

5. Standards and Guidelines for Land Use

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 be designed with full 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 entirely prevent the preservation of large, unbroken blocks of open space. *(Source: This text is relocated from former 5.3.3.9 “Coordinated design for open space management”, and reworded for clarity.)*

Conservation design is a method of site planning that emphasizes the preservation of natural, historic or other significant features while allowing a parcel to be partially developed in appropriate locations. This approach identifies areas of conservation value to be permanently protected and set aside within a site, locates development outside such areas, and requires ongoing monitoring and permanent protection through covenant, dedication or easement. Conservation design shall be required for all development projects as described in Standard 5.3.3.6.2. *(Source: New definition.)*

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. *(Source: New text. May need to define “natural” vegetation.)*

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. Areas within development project sites that contain 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. *(Source: New text.)*

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 the 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. The Commission supports the identification and removal of exotic invasive species while enhancing the use and maintenance of native species within the Central Pine Barrens. (Source: *New text with staff clarification.*)

When applied as one possible tool within the required Conservation Design methodology, 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 Act's goals of compact, efficient and orderly development in the Central Pine Barrens. (Source: *Staff recommendation for consistency.*)

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 between wetlands and development, visual consideration, or mitigation of environmental impacts. 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. (Source: *New text with staff recommendation.*)

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** *(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 shall utilize the following principles of Conservation Design.

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.

Conservation design to satisfy this open space standard shall delineate both primary and secondary conservation areas within the development project site. Primary conservation areas shall be defined first, 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. Secondary conservation areas shall then be defined within the development project site to complement the primary conservation areas, and shall be of sufficient area that the total of the primary and secondary conservation areas on the development project site meet or exceed the applicable minimum open space requirement for that development project site, as indicated in Figure 5-1.

5.3.3.6.2.3 **Unfragmented open space and habitat**

Subdivision and site design shall 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. (Source: *New text.*)

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. (Source: *Eliminated text to broaden application.*)

It is recognized that the preservation of nonnative but ecologically important habitats 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.

Municipalities are strongly urged to maximize the use of the clustering technique for any development where its usage would enhance adjacent open space or provide contiguous open space connections with adjacent open space parcels. 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. (Source: *New text. Adds municipal encouragement and clarifies that open space does not count if it is within the lots. However, section may require additional clarification, such as placing a size limit on parcels proposed for subdivisions of 5 lots or less to prevent a significant amount of clearing from occurring.*)

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**

Applications must specify the entity to which dedicated open space will be transferred. Proposed open space protections shall consider use, maintenance and future management of any designated area.

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.

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.)

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:		
Zoning lot size as of June 28, 1995 (*) <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>	Maximum overall development project site clearance (**)	Minimum Open Space Requirement (**)
10,000 square feet residential (1/4 acre)	90%	<u>10%</u>
15,000 square feet residential (1/3 acre)	70%	<u>30%</u>
20,000 square feet residential (1/2 acre)	60%	<u>40%</u>
30,000 square feet residential (2/3 acre)	58 55%	<u>45%</u>
40,000 square feet residential (1 acre)	53 50%	<u>50%</u>

60,000 square feet residential (1.5 acre)	46%	<u>54%</u>
80,000 square feet residential (2 acres)	35 30%	<u>70%</u>
120,000 square feet residential (3 acres)	30 25%	<u>75%</u>
160,000 through 200,000+ square feet residential (4 - 5+ acres) <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>	20 15% <u>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%. (Source: Text relocation to left and modification is staff recommendation.)</u>	<u>85%</u>
Other defined residential zoning lot size	Interpolate from entries above.	Interpolate from entries above.
Commercial, Industrial and Other or Mixed Use <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>	65 60%	<u>40%</u>
<p><i>Notes:</i></p> <p>(*) These entries are the minimum lot sizes required by zoning <u>as of June 28, 1995 or the current zoning, whichever is more protective of the environment by minimizing clearance or maximizing open space,</u> not the size of the subject parcels.</p> <p>(**) In calculating the percentage of land cleared or <u>and the percentage of open space to be retained,</u> 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>		

Figure 5-2: Planting recommendations

(Native plants are more drought tolerant than nonnative species, are adapted to our local environment, maintain natural ecological diversity, perpetuate fast disappearing native genotypes, and comprise a form of habitat restoration.)

Scientific name <i>(In alphabetic order)</i>	Common name
Recommended native plants	
<ul style="list-style-type: none"> <i>Andropogon gerardi</i> <i>Andropogon scoparius</i> <i>Betula lenta</i> <i>Betula populifolia</i> <i>Celtis occidentalis</i> <i>Dennstaedtia punctilobula</i> <i>Epigea repens</i> <i>Hamamelis virginia</i> <i>Hex glabra</i> <i>Hex opaca</i> <i>Myrica pensylvanica</i> <i>Parthenocissus quinquefolia</i> <i>Pinus rigida</i> <i>Populus tremuloides</i> <i>Prunus maritima</i> <i>Prunus serotina</i> <i>Pteridium aquilinum</i> <i>Quercus alba</i> <i>Quercus coccinea</i> <i>Quercus rubra</i> <i>Rosa virginiana</i> <i>Rubus allegheniensis</i> <i>Salix discolor</i> <i>Sassafras albidum</i> <i>Solidago species</i> <i>Spirea latifolia</i> <i>Vaccinium angustifolium</i> <i>Vaccinium corymbosum</i> 	<ul style="list-style-type: none"> Big bluestem Little bluestem White Birch Grey birch Hackberry Hay scented fern Trailing arbutus Witch hazel Inkberry American holly Northern bayberry Virginia creeper Pitch pine Quaking aspen Beach plum Black cherry Bracken fern White oak Scarlet oak Red oak Virginia rose Northern blackberry Pussy willow Sassafras Goldenrod Spirea Lowbush blueberry Highbush blueberry
Continued ...	

Invasive, nonnative plants specifically not recommended

<i>Acer platanoides</i>	Norway maple
<i>Acer pseudoplatanus</i>	Sycamore maple
<i>Ampelopsis brevipedunculata</i>	Porcelain berry vine
<i>Berberis thunbergii</i>	Japanese barberry
<i>Celastrus orbiculatus</i>	Asiatic bittersweet
<i>Coronilla varia</i>	Crown vetch
<i>Eleagnus umbellata</i>	Autumn olive
<i>Lespedeza cuneata</i>	Himalayan bushclover
<i>Ligustrum sinense</i>	Chinese privet
<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Lonicera maackii</i>	Amur honeysuckle
<i>Lonicera tartarica</i>	Tartarian honeysuckle
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Miscanthus sinensis</i>	Eulalia
<i>Pinus nigra</i>	Black pine
<i>Polygonum cuspidatum</i>	Mexican bamboo
<i>Pueraria lobata</i>	Kudzu
<i>Robina pseudoacacia</i>	Black locust
<i>Rosa multiflora</i>	Multiflora rose
<i>Rosa rugosa</i>	Rugosa (salt spray) rose
<i>Rudbeckia hirta</i>	Black eyed susan

(Source: Recommendation to delete and in its place the Commission would adopt, by resolution, “general planting specifications” and a “list of acceptable and unacceptable plants.” As these are constantly evolving, they would be 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.)