be submitted to the approving authority during the three year maintenance period. Notification to the approving authority is required at the end of the three year maintenance period. The invasive species removal and restoration area once it has been successfully restored with native species must be protected, as well as the open space area of which it is a part, in accordance with Standard 5.3.3.6.6, “*Receiving entity and protection for open space areas.*”

**Figure 5-1: Clearance and Open Space Standards**

This table shows total overall development project site clearance and requirement for open space including lots, roads, drainage and other improvements.

*(Notes: Figure 5-1 has additions and has been reformatted and annotated for clarity, and incorporates a new column for the open space standard;*

*The specific percentage changes in the clearance column are per Brookhaven Town's 2/24/09 request.)*

**For all privately owned parcels:**

<p><b>Zoning lot size as of June 28, 1995, with the exception that in the newly expanded Compatible Growth Area in the Carmans River Watershed created by the New York State Legislature's adoption on June 7, 2013 of an amendment to Environmental Conservation Law Article 57, Section 57-0107(10), the minimum lot size required by zoning shall be based on the zoning in effect on January 1, 2014. (*)</b>  <i>(Source: 6/28/95 date is staff recommendation for clarity. This addresses effective date of zoning to be used since old text was silent as to date. The date represents date of original CLUP adoption, has been the date generally applied by staff and has been the basis of many land use decisions. However, some schools of thought believe other dates may be more appropriate. Accordingly, the Commission should confirm its support for this date.)</i></p>	<p><b>Maximum overall development project site clearance (**)</b></p>	<p><b>Minimum Open Space Requirement (**)</b></p>
10,000 square feet residential (1/4 acre)	90%	10%
15,000 square feet residential (1/3 acre)	70%	30%
20,000 square feet residential (1/2 acre)	60%	40%
30,000 square feet residential (2/3 acre)	58.55%	42.45%
40,000 square feet residential (1 acre)	53.50%	47.50%
60,000 square feet residential (1.5 acre)	46%	54%
80,000 square feet residential (2 acres)	35.30%	65.70%
120,000 square feet residential (3 acres)	30.25%	70.75%

<p>160,000 through 200,000+ square feet residential (4 - 5+ acres)</p> <p><u>Clearance Areas and Open Space on lots in this category shall not include the clearance necessary for the construction of driveways and septic systems., except that, in no case shall the total clearance in this category exceed 25%.</u></p> <p><u>The total amount of disturbance of natural vegetation shall not exceed the clearance percentage, except on flagpole lots where the area of the pole shall be exempt from the total lot area and the total amount of clearing permitted.</u></p>	<p><u>2515%</u></p> <p>Clearance limitations on lots in this category shall not include the clearance necessary for the construction of driveways and septic systems. In no case shall the total clearance in this category exceed 25%. <i>(Source: Text relocation to left and modification is staff recommendation.)</i></p>	<p><u>7585%</u></p>
<p>Other defined residential zoning lot size</p>	<p>Interpolate from entries above.</p>	<p>Interpolate from entries above.</p>
<p><del>Commercial, Industrial and Other or Mixed Use</del> <u>All other zoning categories, including those categories without defined zoning lot sizes and parcels owned by the State or a public corporation, except for publicly-owned lands dedicated to park purposes, open space or nature preserve or acquired with funds for open space preservation or parkland purposes.</u></p>	<p><u>6560%</u></p>	<p><u>40%</u></p>
<p style="text-align: center;"><i>Notes:</i></p> <p>(*) These entries are the minimum lot sizes required by zoning as of June 28, 1995 or the current zoning, whichever is more protective of the environment by minimizing clearance or maximizing open space, not the size of the subject parcels, <u>with the exception that in the newly expanded Compatible Growth Area in the Carmans River Watershed created by the New York State Legislature's adoption on June 7, 2013 of an amendment to Environmental Conservation Law Article 57, Section 57-0107(10), the minimum lot size required by zoning shall be based on the zoning in effect on January 1, 2014.</u></p> <p>(**) In calculating the percentage of land cleared or and the percentage of open space to be retained, the preserved areas in a development should preferably be existing native vegetation. These are maximum clearance and <u>minimum</u> open space standards, and more restrictive standards may be imposed during the review by the <u>Commission, involved agency, or local municipality</u> due to consideration of other standards, especially those addressing preservation of rare or endangered species, or unique flora or vegetation. <i>(Source: Consistency with Plan text changes; staff recommendations.)</i></p>		

### 5.3.3.7 Species and communities of special concern Protection and conservation of species and communities *(Source: New text.)*

The pine barrens ecosystem hosts several species of rare, endangered or threatened animals and plants, as well as species of special concern. The State of New York has identified such species and has enacted laws to protect their number and habitat. The New York State Natural Heritage

Program has also identified unique natural communities and habitats of special concern. Additionally, the pine barrens provides breeding, migratory stopover, and overwintering habitat for several dozen species of birds. These include various songbirds such as warblers, tanagers, cuckoos, kinglets, grosbeaks, thrushes, and orioles. This also includes certain other groups of birds including shorebirds, water birds, birds-of-prey, forest interior bird species and hummingbirds.

The U.S. Fish and Wildlife Service estimates that bird strikes with buildings, windows, and other structures account for up to several hundred million bird deaths per year. Many collisions are preventable with appropriate building designs, such as those described in the city of Toronto, Canada’s “Bird Friendly Development Guidelines” and the New York City Audubon Society’s “Bird-safe Building Guidelines”. (Source: New text.)

### *Standards*

#### 5.3.3.7.1 **Special species and ecological communities**

Where a significant ~~negative~~ impact upon a habitat essential to those species identified on the New York State maintained lists as rare, threatened, endangered or of special concern, or upon natural communities classified by the New York State Natural Heritage Program as G1, G2, G3 or S1, S2 or S3, or on any federally listed endangered or threatened species ~~is proposed~~ may occur, appropriate mitigation measures as determined by the appropriate state, county or local government agency or entity shall be taken to protect these species. (Source: New text.)

### *Guideline*

#### 5.3.3.7.2 **Bird conservation and protection**

All development or portions thereof, including, but not limited to, commercial, industrial, institutional, public, mixed use and tall structures (see definition in Chapter 4), but excluding construction of separate single family homes, shall incorporate structural design and site planning elements which reduce, minimize, mitigate or eliminate to the greatest extent feasible, impacts to birds, both migratory and non migratory. This shall be accomplished through structural and site design elements which shall include, but not be limited to:

- reduction of continuous window surface area;
- external and internal patterning of glass;
- type and location of landscaping with respect to the building proper;
- reduction of reflections, glazing and reflective surfaces that reflect natural surroundings;
- use of angled glass surfaces;

- incorporation of reflection reducing awnings, and other building design and facade elements that eliminate habitat reflections;
- full cutoff lighting that directs all light downward and eliminates spill light and direct upward light; and
- design of tall structures that do not incorporate support wires, lighting patterns, or colors that endanger migration and flight. (Source: ~~New standard.~~)

**5.3.3.8 Soils and Topography** ~~(Source: New text.)~~

Disturbance of, and construction on, steep slopes within the pine barrens involves considerable removal of native vegetation resulting in excessive surface water runoff and severe soil erosion. Steeply sloped areas are also subject to more rapid spread of wildfire than flat ground.

*Standard*

**5.3.3.8.1 Slopes, clearing and stabilization**

Development shall minimize disturbance of natural grade and topography to the greatest extent practical. Development applications shall include slope maps or contour lines showing areas of 0% to 10% grade, 11% to 15% grade and greater than 15% grade (with finer gradations permitted but not required). Creation or disturbance of slopes of greater than fifteen (15%) shall be prohibited. Clearing envelopes, homes, roads, driveways, and related site improvements shall be located on slopes of 10% grade or less. Mitigation measures including, but not limited to, retaining walls, erosion control measures, and slope stabilization measures may be required in any portion of a development site if the physical conditions warrant. This standard is summarized in Figure 5-2. (Source: ~~New standard, consistent with SC Planning Commission threshold and incorporating former guidelines below. Also removes potential conflicts among the prior guidelines in some cases.~~)

**Figure 5-2: Slopes, clearing and stabilization standard summary**

<b>Slope range</b>	<b>Standard</b>
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<u>0% to 10%</u>	<u>Clearing envelopes, homes, roads, driveways, and related site improvements shall be located on slopes of 10% grade or less.</u>
<u>&gt;10% to 15%</u>	<u>If a waiver is granted by the Commission, mitigation measures including, but not limited to, retaining walls, erosion control measures, and slope stabilization measures may be required in any portion of a development site if the physical conditions warrant.</u>
<u>&gt;15%</u>	<u>Creation or disturbance of slopes shall be prohibited.</u>

### Guidelines

#### 5.3.3.8.1 Clearing envelopes

Clearing envelopes should be placed upon lots within a subdivision so as to maximize the placement of those envelopes on slopes less than ten percent (10%).

#### 5.3.3.8.2 Stabilization and erosion control

Construction of homes, roadways and private driveways on slopes greater than ten percent (10%) may be approved if technical review shows that sufficient care has been taken in the design of stabilization measures, erosion control practices and structures so as to mitigate negative environmental impacts.

#### 5.3.3.8.3 Slope analyses

Project review is facilitated if submissions contain a slope analysis showing slopes in the ranges 0-10%, 11-15% and 15% and greater. In areas with steep slopes, slope analysis maps should be required. This can be satisfied with cross hatching or shading on the site plan for the appropriate areas.

#### 5.3.3.8.4 Erosion and sediment control plans

Erosion and sediment control plans should be required in areas of fifteen percent (15%) or greater slopes.

#### 5.3.3.8.5 Placement of roadways

Roads and driveways should be designed to minimize the traversing of slopes greater than ten percent (10%) and to minimize cuts and fills.

#### 5.3.3.8.6 Retaining walls and control structures

Details of retaining walls and erosion control structures should be provided for roads and driveways which traverse slopes greater than ten percent (10%).

**5.3.3.9 Coordinated design for open space management.** *(Source: Relocated to Section 5.3.3.6 “Coordinated design for open space and habitat protection”.)*

Comprehensive, coordinated planning and design of development proposals within the pine barrens is essential to ensure maximum preservation of open space and habitat linkages. Developments should not be designed without adequate consideration of the existing development and known future plans for the adjacent parcels. Otherwise, inefficient road patterns may require unnecessary clearing and lot layout that may hinder or prevent the preservation of large, unbroken blocks of open space.

The use of the clustering technique within the Central Pine Barrens preserves open space, preserves habitat, protects important resource areas, improves infrastructure efficiency and furthers the statute's goals of compact, efficient and orderly development in the Central Pine Barrens.

Additionally, proper management of these areas is essential in order to protect open spaces from illegal dumping, clearing, motor vehicle trespass and other abuses.

*Standard*

**5.3.3.9.1 Receiving entity for open space dedications**

Applications must specify the entity to which dedicated open space will be transferred.

*Guidelines*

**5.3.3.9.2 Clustering**

Municipalities are strongly urged to maximize the use of the clustering technique where its usage would enhance adjacent open space or provide contiguous open space connections with adjacent open space parcels.

**5.3.3.9.3 Protection of dedicated open space**

Proposed open space should be protected with covenants, conservation easements or dedications that specify proper restrictions on its use and contingencies for its future management.

**5.3.3.9 Dark sky compliance.** *(Source: ~~New section and standard, reusing old section number.~~)*

It is the intent of the Commission to encourage lighting fixtures, practices and systems which will minimize light pollution and glare, conserve energy and resources, provide essential site security, eliminate adverse effects upon nocturnal light sensitive species, and avoid light trespass onto adjoining and nearby properties.

Light pollution is defined, for the purposes of this section, as any adverse effect of man-made light, including, but not limited to, discomfort to the eye, or any man-made light that diminishes the ability to view the night sky, trespasses upon other properties, or disrupts wildlife.

*Standard*

**5.3.3.9.1 Light pollution prevention**

The candlepower distribution from all lighting fixtures and installations shall be cut off at all angles beyond those required to restrict direct illumination to the specific area or surface being illuminated. Development shall utilize full cutoff lighting that directs all light downward and eliminates spill light and direct upward light. All fixtures shall be noted on the proposed site plan as dark-sky compliant fixtures. All existing exterior fixtures on a development project site shall be retrofitted accordingly. **This standard applies only to projects which are not subject to local municipal review and approval.**

**5.3.3.10 Agriculture and horticulture**Reserved.

~~Scattered throughout the pine barrens are parcels devoted to agricultural and horticultural uses.~~

*Guideline*

~~5.3.3.10.1 Best management practices~~

~~Any existing, expanded, or new activity involving agriculture or horticulture in the Compatible Growth Area should comply with best management practices, as defined herein, and relevant requirements including local law. Best management practices are, for purposes of this Plan, the same practices stated in the most recent version of *Controlling Agricultural Nonpoint Source Water Pollution in New York State* (Bureau of Technical Services and Research, Division of Water, New York State Department of Environmental Conservation, 1991 and as later amended):~~

### 5.3.3.11 Scenic, historic and cultural resources

The Long Island Pine Barrens Protection Act specifies that the Plan shall consider and protect unique scenic, cultural or historic features. Chapters 7 and 8 in Volume 2 of the Plan include an inventory of many of these resources, and separate inventories for these items exist in local, state, county, federal or private inventories.

The Commission's policy is to protect and enhance those landscape based features of a community which define it, provide for its distinction from neighboring communities, provide for natural areas among the communities which complement the protection of the pine barrens ecosystem, and contribute to a regional diversity, both natural and cultural. The standards in this section will promote the protection of these features in the Central Pine Barrens.

Federal, State, and local historic and cultural preservation programs along with the standards in this section promote the protection and preservation of the historic and cultural resources in the Central Pine Barrens which serve as critical components to the region's heritage, economy and tourism. Local historic districts play an important role in preserving distinctive historic neighborhoods and assemblages of historic structures located in the Central Pine Barrens.

In order to minimize adverse visual effects of tall structures as defined in Chapter 4, Section 4.3.11, careful siting and design standards shall be applied to development projects involving tall structures that are proposed by government agencies, public benefit corporations, and special purpose districts such as fire protection districts, fire and ambulance districts, libraries, and school district governments and public school systems, and any other development projects which are not subject to local municipal review and approval. Potential damage to adjacent properties from the placement and construction of tall structures should be avoided through local structural standards and zoning setback requirements. This section also emphasizes the protection of existing viewsheds along scenic roads and for scenic areas as identified in Figure 5-2, and as further described in Volume II of this Plan, and the to avoidancing of the unnecessary proliferation of tall structures within the Central Pine Barrens. In addition, the standard for tall structures will promote the protection of community character, historic and cultural resources, and recreational resources from visual and aesthetic impacts. (Source: New preceding text and new 5.3.3.11.1 below.)

#### ***Standards***

##### **5.3.3.11.1 Tall structures and scenic resources**

No development or portions thereof, such as that which is proposed by public entities, shall meet or exceed the height definition for tall structures in Chapter 4, Section 4.3.11. Tall structures includes, but are not limited to, communication and other types of towers, wind energy facilities, signs, steeples, buildings and other structures which meet or exceed the definition for tall structures in Chapter 4, Section 4.3.11. Proposed development or portions thereof which meet or exceed the height definition for a tall structure shall require a waiver of this

standard from the Commission. This standard requires, in part, the adaptive use and reuse of existing tall structures (see definition in Chapter 4) rather than the construction and placement of new ones when and where feasible and appropriate. Applicants shall complete Part 1 of the State Environmental Quality Review Long Environmental Assessment form, as applicable, to evaluate potential impacts to scenic, historic, and cultural resources, and community character, open space, and recreation; Environmental Assessment - Visual Addendum for any tall structure proposed. The Commission shall consider review this information, other land use plans, Volume II: Chapter 7 Cultural Resources: Historic and Archaeological and Chapter 8 Scenic Resources, the New York State Department of Environmental Conservation guidance document DEP-00-2 entitled "Assessing and Mitigating Visual Impacts" and any other technical material relevant to the evaluation of the development project being proposed., This information shall be used by the Commission for when determining the appropriateness of design elements including, but not limited to, placement, height and potential impacts, including but not limited to, visual and bird impacts, of any proposed tall structure, and may require mitigation measures as a condition of granting a waiver is granted. (Source: Staff recommendation.)

5.3.3.11.2

5.3.3.11.1 **Scenic, cultural and historic resource consideration protection**

Development proposals ~~should account for~~ shall document, review, and provide appropriate protection measures for:

1. Established recreational and educational trails and trail corridors, including but not limited to those trail corridors inventoried elsewhere in this Plan.
2. Active recreation sites, including existing sites and those proposed as part of a development.
3. Scenic corridors, roads, vistas and viewpoints as documented in Volume 2 of this Plan, which are listed in Figure 5-2 of this Plan ~~which and~~ may be located in located in Critical Resource Areas, and along the Long Island Expressway, Sunrise Highway, County Road 111 and William Floyd Parkway, and any federally or state designated scenic roads, corridors, viewpoints or viewsheds.
4. Sites of historical or cultural significance, including historic districts, sites on the State or National Registers of Historic Places, ~~and~~ historic structures listed on the State or National Registers of Historic Places, ~~and~~ structures, sites or districts recognized by local municipal law or statute.

5. Sensitive archaeological areas as identified by the New York State Historic Preservation Office or the New York State Museum.
- ~~6. Sites containing either marked, known or unmarked human remains of any age. Marked or known sites include, but may not be limited to, cemeteries, burial plots, documented but unmarked sites, etc. Unmarked sites include, in part, any sites found to contain human remains or associated burial artifacts during physical examination or alteration of a development site, which discovery shall cause the development project to be halted and a revised application to be submitted directly to the Commission for approval with appropriate protection measures added.~~
6. Any sites marked or not marked that contain human remains or associated burial artifacts.

Protection measures shall be designed to avoid, minimize and/or mitigate impacts to scenic, cultural and historic resources. In evaluating impacts to scenic and historic resources, applicants shall apply the New York State Department of Environmental Conservation guidance document DEP-00-2 entitled “Assessing and Mitigating Visual Impacts.” Protection measures for scenic and recreational resources, including visible historic resources, shall include, but not be limited to, retention of visually shielding natural buffers, replacement of degraded or removed natural visual buffers using native species, installation of new vegetated visual buffers using native species, use of signs which are in keeping in both style and scale with the community character, and similar measures.

Protection measures for historic resources shall include those which avoid, reduce or mitigate the impacts to such resources and shall include those identified in Standards 5.3.3.11.3 and 5.3.3.11.4.

For development project sites which contain historic and cultural resources which have been identified by the Historic Preservation Office of the New York State Office of Parks, Recreation and Historic Preservation (“SHPO”), the New York State Museum or the local municipality and for development project sites which are known to contain or on which human remains or associated burial artifacts are discovered, the applicant shall adhere to the guidance contained in the most current versions of the documents entitled “Cultural Resource Standards Handbook, Guidance for Understanding and Applying the New York State Standards for Cultural Resource Investigations”, prepared by the New York Archaeological Council Standards Committee and “Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State” by the New York Archaeological Council in determining appropriate protection measures as well as the recommendations of the Historic Preservation Office of the New York State Office of Parks, Recreation and Historic

Preservation. ~~(Source: Staff recommendation for clarity, consolidation and enhancement of three formerly separate guidelines below.)~~

### **Guidelines Standard**

#### **5.3.3.11.3 Inclusion of cultural resources in applications**

Development proposals shall identify should note established recreation and educational trails and trail corridors; active recreation sites; scenic corridors, roads, vistas and viewpoints located in Critical Resource Areas and undisturbed portions of the roadsides of the Long Island Expressway, Sunrise Highway, County Road 111 and William Floyd Parkway; sites on the State or National Register of Historic Places, and historic structures and landmarks recognized by municipal law or statute, or listed on the State or National Registers of Historic Places; and sensitive archaeological areas as identified by SHPO or the New York State Museum within a five hundred (500) foot radius of the outside perimeter of the project site, including any project parcels which are physically separate from the bulk of the proposed development area.

Predevelopment investigation of potential historic and cultural resources for a development project site shall be required early in the subdivision/site planning process to serve as a guide for the layout and design of the development and to ensure the protection of these resources. The developer shall submit a request to SHPO or shall search the SHPO database and shall contact the local municipality, including its planning department, and historian office to identify potential historic and cultural resources on and in proximity to the project site. Copies of the letters submitted by the applicant and responses along with any information obtained from these agencies shall be provided to the agency reviewing the CGA application. For development projects where historic and cultural resources have been identified by the New York State Historic Preservation Office, the New York State Museum, or the local municipality, and for when human remains or associated burial artifacts are discovered on the project site, the developer shall adhere to the most current versions of the documents “Cultural Resource Standards Handbook, Guidance for Understanding and Applying the New York State Standards for Cultural Resource Investigations”, prepared by the New York Archaeological Council Standards Committee and “Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State” by the New York Archaeological Council to determine how to proceed to investigate, identify, document and provide appropriate protection measures. In the case where human remains or associated burial artifacts are found during the physical examination or alteration of a development site, the development project shall be halted and a revised application shall be submitted to the Commission for approval with the appropriate protection measures added as required by the SHPO.

A development proposal may be disapproved or altered if the local municipality or Commission determines that the development proposal, in its current form, may have a significant adverse impact on any of the above resources. (Note: Incorporated into new 5.3.3.11.2 above.)

5.3.3.11.4. **Reuse and preservation of historic buildings<sup>2</sup>**

The reuse of historic buildings on development project sites shall be required in lieu of demolition to prevent the loss of irreplaceable historic resources unless it is determined by the reviewing agency, after consulting with the appropriate local, State and/or Federal Historic Preservation agencies, that it is not feasible to reuse the building due to such factors as the condition of the structure, economic cost to restore and historic significance and value of retaining the structure. The reviewing agency shall request additional documentation from the applicant to support a determination that reuse of a structure is not feasible. Such documentation may include a report, based on a structural inspection and analysis, certified by a professional engineer, architect or historic preservation specialist. Historic buildings on a development project site shall be preserved and protected according to **Section 5.3.3.6 Coordinated design for open space, habitat and soil protection**, and through covenants or easements as required by the local municipality or the Commission.

5.3.3.11.3 **Protection of scenic and recreational resources**

Protection measures for scenic and recreational resources should include, but not be limited to, retention of visually shielding natural buffers, replacement of degraded or removed natural visual buffers using native species, use of signs which are in keeping in both style and scale with the community character, and similar measures. (Note: Incorporated into 5.3.3.11.2 above.)

5.3.3.11.5

5.3.3.11.4 **Roadside design and management** **Preservation and enhancement of roadside character**

Undisturbed portions of the roadsides should shall be maintained in a manner that protects the scenic features of these areas. and the placement of man-made structures along such roadsides should be designed to minimize disturbances to the roadside to the extent practicable.

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<sup>2</sup> Information obtained in part from the Cape Cod Regional Policy Plan, prepared by the Cape Cod Commission, dated 2009.

#### 5.3.3.11.6 **Roadsides within scenic corridors, roads, vistas and viewpoints<sup>1</sup>**

Within roadside areas, especially within scenic corridors, roads, vistas and viewpoints and in which the rural character is most readily visible and alterations to the landscape are most readily recognizable, the basic rural character of wooded and agricultural edges shall be preserved by preventing development from dominating viewsheds, by preserving wooded roadside edges and/or requiring natural landscaping and screening, and where necessary, the enhancement of natural buffers.

Clearing (including that for aisles, driveways, access and parking) shall not be precluded within these roadside areas, provided that such development does not cause the development project to dominate the viewshed, thereby affecting the rural and scenic community character; maintains the existing scenic features to the extent practicable; and appropriate buffers are maintained; that manmade structures are of scale and character appropriate for the area and the amount of clearing conforms with Section 5.3.3.6.1 **Vegetation clearance limits** and other applicable standards. ~~meets standards consistent with the character of the area.~~

New development proposed adjacent to scenic roads shall be designed to preserve distinctive features of the scenic road including but not limited to tree canopy, winding road character, and scenic views and to limit the visibility of the new development from scenic roads.

New development proposed on local and regional scenic roadways shall be sized such that it can be accommodated without significant changes to the existing character of roadway.

The installation of billboards shall not be permitted along scenic roadways or within scenic areas.

#### **Guidelines**

#### 5.3.3.11.7 **Trees<sup>1</sup>**

The planting of shade trees along roadways to improve the visual quality of an area is encouraged. Such trees should be tolerant of roadside conditions and a minimum of 3-inch caliper/diameter at breast height (4 feet above ground surface) at time of planting.

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<sup>1</sup> Source: Cape Cod Regional Policy Plan, prepared by the Cape Cod Commission, dated 2009.

Distinguishing original features of a site such as trees greater than 6-inch diameter at breast height, existing plantings, and topography should be preserved where possible.

5.3.3.11.8

**Utilities**<sup>2</sup>

The placement underground of existing overhead utility lines as part of any roadway improvement project should be encouraged when practicable, particularly where they detract from historic and cultural features, community character, and scenic views.

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<sup>2</sup> Source: Cape Cod Regional Policy Plan, prepared by the Cape Cod Commission, dated 2009.

**Figure 5-2: Scenic Roads and Areas in the Central Pine Barrens<sup>1</sup>**

**(Standards and guidelines shall apply only to the portion of these areas**

**and roadways located in the Compatible Growth Area)**

**Scenic Roads in the Central Pine Barrens Area**

- **Sunrise Highway (NYS 27) from CR 51 intersection east to NYS 24 intersection.**
- **Riverhead -Moriches Road (CR 51) and Center Drive from CR 111 north to Riverhead County Center.**
- **Riverhead -Moriches Road (CR 63) from CR 51 north toward Riverhead**
- **Riverhead-Westhampton Road (CR 31) and Riverhead-Quogue Road (CR 104) from Suffolk Airport north to Riverhead**
- **Flanders Road (NYS 24) from approximately Cross River Drive (CR 105) east to Jackson Avenue**
- **Yaphank hamlet and Yaphank-Middle Island Road (CR 21) from Lower Lake north to Cathedral and Prosser Pines**
- **William Floyd Parkway from northerly edge of Brookhaven Laboratory to Route 25A**
- **Rocky Point Road (CR 21) from approximately Whiskey Road north to northern edge of state preserve**
- **North Street and Mill Road through Manorville hamlet**
- **Schultz Road and Wading River-Manorville Road**

### Scenic Areas in the Central Pine Barrens

- NYS Rocky Point Natural Resource Management Area
- Prosser Pines County Nature Preserve
- Southaven County Park and Carmans River
- Brookhaven State Park
- Peconic River and associated Coastal Plain Ponds from Middle Country Road (NYS 24) south to Schultz Road and east towards Connecticut Avenue
- Swan Pond County Parkland
- Manorville-Riverhead Hills from roughly the Long Island Expressway extending along an arc running southeast and east to CR 51
- Riverhead Hills, an extension of the above “arc”, running from CR 51 east past Suffolk Community College, Speonk-Riverhead Road to CR 104
- Cranberry Bog County Nature Preserve located south of Riverhead County Center
- Sears Bellows/Maple Swamp/ Flanders Hills County parkland from Flanders Road (NYS 24) south to Sunrise Highway; from Pleasure Drive east to Bellows Pond Road
- South Flanders and Henry’s Hollow region
- Dwarf Pine Barrens
- Flanders and Hubbard County Parks, Southampton Town Red Creek Parkland
- Quogue Wildlife Refuge
- Peconic River from Connecticut Avenue east to Riverhead hamlet and Flanders Bay
- Paumanok Path (Pine Barrens Trail portion) from Rocky Point south, southeast, and east to Sears Bellows County Park, the Red Creek region, and outside the Central Pine Barrens towards Montauk Point
- Wildwood Lake south of Riverhead hamlet
- Artist Lake immediately south of Middle Country Road in Middle Island
- Lake Panamoka approximately one mile north of Middle Country Road, between Ridge and Calverton

**Additional Scenic Corridors, Vistas, and Viewpoints**

**Scenic Corridors, roads, vistas and viewpoints that may be located in Critical Resource Areas, and along the Long Island Expressway, Sunrise Highway, County Route 111 and William Floyd Parkway, and other federally designated scenic roads, corridors, viewpoints or viewsheds.**

1. A more complete description of each of the scenic resources listed is provided in the Central Pine Barrens Comprehensive Land Use Plan, Volume 2: Existing Conditions, Chapter 8 Scenic Resources, 6/28/1995, reprinted 8/96).

**5.3.3.12 Commercial and industrial development** *(Source: This section was combined with Section 5.3.3.1, which is now titled "Sanitary Waste, Nitrate-Nitrogen and other chemicals of concern". The preceding introductory text was struck. The standard below was relocated there as 5.3.3.1.)*

Throughout the Compatible Growth Area, there are parcels of land that are zoned for commercial or industrial use. Future development of these parcels should occur in a manner which is consistent with the goals and objectives of the Act.

***Standard***

**5.3.3.12.1 Commercial and industrial compliance with Suffolk County Sanitary Code**

All commercial and industrial development applications shall comply with the provisions of the Suffolk County Sanitary Code as applied by the Suffolk County Department of Health Services, and all other applicable federal, state or local laws. Projects which require variances from the provisions of the Suffolk County Sanitary Code shall meet all requirements of the Department of Health Service's Board of Review in order to be deemed to have met the requirements of this standard.

**5.3.3.12 Traffic management and air quality** *(Source: Staff recommendation.)*

The Act mandates that the Plan for the Central Pine Barrens area shall be designed to "ensure that the pattern of development is compact, efficient and orderly". With respect to the Compatible Growth Area, the Act mandates that the Plan "encourage appropriate patterns of compatible residential, commercial, agricultural, and industrial development in order to accommodate regional growth influences in an orderly way while protecting the Pine Barrens environment from the individual and cumulative adverse impacts thereof". An intrinsic part of many land use development proposals is traffic impact, and effective design for its management and mitigation is essential for efficient and orderly future land use patterns.

***Standard***

**5.3.3.12.1 Traffic management and mitigation**

All developments of regional significance (DRS) shall include a traffic management and mitigation plan. All traffic management and mitigation plans shall be reviewed and approved by the Commission as part of the overall development project review consistent with the purposes of the Act. The Commission shall, at its discretion, seek the expert assistance of other agencies or entities as appropriate in reviewing such plans.

**5.3.3.12 Wildfire hazard**-(Source: Staff recommendation. Based upon International Code Council and NYS Department of State model ordinances and suggested standards.) *(Preface to be completed.)*

***Standard***

**5.3.3.12.1 Access**

*(To be completed.)*

**5.3.3.12.2 Water supply**

*(To be completed.)*

**5.3.3.12.3 Fire protection plan**

*(To be completed.)*

**5.3.3.12.4 Defensible space**

*(To be completed.)*