

### **5.3.3.6 Coordinated design for open space, habitat and soil protection**

11/19/09 - Provided The Nature Conservancy with cc to AC Chair of an excerpt of the current draft of the Vegetation Clearing standard through Figure 5-2 for consideration by subcommittee advising the SC Planning Commission.

01/14/10 - Clarified wording in 5.3.3.6 preface.

01/29/10 - Commission staff met re various amendment topics: SEQRA timelines, clearing standards (Fig. 5-1), DRS thresholds and accompanying standards, open space definition, conservation design, etc.

### ***Standards***

- Section 5.3.3.5 Nitrate-nitrogen goal. A discussion ensued regarding the scientific rational and existing buffer zones referred to in the language of this section. Mr. Corwin explained the difference between standards and guidelines, stating that standards are definitive and more restrictive.
- Section 5.3.3.3, Wellhead and groundwater protection, has a new introduction to the standard. SWAP data will be used to further clarify this addition.
- Section 5.3.3.4.3 Stormwater recharge. Mr. Weibold questioned this addition. Mr. Corwin stated the AC made a prior recommendation that resulted in this addition. It was decided that this section would remain in its original text.
- Section 5.3.3.4.4 Impervious Surfaces. Mr. Corwin explained that this addition resulted from the need to address new applications on existing construction and added that the newly worded open space / clearing space standards apply to these applications. Mr. Weibold disagreed with Commission jurisdiction in existing development and challenged the new wording of this section. A discussion ensued that resulted in altered language.
- Section 5.3.3.4.5. Natural recharge, topography and drainage. The last section of this section will remain a guideline. A discussion ensued regarding the creation of ponds. Mr. Jones made the point that a pond is a man made creation and is subject to the same restrictions placed on other forms of building in the Central Pine Barrens. Mr. Corwin made the suggestion that creation of ponds require approval on a case by case basis.

**Mr. Jones asked for approval of the prior minutes. Mr. Amper made the motion to approve the minutes, Mr. Weibold seconded, they were approved unanimously.**

Mr. Jones asked for a discussion on section 5.3.3.6, Coordinated design for open space and habitat protection. Mr. Corwin referred to page 24 section 5.3.3.10.1 stating that this statement in the Plan referring to agriculture has not changed. Mr. Gergela was asked for his suggestions on how to update this section and he requested a meeting with Mr. Corwin and Mr. Jones for that purpose. A discussion ensued.

The next meeting was scheduled for September 5<sup>th</sup> at 8:30.

#### **Adjournment**

***The meeting was adjourned at 11:45 without a formal adjournment resolution.***

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

02/16/10 - Analyzed Figure 5-1 intent with respect to zoning, ownership, and use of parcels in a development project, including assuring that public institutional projects are properly addressed. Compiled separate reference working chart, then updated Figure 5-1 to a simpler form without a change in effect. Also included the 1995 text that had been missing.

02/17/10 - Added row to Figure 5-1 private parcels section to require interpolation for "other defined zoning lot sizes".

#### 5.3.3.6.1.1

**necessary which the Commission is empowered by the statute to grant, and that total clearing would substantially impact upon the resources of the Core Preservation Area. A motion was then made by Mr. Girandola and seconded by Mr. Proios to amend the original motion to include these reasons for denial. The motion to amend the previous motion was approved by a vote of 4-0, and the amended original motion was approved by a vote of 4-0.**

### **Compatible Growth Area**

- Self Storage of Quogue site plan / Quogue Village: discussion  
*Summary:* Ms. Plunkett summarized this project on the south side of Old Country Road in Quogue and discussed the attached letter from Mr. Marcks of Raynor and Marcks. A motion was made by Mr. Proios and seconded by Ms. Filmanski to approve the Self Storage of Quogue application under the condition that the clearing on the project site is not to exceed 65%. The motion was approved by a vote of 4-0.
- Eastport Manor Development / Eastport: follow-up from 2/7 discussion  
*Summary:* Mr. Girandola followed up on the Commission's previous discussions of this project's SEQR history. He reported that the second and third coordination letters which were received by the Commission were sent in error, and should be ignored.
- Revised SEQRA regulations: comments from counsel  
*Summary:* Ms. Roth summarized the changes made to the SEQR implementing regulations by the NYS Department of Environmental Conservation effective 1/1/96. These include changes to the scoping process, changes to the format of environmental impact statements, changes to the Type 1 and Type 2 classifications, elimination of a project's location within a Critical Environmental Area (CEA) as a basis for an automatic Type 1 classification, special provisions for exempting certain single family residences from SEQR review, removal of most current CEA definitions, and other changes. The Commission requested that counsel prepare a written summary of the significant changes to the Type 2 list in the SEQR regulations.
- Status of prior Brookhaven Town noncontiguous cluster plans under Article 57 (requested by Mr. Girandola)  
*Summary:* Mr. Girandola explained the noncontiguous cluster provisions of Brookhaven Town's code, which address projects involving more than one parcel and in which at least one of the parcels is not physically adjacent to the remaining project parcels. These projects generally involve leaving one parcel, agreed to be environmentally significant or sensitive, as undeveloped and transferring the development yield to the other parcel(s).

Brookhaven Town would like an opinion from the Commission as to how the Commission's clearing standards would apply to project sites which include noncontiguous parcels. This is typical of some previously filed projects in which the development would be within the Compatible Growth Area. It was agreed that such projects would be treated as if the project's sending parcels were contiguous with the other parcels for purposes of the clearing standard. It was also agreed that the actual wording for this policy would be reviewed as part of the Town's code amendments.

### **Plan Implementation**

- New York Army National Guard: cooperative work; training  
*Summary:* Col. Intini was not present, but Mr. Corwin briefly described the proposed training work which he wished to discuss with the Commission. The discussion will be

5.3.3.6.1.2

5.3.3.6.1.2

- Brookhaven Town Center / Yaphank (Brookhaven): determination of jurisdiction (from 7/18/01 and 8/8/01 meetings)  
*Summary:* Mr. Rigano reported that he has spoken with the applicant's representative, and that they need to do more work on their prior ambiguous submittal to the Commission. A brief discussion ensued regarding the decision date that the Commission would face if that prior submittal were to be determined to be an application.
- Devon Lane Land Division / Coram (Brookhaven): interpretation of clearing standard  
*Summary:* Ms. Plunkett explained that this project involves the residential development of a split zoned parcel (Suffolk County Tax Map 200-430-2-24) along the north side of NYS Route 25 in Coram, and that it had been forwarded to the Commission for an interpretation of the CGA clearing standard.

The question arose within the Town as to how much of the northern portion of the parcel, which is zoned A2 Residence, can be cleared for a two lot subdivision, given that the southerly portion of the property, which is zoned J2 Business, is already commercially developed and was cleared in its entirety (those developments on the southerly portion of the parcel occurred prior to the pine barrens law). It was agreed that the entire parcel, including the developed site, should be considered as the project site. This means that the additional clearing that would be permitted for the new development is the difference between the allowance for the entire parcel minus that already cleared for the existing development.



**Public Comment**

*Summary:* Mr. Henry Dittmer, representing Civil Property Rights Associates, distributed two publications to the Commission Chair, one being a Summer 2001 newsletter from the property Rights Foundation of America and the other being a publication entitled *The Property Owner's Experience* published by the same organization.

**Closed Advisory Session**

*Summary:* A motion was made by Ms. Prusinowski and seconded by Mr. Murphree to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote, and the Commission entered into closed session from approximately 6:04 pm to 6:22 pm.

**Adjournment**

*Summary:* The meeting adjourned immediately following the closed advisory session without a formal adjournment resolution.

5.3.3.6.1.3



is scheduled for 10/30/01 at a time and place to be arranged.

He also reported that contracts are being sent to bidders in Phase 1 (i.e., current holders of Credits or Letters of Interpretation) of the current Brookhaven Credit purchase offer by the Clearinghouse, and that the response deadline for Phase 2 (open to all other Core area Brookhaven property owners) of the same offer is tomorrow.

### Plan Implementation

- Core area residential exemption ("roadfront") bill (S.3797, A.7354): status  
Summary: Ms. Plunkett reported that there is no word yet regarding whether the bill has been signed.
- Plan interpretation re CGA clearance standard for sites using Pine Barrens Credits: draft resolution (draft distributed at 7/18 and 8/8 meetings)  
Summary: Mr. Corwin distributed that attached draft resolution regarding the application of the Central Pine Barrens Plan's clearing standards to those subdivisions in the Compatible Growth Area which are utilizing Pine Barrens Credits. After a brief discussion, the attached draft resolution's last "Resolved" clause was changed to read "no additional special permits are required from the Commission." A motion was then made by Ms. Prusinowski and seconded by Mr. Cowen to approve and adopt the attached draft resolution as changed. The motion was approved by a 5-0 vote.
- Wildfire Task Force: addition of NY State Emergency Management Office (change to establishing resolution) and public awareness video status  
Summary: Mr. Corwin distributed and discussed the attached copy of the Commission's resolution establishing the Wildfire Task Force (originally passed 11/8/95 and modified through 12/20/00). He reported that the Wildfire Task Force, at its last meeting on 8/29/01, formally recommended to the Commission that the New York State Emergency Management Office (SEMO) be added as a member agency of the Wildfire Task Force. A motion was then made by Mr. Cowen and seconded by Ms. Prusinowski to modify the Wildfire Task Force establishment resolution to add the NY SEMO as a member. The motion was approved by a 5-0 vote.

Ms. Jakobsen then distributed and discussed the attached memo, photographs, and work expansion proposals regarding the Wildfire Task Force Public Education Committee video proposal. She explained that the filming has been completed, and that editing is about to begin. She then noted that the original approval by the Commission for this project was for a total of \$16,360, with a provision for expanding that amount up to \$20,000 without further review by the Commission.

She explained that the Commission has received, through the efforts of Capt. Conklin of the NYS Forest Rangers, a matching funds grant from the U.S. Forest

~~5.3.3.6.1.3~~

9/15/01

5.3.3.6.1.3

Present:

Attachment #4  
(1 page)

**Draft Resolution on the Clearance Standard for Projects Using Pine Barrens Credits in Residential Overlay Districts in the Compatible Growth Area**

Whereas, NY Environmental Conservation Law(ECL) 57-0121.3(b) states that the land use plan for the core preservation area, shall be designed to protect and preserve the ecologic and hydrologic functions of the Pine Barrens by prohibiting or redirecting new construction or development, and

Whereas, ECL 57-0121.4(e) states that the land use plan for the compatible growth area shall be designed to accommodate a portion of development redirected from the core preservation area, and

Whereas, Chapter 6 of the Central Pine Barrens Comprehensive Land Use Plan (the Plan), established the Pine Barrens Credit Program with its primary purpose being to maintain value in lands designated for preservation or protection under the Plan by providing for the allocation and use of Pine Barrens Credits (PBCs). The Pine Barrens Credit Program was established to promote development which is compact, efficient and orderly, and which is designed to protect the quality and quantity of surface waters and groundwater and the long term integrity of the pine barrens ecosystem, and

Whereas, a method of allocating Pine Barrens Credits was created in the Plan and receiving areas were identified by the Towns of Brookhaven, Riverhead, and Southampton and incorporated into the Plan, and

Whereas, Pine Barrens Credits generated in any area in the Central Pine Barrens within any town shall be redeemable for any as of right Pine Barrens Credit uses in each respective town as described in Chapter 6 of the Central Pine Barrens Comprehensive Land Use Plan, and

Whereas, the Section 6.4.2.2.2 states that the minimum lot size in such designated residentially zoned receiving districts shall allow for the construction of necessary roads, recharge basins, and the possible dedication of open space, and

Whereas, the minimum lot size must also allow for the construction of accessory structures typical of residential dwellings, and

Whereas, Chapter 5 of the Central Pine Barrens Comprehensive Land Use Plan specifies the maximum site clearance allowed per zoning lot size in Figure 5-1: Clearance Standards for development in the Compatible Growth Area, and

Whereas, the Commission intends the Plan to promote the continued as of right use of Pine Barrens Credits in receiving areas identified as Residential Overlay Districts (RODs) within the Compatible Growth Area, now therefore, be it

**Resolved**, for determining the maximum site clearance allowed for a site using Pine Barrens Credits in a ROD located in the Compatible Growth Area by applying Figure 5-1 Clearance Standards of the Plan, the lot size used with the base zoning shall not apply, and be it further

**Resolved**, for determining the maximum site clearance allowed for a site using Pine Barrens Credits in a ROD located in the Compatible Growth Area by applying Figure 5-1 Clearance Standards of the Plan, the lot size used shall be the actual lot size that results when PBCs are applied to the site, as long as Town Code requirements are met and the requirements of Section 6.4.2.2.2 of the Plan are met, where applicable, and be it further

**Resolved**, no additional special permits are required.

from the Commission

**Record of Motion:**  
Motion by  
Seconded by  
Vote:

- Plan clearing standard interpretation

**Summary:** Ms. Plunkett noted that the Commission passed a resolution (see attachment) at the 9/5/01 meeting which addressed the application of the clearing standard in Figure 5-1 of the Pine Barrens Plan to those project sites where Pine Barrens Credits are being utilized. She explained that a technical question has arisen regarding the application of that resolution, and that this question affects several pending projects within Brookhaven Town.

Specifically, the question arises from the fact that the lot sizes being proposed for the pending projects fall between the discrete, exact sizes specified in Figure 5-1. When that occurs, it is unclear whether the allowable clearing percentage for the projects should be obtained by interpolating between the values in the table, or rounding up or down to the nearest lot size in the table. It was noted that this should eventually be clarified with a Plan amendment. A motion was made by Ms. Prusinowski and seconded by Mr. Hanley to modify the 9/5/01 Commission resolution to specify that the maximum site clearance figure is to be obtained by interpolating between the clearance figures for the two surrounding lot sizes for the lot size under consideration. The motion was approved by a 4-0 vote. \*

Mr. Hanley then asked about the Commission's policy regarding sites which have been partly or fully cleared prior to the pine barrens statute. Ms. Plunkett explained that the Commission has required that only additional clearing up to the maximum allowed under the Plan would then be allowed, and, in the case where the pre-existing clearing is already greater than the amount allowed under the Plan, the remaining uncleared land must be left intact.

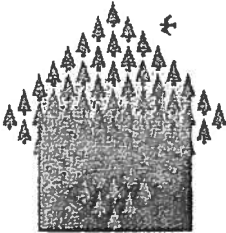
- Wildfire Task Force video contract: authorization of Chair to sign modified agreement (follow up from 9/5)  
**Summary:** Mr. Corwin explained that Ms. Roth has recommended that the Commission modify its 9/5/01 resolution which authorizes a change in the amount of money to be spent on the wildfire public education video to indicate that the Commission Chair or his designated representative is authorized to sign an amended agreement on behalf of the Commission. A motion was then made by Mr. Murphree and seconded by Ms. Prusinowski to make such a change. The motion was approved by a 4-0 vote.

#### Core Preservation Area

- Michaelangelo's Restaurant / Manorville (Brookhaven) / site plan: report from counsel (from 9/5)  
**Summary:** Mr. Rigano distributed the attached Notice of Violation which has been given to the attorney representing Michaelangelo's Restaurant. He explained that the notice provides 15 days for the recipient to respond. A brief discussion then ensued regarding the Town's role in addressing the clearing violation.
- Independent Group Home Living / Manorville (Brookhaven) / group home residence / pending hardship: possible decision or extension (hearing held 8/8; decision deadline is 10/12.)  
**Summary:** Ms. Carter reviewed this Core hardship application on which the Commission held a hearing on 8/8/01. She noted that the Commission requested additional information on the project at that time in order to enable it to review the application. She noted that no response has been received to the Commission's requests (see attached letters), that no request for an extension of the decision deadline has been received, that the decision deadline is 10/12/01, and that today is the last Commission meeting before

**Commission Meeting of September 26, 2001****Commission Office, Great River, NY**

Present: Mr. Proios (for Suffolk County), Mr. Murphree (for Southampton), Mr. Hanley (for Riverhead), Ms. Prusinowski (for Brookhaven)



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**Resolution on the Clearance Standard for Projects Using Pine Barrens Credits in Residential Overlay Districts in the Compatible Growth Area**

**Whereas**, NY Environmental Conservation Law (ECL) 57-0121.3(b) states that the "land use plan for the core preservation area, shall be designed to protect and preserve the ecologic and hydrologic functions of the Pine Barrens by prohibiting or redirecting new construction or development," and

**Whereas**, ECL 57-0121.4(e) states that "the land use plan for the compatible growth area shall be designed to accommodate a portion of development redirected from the core preservation area," and

**Whereas**, Chapter 6 of the Central Pine Barrens Comprehensive Land Use Plan ("*Plan*"), established the Pine Barrens Credit Program with its primary purpose being to maintain value in lands designated for preservation or protection under the *Plan* by providing for the allocation and use of Pine Barrens Credits (PBCs). The Pine Barrens Credit Program was established to promote development which is compact, efficient and orderly, and which is designed to protect the quality and quantity of surface waters and groundwater and the long term integrity of the pine barrens ecosystem, and

**Whereas**, a method of allocating Pine Barrens Credits was created in the *Plan* and receiving areas were identified by the Towns of Brookhaven, Riverhead, and Southampton and incorporated into the *Plan*, and

**Whereas**, Pine Barrens Credits generated in any area in the Central Pine Barrens within any town shall be redeemable for any as of right Pine Barrens Credit uses in each respective town as described in Chapter 6 of the *Plan*, and

**Whereas**, the Section 6.4.2.2.2 states that the minimum lot size in such designated residentially zoned receiving districts shall allow for the construction of necessary roads, recharge basins, and the possible dedication of open space, and

**Whereas**, the minimum lot size must also allow for the construction of accessory structures typical of residential dwellings, and

**Whereas**, Figure 5-1 of the *Plan*, "Clearance Standards," specifies the maximum site clearance allowed as per zoning lot size in for development in the Compatible Growth Area, and

**Whereas**, the Commission intends the *Plan* to promote the continued as of right use of Pine Barrens Credits in receiving areas identified as Residential Overlay Districts (RODs) within the Compatible Growth Area, now therefore, be it

**Resolved**, for determining the maximum site clearance allowed for a site using Pine Barrens Credits in a ROD located in the Compatible Growth Area by applying Figure 5-1 of the *Plan*, "Clearance Standards," the lot size as per the base zoning shall not apply, and be it further

**Resolved**, to determine the maximum site clearance allowed for a site using Pine Barrens Credits in a ROD located in the Compatible Growth Area, Figure 5-1 of the *Plan*, "Clearance Standards," shall be interpolated, as per the actual lot size that results when PBCs are applied to the site, as long as Town Code requirements are met and the requirements of Section 6.4.2.2.2 of the *Plan* are met, where applicable, and be it further

**Resolved**, no additional special permits are required from the Commission.

**Record of Motion:**  
Motion by B. Prusinowski  
Seconded by R. Hanley  
Vote: 4-0 approval

(Final version)

5.3.3.6.1.4

stationed at any of these sites, but rather a survey to determine suitability. A brief discussion ensued regarding the relative strengths of these airports for such a purpose.

Mr. Proios then commented that the standards and procedures to be utilized in the operation of the 2002 Academy are to be written by the Suffolk County Water Authority legal staff, and that they will work with the Academy Executive Board to do this.

Capt. Conklin left at this point.

#### Compatible Growth Area (CGA)

- Brookhaven National Laboratory / Upton (Brookhaven) / environmental remediation work: presentation and discussion (from 4/10 meeting; Lab representative to attend)  
*Summary:* Mr. Michael McCann, an attorney for the Lab, was present today along with Mr. Robert House of the environmental remediation staff. They discussed the CERCLA (Federal Superfund) groundwater remediation work that the Lab is undertaking on the southern portion of its land, and in several privately held CGA parcels to the south of the Lab. One of those parcels' owners has asked for an assurance that the clearing for roads and well sites that the Lab would undertake on his property would not be counted against any future development proposal that he might wish to put forward.

Mr. Howe showed a large map of the groundwater contamination plumes that the Lab is attempting to pump and treat; noted that their depth can be as much as 200 feet below grade; that the remediation process would treat approximately 100 to 300 gallons per minute; that the private parcel in question is approximately 660 acres; that the Lab intends to revegetate the cleared areas when they are finished; and discussed the time periods in years over which the pump and treat, and the monitoring, wells are likely to operate. A discussion followed regarding the map details, the existing and future wells, the amount of land area that the lab would clear, and the relation of those cleared areas to future clearing calculations in a development project review.

**A motion was then by Mr. Cowen and seconded by Mr. Proios to determine that land cleared for purposes of conducting environmental remediation pursuant to NY ECL Article 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 the vegetation clearance limits in Section 5.3.3.6.1 of the Central Pine Barrens Comprehensive Land Use Plan. The motion was approved by a 5-0 vote. It was agreed that Mr. Rigano will send a letter to Mr. McCann regarding this matter.**

#### Plan Implementation

- Protected Lands Council: Co-Chair designation  
*Summary:* A motion was made by Mr. Cowen and seconded by Mr. Murphree to appoint Mr. Charles Hamilton of the NYS DEC as a Co-Chair of the Protected Lands Council. The motion was approved by a 5-0 vote.

#### Compatible Growth Area (CGA)

- Toussie - Kleis / Ridge (Brookhaven) / residential subdivision: status (from 4/10 meeting; not

### 5.3.3.6.1.5

attached antennas on a 0.34 acre parcel (900-213-1-71) on the north side of Moriches Riverhead Road (CR 51), opposite the intersection of CR 51 and Speonk Riverhead Road, in the Eastport area of Southampton Town. She also distributed the attached aerial photograph of the site produced by the Commission staff.

Ms. Carter reviewed the Commission's actions in prior determinations of jurisdictions for such projects, including the 7/12/00 determination for the Omnipoint tower and the 7/24/02 Crown Communications tower. In both of those cases, the Commission determined that it does have jurisdiction. She also reviewed the Commission's prior determination of nonjurisdiction for projects involving the colocation of new antennas on existing towers.

Ms. Carter then recommended that the Commission find that it does have jurisdiction over the current project of Mr. Gazza, and that the Commission find that ECL Section 57-0107(13)(ii) does not apply to new tower construction.

Mr. Murphree stated that the site is zoned Open Space Conservation (OSC), and that a special exception and site plan is required by Southampton Town for towers in that zone.

Mr. Gazza then spoke about the site, and made an argument that the work of Verizon and the Suffolk County Water Authority is similar, and that the Verizon project should be a public utility and exempt from the pine barrens law.

The Commission members agreed that Mr. Gazza's project is subject to the Commission's jurisdiction.

**The following item is partly within the CGA:**

- Huntington Ready Mix Sand Mining / Speonk (Southampton; 900-276-3-1, 2) / NYS DEC permit: lead agency coordination; jurisdictional determination  
Summary: Ms. Longo described the materials that the Commission has received for this site from the NYS Department of Environmental Conservation (DEC), which involves the renewal and expansion of an existing mining permit for a site that is partly in the Core and partly within a Critical Resource Area of the Compatible Growth Area. Mr. Scully then indicated that the applicant has indicated to the DEC that he may revise the permit renewal application to seek a simple renewal.

Mr. Proios asked if there were other mining projects within the pine barrens, and Mr. Murphree stated that Mr. Shea of Southampton Town has prepared a report for the Town summarizing mining sites within the Town. Mr. Amper of the LI Pine Barrens Society stated that the pine barrens law states that no State agency may issue a permit which violates ECL 57. A discussion then followed regarding whether the renewal of a mining or other type of permit would be considered "development" under ECL 57.

**Compatible Growth Area (CGA)**

- Compatible Growth Area development standards: recent cases and conformance issues with contiguous open space standard  
Summary: Ms. Carter explained that one of the Plan's CGA development standards, 5.3.3.6.2, which requires the preservation of unfragmented open space, has not been adhered to by several new subdivisions that have been proposed. In addition, numerous calls have been received at both the Brookhaven Town Planning and Pine Barrens Commission Offices from homeowners in subdivisions within the CGA requesting relief

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from restrictions on clearing that are placed on the individual lots within subdivisions, or reporting such clearing on other parcels within the neighborhood.

A discussion ensued regarding the current protocols for preserving a minimum area of open space within a subdivision; the distribution of that open space requirement on a parcel by parcel basis within a subdivision; the difficulty of enforcing the clearing restrictions in that situation; the alternatives that could be used in subdivision layout to avoid that issue; and the possibility that CGA hardships would be required for individual parcels to legally exceed the clearing restriction of a given parcel. It was agreed that the Commission staff will instruct individuals inquiring about relief to file for a CGA hardship.

- Brookhaven Walk, formerly Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance: receipt of Supplemental DEIS (hearing held 10/17/01; ECL 57 decision deadline is 10/15/03)  
Summary: Ms. Jakobsen reviewed the materials contained in the SDEIS for this project, and the changes from its original form. The original project called for 1.043 million square feet, and now calls for approximately 850,000 square feet of retail space. She noted that comments are due to the Town on 10/17/03, and that a Town hearing will be held on 10/6/03 at 2 pm. She also noted that the project's application to the Commission will need a decision extension, since the current ECL 57 decision deadline is 10/17/03.

**The following item is partly within the Core area:**

- Longwood School District - Ridge Elementary School / Ridge (Brookhaven; 200-294-2-6) / post 1993 development: Notice of Violation status; NYS DEC easement violation status (from 8/20/03)  
Summary: Mr. Rigano went over the details and some of the history of the activities at this site, including the settlement proposed by the school district. A brief discussion ensued, and it was agreed to keep this on the agenda for the next meeting, pending new information on discussions with the school district. Mr. Alan Stadler of the Ridge Civic Association was present and expressed concerns about the presence of a wildlife corridor in the area as well as the appearance of flagging on the site last summer.
- Sachem School District / Farmingville (Brookhaven) / compliance with prior Commission determination of jurisdiction conditions: discussion (not on the original agenda)  
Summary: Mr. Corwin stated that the staff will need to meet with Mr. Proios to determine the details of any potential violation on this site with the Commission's original determination of nonjurisdiction conditions.

#### **Closed Advisory Session**

Summary: A motion was made by Mr. Scully and seconded by Ms. Prusinowski to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote, and the Commission entered into closed session from approximately 4:50 pm to 5:30 pm.

#### **Adjournment**

Summary: The meeting was adjourned immediately following the closed session without a formal adjournment resolution.

#### **Attachments (In order of discussion):**

5.3.3.6.1.6

Tuccio c/o Schneps Credit allocation appeal / Westhampton (900-248-1-110.4): adjournment to 3/21/07 meeting (LOI issued 12/18/06 by Clearinghouse Board)

Summary: This item was deferred to the 3/21/07 Commission meeting. (See attached letter from Mr. Schneps re this matter.)

#### Land Use, Stewardship, and Compliance & Enforcement

Policy on clearing calculation for Core/CGA parcels that obtain PBCs on Core portion

Summary: Ms. Jakobsen explained that a question has arisen as to how to apply the clearing standard to parcels that are both split by the Core - CGA boundary and also have a Pine Barrens Credit conservation easement on the Core portion (with Credits having been allocated to that portion). She noted that this arose regarding a specific development project, but that the staff is seeking a general policy ruling from the Commission. She discussed a previously distributed attached policy draft, and noted that the policy would also state that no Credits can be issued on the Core portion of a split Core - CGA parcel if the Core land has already been included in applying the clearance standard for a project. A discussion ensued regarding the language, and a motion was then made by Mr. Turner and seconded by Mr. Shea to adopt the following resolution:

**"Resolved,** for development situations where a project contains a parcel that is split between the Core Preservation Area and Compatible Growth Area, and Pine Barrens Credits have been obtained by the owner 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 Vegetation Clearance Limits in the Central Pine Barrens Comprehensive Land Use Plan, and be it further

**Resolved,** that the converse is also true, whereas, if the entire project site's acreage (Core and Compatible Growth Area acreage) was used for determining the amount of clearing that can occur on the Compatible Growth Area portion, then no Pine Barrens Credits can be obtained on the Core Preservation Area portion."

**The motion was approved by a 5-0 vote.**

Request for Proposals for ecological research services: info item (from 1/17/07)

Summary: Mr. Corwin summarized the attached Draft Request for Proposals (RFP) for Ecological Research Services discussed in concept at the last meeting. Also attached is a draft list of recipients. He noted that this RFP would expend the \$50,000 in 2006-07 funds budgeted by the Commission in the mid year budget adopted at the last meeting. Following a brief discussion, a motion was made by Mr. Turner and seconded by Ms. Gallagher to accept the RFP and authorize its issuance. The motion was approved by a 5-0 vote.

Invasive plant inventory completion: info item

Summary: Ms. Carter distributed the attached map showing the portions of the Core area public lands which were assessed and inventoried during the 2006 invasive species field work. She described the specific areas on public lands which remain to be visited and assessed, and recommended that the Commission, through the Suffolk County water Authority, hire an intern to do this work.

Ms. Gallagher noted that this work meshes well with the County's current initiative on invasive species control and removal through the Suffolk County Invasive Species Task

5.3.3.6.1.7

**5.3.3.6.2**    **Open space standard**

07/31/07 - Staff augmented 5.3.3.6.2 to require the identification of primary and secondary conservation areas within the project site.

### **5.3.3.6.3 Unfragmented open space and habitat**

09/05/07 - PB Advisory Committee met, completed review and comments on Ch. 5, voted to endorse Ch. 5 changes. Ch. 5 changes included 5.3.3.6.3 (rewording of previously proposed new intro text re unfragmented open space).

09/18/07 - Commission staff discussed Ch. 5 standards and possible changes. Included "habitat" references in 5.3.3.6.3 "Unfragmented open space"

#### 5.3.3.6.4 **Fertilizer-dependent vegetation limit**

07/25/07 - Based on 07/24/07 meeting with Brookhaven Town, updated 5.3.3.6.4 comment; clarifications to 5.3.3.11.5 re roadside design and management.

11/23/09 - Strengthened native species language in 5.3.3.6.4.

**5.3.3.6.5 Native plantings**

09/14/09 - Southampton Town and Commission staff met regarding revegetation and other matters.

11/23/09 - Strengthened native species language in 5.3.3.6.5.



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

9/5/07 Advisory Committee met, completed review and comments on Ch 5, voted to endorse Ch 5 changes. Ch 5 changes included 5.3.3.6.6 (removal of “common ownership of all property owners” from enumeration of means to protect open space set asides).

7/30/08 Strengthened 5.3.3.6.6 to assure the permanent protection of open space areas, and to require Commission easement enforcement authority on CRA open space areas.

3/16/10 Advisory Committee met regarding Plan changes since their last review, provided comments on changes to Chapters 4, 5 and 6, and voted to recommend the changes. Added changes from today’s AC meeting to Chapter 5: 5.3.3.6.6 to include reference to NYS ECL Article 49.

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

03/09/10 - Placed 5.3.3.6.7 back as a standard (it had been originally moved from standard to guideline).

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

03/11/10 - Reworded 5.3.3.6.8 as standard applying to large sites of 10 acres or more.

## Chapter 278A – Environmental Protection

### ARTICLE I, Invasive Nonnative Aquatic Plants and Animals [Adopted 11-22-2005 by L.L. No. 34-2005]

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#### § 278A-1. Legislative intent.

- A. This Legislature hereby finds and determines that invasive nonnative aquatic plants and animals can displace native species and alter natural ecosystems and are considered to be the second leading cause of species extinction and endangerment worldwide.
- B. This Legislature also finds and determines that these invasive plants and animals can negatively impact agriculture, industry and human health.
- C. This Legislature further finds and determines that during the 20th Century, invasive species were responsible for documented losses of 97 billion dollars to the U.S. economy.
- D. This Legislature finds that in Suffolk County, the invasive, nonnative species *Cabomba caroliniana* (fanwort), used extensively in aquariums, has already caused severe damage to Yaphank Lake, interfering with the recreational and aesthetic uses of that lake.
- E. This Legislature determines that action must be taken to prevent other invasive nonnative aquatic plant and animal species from causing damage to any other bodies of water or wetlands in Suffolk County.
- F. Therefore, the purpose of this article is to protect the ecology of Suffolk County by preventing the introduction of any waste containing invasive nonnative aquatic plants and animals in any ecosystem in Suffolk County.

#### § 278A-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

**INVASIVE NONNATIVE AQUATIC ANIMAL** -- Any animal that is not native to Long Island or the northeastern United States, including, but not limited to, the species *Chann argus* (northern snakehead) or *Dreissena polymorpha* (zebra mussel).

**INVASIVE NONNATIVE AQUATIC PLANT** -- Any aquatic plant that is not native to Long Island or the northeastern United States, including, but not limited to, the species *Cabomba caroliniana* (fanwort), *Egeria densa* (Brazilian waterweed), *Eichornia azurea* (water hyacinth), *Hydrilla verticillata* (hydrilla), *Hydrocharis morsus-ranae* (European frogbit), *Myriophyllum aquaticum* (parrot feather), *Myriophyllum spicatum* (Eurasian watermilfoil), *Nymphoides peltata* (yellow floating heart), *Potamogeton crispus* (curlyleaf pondweed) or *Trapa natans* (water chestnut).

**§ 278A-3. Prohibitions.**

No person shall introduce, throw, dump, deposit, place or cause to be introduced, thrown, dumped, deposited or placed in any river, stream, lake, pond, wetland or stormwater drain, in whatever capacity and for whatever purpose, anything containing an invasive nonnative aquatic animal or an invasive nonnative aquatic plant as defined herein.

**§ 278A-4. Penalties for offenses.**

Any person who knowingly violates any provision of this article shall be guilty of an unclassified misdemeanor punishable by a fine of up to \$1,000 for each offense.

**§ 278A-5. Enforcement.**

This article shall be enforced by the Suffolk County Department of Health Services in accordance with the provisions of Article II of the Suffolk County Sanitary Code.

**§ 278A-6. Promulgation of rules and regulations.**

The Suffolk County Department of Health Services is hereby authorized and empowered to issue and promulgate such rules and regulations as it deems necessary to implement and carry out the provisions of this article.

**§ 278A-7. Applicability.**

This article shall apply to all actions occurring on or after the effective date of this article.

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**§ 278A-8. Reverse preemption.**

This article shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this article, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

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**ARTICLE II, Invasive Nonnative Plants [Adopted 6-26-2007 by L.L. No. 22-2007]**

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**§ 278A-9. Legislative intent.**

- A. This Legislature hereby finds that Resolution No. 985-2005 established the Suffolk County Water and Land Invasives Control Task Force in order to develop a long-term plan for controlling invasive species in Suffolk County.
- B. This Legislature determines that the Suffolk County Water and Land Invasives Control Task Force recommended that certain invasive species be prohibited from being sold in Suffolk County as a first step in preventing these species from being introduced in Suffolk County through a "Do Not Sell" list.
- C. This Legislature further determines that the Suffolk County Water and Land Invasives Control Task Force recommended the establishment of a Suffolk County Water and Land Invasives Advisory Board.
- D. This Legislature hereby finds and determines that invasive nonnative aquatic plants can displace native species and alter natural ecosystems and are considered to be the second leading cause of species extinction and endangerment worldwide.
- E. This Legislature also finds and determines that these invasive plants can negatively impact agriculture, industry and human health.
- F. This Legislature further finds and determines that, during the 20th Century, invasive species were responsible for documented losses of 97 billion dollars to the U.S. economy.
- G. Therefore, the purpose of this article is to protect the ecology of Suffolk County by prohibiting the sale of invasive plants in Suffolk County.

**§ 278A-10. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**INVASIVE SPECIES** -- A plant species:

- A. That is nonnative to the ecosystem under consideration; and
- B. Whose introduction causes or is likely to cause economic or environmental harm or harm to human health, including their cultivars and varieties, which harm must significantly outweigh any benefits.

**NONNATIVE** -- With respect to a particular ecosystem, a species that has not historically occurred in that ecosystem, and which is not listed in the New York Flora Atlas as being native to New York.

PERSON -- Any individual, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or not.

PROPAGATE -- Purposefully increasing the population of a species by means of manipulating its sexual and/or asexual reproduction process.

**§ 278A-11. Sale or distribution prohibited. [Amended 8-4-2009 by L.L. No. 27-2009]**

NOTE: Local Law No. 27-2009 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that Article II of Chapter 278A of the Suffolk County Code regulates the sale, introduction and propagation of invasive nonnative plant species in Suffolk County to protect our environment.

This Legislature also finds and determines that, as new invasive plant species develop and enter the market, the "Do Not Sell" list of plants in Suffolk County must be updated.

This Legislature further finds and determines that updating the "Do Not Sell" list helps keep Suffolk County's environment robust and healthy and protects it from further damage.

This Legislature also determines that the Department of Consumer Affairs would be better able to enforce the "Do Not Sell" list in Suffolk County.

Therefore, the purpose of this law is update current prohibitions on the sale of invasive nonnative plant species to protect Suffolk County's ecology.

Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

No person shall knowingly sell, transport, distribute, propagate or knowingly cause to be sold, transported, distributed or propagated to any person located within the County of Suffolk, or to any person making the purchase from within the County of Suffolk, any invasive species as listed on Exhibits A through F herein, as said exhibits may be amended by law from time to time, with the advice of the Water and Land Invasives Advisory Board. <sup>EN</sup>

**§ 278A-12. Creation of Suffolk County Water and Land Invasives Advisory Board. [Amended 5-13-2008 by L.L. No. 18-2008]**

NOTE: Local Law No. 18-2008 also provided as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk enacted Local Law No. 22-2007 (codified at Chapter 278A, Article II, of the Suffolk County Code) to prohibit the sale and distribution of invasive species within the County and to create the Suffolk County Water and Land Invasives Advisory Board ("Advisory Board").

This Legislature also finds that the nine-member Advisory Board advises the Suffolk County Legislature and the Commissioner of the Department of Environment and Energy on matters relating to invasive species and recommends appropriate revisions to the "Do Not Sell" list established by Local Law No. 22-2007.

This Legislature further determines that the Advisory Board would be strengthened by adding the expertise of the Suffolk County Soil and Water Conservation to its membership.

Therefore, the purpose of this local law is to expand the membership of the Advisory Board to include a representative of the Suffolk Soil and Water Conservation District.

Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law, except that the increase in the quorum requirement from five to six members shall not be applicable until the first representative of the Suffolk County Soil and Water Conservation District is selected and seated as a member.

- A. There is hereby created a Suffolk County Water and Land Invasives Advisory Board, which shall consist of the following 10 members:

- (1) The Chairperson of the Suffolk County Legislature's Environment, Planning and Agriculture Committee, or his/her designee, who shall serve as Chair;
- (2) The Commissioner of the Suffolk County Department of Environment and Energy, or his/her designee;
- (3) The Suffolk County Executive, or his/her designee;
- (4) The Presiding Officer of the Suffolk County Legislature, or his/her designee;
- (5) The Commissioner of the Suffolk County Department of Parks, Recreation and Conservation, or his/her designee;
- (6) A member of an environmental group chosen by the Chairperson of the Suffolk County Legislature's Environment, Planning and Agriculture Committee;
- (7) A representative chosen by the Long Island Farm Bureau;
- (8) A representative chosen by the Long Island Nursery and Landscape Association; and
- (9) A member of the Long Island Invasive Species Management Area (LIISMA).
- (10) A representative of the Suffolk County Soil and Water Conservation District.

B. The Suffolk County Water and Land Invasives Advisory Board shall advise the Commissioner of the Suffolk County Department of Environment and Energy and the Suffolk County Legislature on matters relating to invasive species in the County, and shall recommend to the Suffolk County Legislature appropriate revisions to the "Do Not Sell" list established pursuant to § 278A-11 of this article, on no less than an annual basis.

C. The Suffolk County Water and Land Invasives Advisory Board shall hold its first meeting no later than 30 days after the oaths of office of all members have been filed.

D. The members of the Suffolk County Water and Land Invasives Advisory Board shall serve without compensation, and members number 6 through 10 listed in Subsection A, above, shall be appointed to serve initial terms ending on December 31, 2008, and shall be appointed to serve a term of two years thereafter.

E. Six members of the Suffolk County Water and Land Invasives Advisory Board shall constitute a quorum for the purposes of conducting the business of the Board.

F. The Suffolk County Water and Land Invasives Advisory Board shall hold regular meetings, keep a record of all of its proceedings and determine the rules of its own proceedings, with special meetings to be called by the Chairperson upon his or her own initiative or upon receipt of a written request thereof signed by at least five members of the Suffolk County Water and Land Invasives Advisory Board. Written notice of the time and place of such special meetings shall be given to each member at least four days before the date fixed by the notice for such special meeting.

G. All clerical services involving the month-to-month operation of the Suffolk County Water



and Land Invasives Advisory Board, as well as supplies and postage as necessary, shall be provided by the staff of the Clerk of the County Legislature. The Suffolk County Water and Land Invasives Advisory Board may request, receive, and utilize such facilities, resources, and data of any department, office, or agency of Suffolk County as it may reasonably request to properly carry out its powers and duties.

H. The Suffolk County Water and Land Invasives Advisory Board shall hold no less than four meetings annually, and shall conduct at least two public hearings within the County of Suffolk for the purpose of obtaining necessary information or other data from the public. The time and place of each public hearing shall be published in the official County newspapers.

I. All vacancies in the membership of the Suffolk County Water and Land Invasives Advisory Board shall be filled in the manner provided for their original appointment.

#### **§ 278A-13. Exemptions.**

A. The prohibitions contained in this article shall not apply to bona fide scientific experiments or for educational purposes, provided that no invasive species used in such bona fide scientific experiments or for educational purposes shall be permitted to be sold or distributed.

B. Any person desiring to use any invasive species for bona fide scientific experiments or for educational purposes shall be required to apply for a written waiver of the provisions of this article from the Suffolk County Department of Environmental and Energy, on a form to be prescribed in Exhibit G herein. <sup>EN</sup> [Amended 8-4-2009 by L.L. No. 27-2009<sup>EN</sup>]

C. A cultivar of a do-not-sell listed invasive species may be exempted from do-not-sell status if: [Added 8-4-2009 by L.L. No. 27-2009<sup>EN</sup>]

- (1) Its primary means of reproduction is sexual; and
- (2) Scientific, peer-reviewed criteria verify that a cultivar is effectively 100% male and female sterile; and
- (3) The cultivar is guaranteed by the producer to be sterile; and
- (4) There is enabling enforcement through appropriate safeguards to document the identity of the cultivar and source of the cultivar, including tagging individual plants and shipping and nursery invoices; and
- (5) It is deemed appropriate for exemption by the Advisory Board and LIISMA SRC.

#### **§ 278A-14. Penalties for offenses.**

Any person who violates § 278A-11 of this article shall be guilty of a violation, punishable by a fine of \$1,000 for a first and second offense; and shall be guilty of an unclassified misdemeanor for a third, and each subsequent offense, punishable by a fine of \$2,000 and/or no more than 30

days in jail.

**§ 278A-15. Rules and regulations. [Amended 8-4-2009 by L.L. No. 27-2009<sup>EN</sup>]**

The Suffolk County Department of Consumer Affairs shall issue and promulgate such rules and regulations as it deems necessary and appropriate to carry out the provisions of this article.

**§ 278A-16. Applicability. [Amended 8-4-2009 by L.L. No. 27-2009]**

The prohibition described in § 278A-11 of this article shall apply as follows:

- A. For actions involving species listed in Exhibit A, occurring on or after January 1, 2009.
- B. For actions involving species listed in Exhibit B, occurring on or after January 1, 2011.
- C. For actions involving species listed in Exhibit C, occurring on or after January 1, 2012.
- D. For actions involving species listed in Exhibit D, occurring on or after January 1, 2013.
- E. For actions involving species listed in Exhibit E, occurring on or after January 1, 2014.
- F. For actions involving species listed in Exhibit F, occurring on or after January 1, 2016.

## EXHIBIT A

Suffolk County  
EXHIBIT A  
[Amended 8-4-2009 by L.L. No. 27-2009]

| Scientific Name   | Common Name   |
|---|---|
| <i>Alliaria petiolata</i>   | Garlic mustard  |
| <i>Ampelopsis brevipedunculata</i>  | Porcelain-berry   |
| <i>Anthriscus sylvestris</i>  | Wild chervil  |
| <i>Aralia elata</i>   | Japanese Angelica Tree  |
| <i>Artemisia vulgaris</i>   | Mugwort, commonwormwood                                       |
| <i>Cabomba caroliniana</i>  | Carolina fanwort  |
| <i>Cardamine impatiens</i>  | Narrowleaf bittercress  |
| <i>Celastrus orbiculatus</i>  | Oriental bittersweet  |
| <i>Centaurea stoebe</i> ssp. <i>Micranthos</i> s.l.<br>(AKA <i>C. Biebersteinii</i> , <i>C. diffusa</i> , <i>C. maculosa</i> misapplied, <i>C. xpsammogeria</i> ) | Spotted knapweed; spotted star-thistle                        |
| <i>Cirsium arvense</i> (AKA <i>C. setosum</i> , <i>C. incanum</i> , <i>Carduus arvensis</i> , <i>Serratula arvensis</i> )   | Canada thistle  |
| <i>Cynanchum louiseae</i> (AKA <i>C. nigrum</i> , <i>Vincetoxicum nigrum</i> )  | Black swallow-wort  |
| <i>Cynanchum rossicum</i> (AKA <i>C. medium</i> , <i>Vincetoxicum medium</i> , <i>V. rossicum</i> )   | European swallow-wort, pale swallow-wort, dog-strangling vine |
| <i>Egeria densa</i>   | Brazilian water weed  |
| <i>Eleagnus umbellata</i>   | Autumn Olive  |
| <i>Euphorbia cyparissias</i>  | Cypress spurge  |
| <i>Euphorbia esula</i>  | Leafy spurge  |
| <i>Fallopia japonica/sachalinensis/xbohemica</i><br>(AKA <i>Polygonum cuspidatum/sachalinense/xboehmicum</i> )  | Japanese knotweed, Giant knotweed, Silver lace vine           |
| <i>Froelichia gracilis</i>  | Cottonweed  |
| <i>Heracleum mantegazzianum</i>   | Giant hogweed   |
| <i>Humulus japonicas</i>  | Japanese Hops   |
| <i>Hydrilla verticillata</i>  | Water thyme   |
| <i>Hydrocharis morsus-ranae</i>   | Frog-bit  |
| <i>Lepidium latifolium</i>  | Broadleaf pepperweed  |
| <i>Lespedeza cuneata</i>  | Chinese lespedeza   |
| <i>Ligustrum obtusifolium</i>   | Border privet   |
| <i>Ludwigia grandiflora</i>   | Uruguayan primrose willow                                     |
| <i>Ludwigia peploides</i>   | Floating primrose-willow                                      |

|  |                                   |
|--|-----------------------------------|
| Lythrum salicaria  | Purple loosestrife                |
| Microstegium vimineum                                      | Japanese stilt grass              |
| Myriophyllum aquaticum                                     | Parrot-feather                    |
| Myriophyllum spicatum                                      | Eurasian water milfoil            |
| Nymphoides peltata   | Yellow floating heart             |
| Persicaria perfoliata (AKA Polygonum perfoliatum)          | Mile-a-minute weed                |
| Phalaris arundinacea (Eurasian genotype)                   | Reed canary-grass                 |
| Phragmites australis subsp. australis (nonnative genotype) | Common reed grass                 |
| Potamogeton crispus  | Curly pondweed                    |
| Pueraria montana var. lobata                               | Kudzu                             |
| Ranunculus ficaria   | Lesser celandine                  |
| Rhamnus cathartica   | Common buckthorn                  |
| Rosa multiflora  | Multiflora rose                   |
| Rubus phoenicolasias                                       | Wineberry                         |
| Senecio jacobaea   | Tansy ragwort; stinking willie    |
| Silphium perfoliatum var. perfoliatum                      | Cup-plant                         |
| Trapa natans   | Water chestnut                    |
| Vitex rotundifolia (AKA V. ovata, V. trifolia)             | Beach vitex; Roundleaf chastetree |

## **EXHIBIT B**

**Suffolk County**

### **EXHIBIT B**

**[Amended 8-4-2009 by L.L. No. 27-2009]**

| <b>Scientific Name</b>  | <b>Common Name</b>                |
|---|-----------------------------------|
| Clematis terniflora<br>clematis   | Japanese virgin's bower, Yam-leaf |
| Lonicera japonica   | Japanese honeysuckle              |
| Lonicera Maackii  | Amur honeysuckle                  |
| Lonicera morrowii/tatarica/xbella   | Morrow's honeysuckle              |
| Lysimachia nummularia   | Moneywort                         |
| Lysimachia vulgaris   | Garden loosestrife                |
| Myriophyllum heterophyllum<br>(including M. heterophyllum X M.<br>pinnatum) | Broadleaf water-milfoil           |

**Exhibit C**

**EXHIBIT C**

**[Added 8-4-2009 by L.L. No. 27-2009]**

**Scientific Name**  
Iris pseudacorus

**Common Name**  
Yellow iris

## Exhibit D

### EXHIBIT D

[Added 8-4-2009 by L.L. No. 27-2009]

| Scientific Name   | Common Name          |
|---|----------------------|
| Acer platanoides (except cultivars "Crimson King" and "Royal Red" which are banned effective 1/1/2016; see Exhibit F) | Norway maple         |
| Acer pseudoplatanus   | Sycamore maple       |
| Euonymus fortunei   | Spindle-tree         |
| Phellodendron amurense/japonicum  | Amur cork tree       |
| Rhamnus frangula (AKA Frangula alnus)   | Smooth buckthorn     |
| Robinia pseudoacacia  | Black locust         |
| Salix alrocinerea/cinerea   | Gray florist's widow |

## **Exhibit E**

### **EXHIBIT E**

**[Added 8-4-2009 by L.L. No. 27-2009]**

#### **Scientific Name**

#### **Common Name**

**Berberis thunbergii (includes all hybrids  
with other Berberis species)**

**Japanese barberry**



## Exhibit F

### EXHIBIT F

[Added 8-4-2009 by L.L. No. 27-2009]

#### Scientific Name

#### Common Name

*Acer platanoides* cultivars  
"Crimson King" and "Royal Red"

Crimson King Norway maple, Royal  
Red Norway maple

*Euonymus alatus*

Winged euonymus

**Exhibit G**  
**Suffolk County**  
**Exhibit G**  
**[Amended 8-4-2009 by L.L. No. 27-2009]**

Intro. Res. No. 1827-2010

Laid on Table 8/3/2010

Introduced by Legislators Vilorio-Fisher, Schneiderman and Losquadro

**RESOLUTION NO. 866 -2010, ADOPTING LOCAL LAW  
NO. 51 -2010, A LOCAL LAW ADDING NEW INVASIVE NON-  
NATIVE PLANT SPECIES TO THE COUNTY'S DO NOT SELL  
LIST**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on August 3, 2010, a proposed local law entitled, "A LOCAL LAW ADDING NEW INVASIVE NON-NATIVE PLANT SPECIES TO THE COUNTY'S DO NOT SELL LIST"; now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. 51 -2010, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW ADDING NEW INVASIVE NON-NATIVE PLANT  
SPECIES TO THE COUNTY'S DO NOT SELL LIST**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF  
SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature hereby finds and determines that Article II of Chapter 278A of the SUFFOLK COUNTY CODE regulates the sale, introduction and propagation of invasive non-native plant species in Suffolk County to protect our environment.

This Legislature also finds and determines that, as new invasive plant species develop and enter the market, the "Do Not Sell" list of plants in Suffolk County must be updated.

This Legislature further finds and determines that updating the "Do Not Sell" list helps keep Suffolk County's environment robust and healthy and protect it from further damage.

Therefore, the purpose of this law is to update current prohibitions on the sale of invasive non-native plant species to protect Suffolk County's ecology.

**Section 2. Amendments.**

Exhibits "A", "B", "C", "D", "E" and "F" of Chapter 278A, Article II, of the SUFFOLK COUNTY CODE are replaced and superseded by the Exhibits "A", "B", "C", "D", "E" and "F", attached hereto.

**Section 3. Applicability.**

This law shall apply to all actions occurring on or after the effective date of this law.

**Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 5. SEQRA Determination.**

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

**Section 6. Effective Date.**

This law shall take effect immediately upon filing in the Office of the Secretary of State.

DATED: September 16, 2010

APPROVED BY:

  
\_\_\_\_\_  
County Executive of Suffolk County

Date: OCT 14 2010

After a public hearing duly held on October 4, 2010  
Filed with the Secretary of State on October 28, 2010

**EXHIBIT "A"**

| <u>Scientific Name</u>  | <u>Common Name</u>  |
|---|---|
| <i>Alliaria petiolata</i>   | Garlic mustard  |
| <i>Ameplopsis brevipedunculata</i>  | Porcelain berry   |
| <i>Anthriscus sylvestris</i>  | Wild chervil  |
| <i>Aralia elata</i>   | Japanese angelica tree  |
| <i>Artemisia vulgaris</i>   | Mugwort, Common woodworm                                      |
| <i>Cambomba caroliniana</i>   | Carolina fanwort  |
| <i>Cardamine impatiens</i>  | Narrowleaf bittercress  |
| <i>Celastrus orbiculatus</i>  | Oriental bittersweet  |
| <i>Centaurea stoebe</i> ssp. <i>Micranthos</i> s.l. (AKA <i>C. biebersteinii</i> , <i>C. diffusa</i> , <i>C. maculosa</i> misapplied, <i>C. xpsammogena</i> ) | Spotted knapweed, Spotted star-thistle                        |
| <i>Cirsium arvense</i> (AKA <i>C. setosum</i> , <i>C. incanum</i> , <i>Carduus arvensis</i> , <i>Serratula arvensis</i> )                                     | Canada thistle  |
| <i>Cynanchum louiseae</i> (AKA <i>C. nigrum</i> , <i>Vincetoxicum nigrum</i> )  | Black swallow-wort  |
| <i>Cynanchum rossicum</i> (AKA <i>C. medium</i> , <i>Vincetoxicum medium</i> , <i>V. rossicum</i> )   | European swallow-wort, Pale swallow-wort, Dog strangling vine |
| <i>Egeria densa</i>   | Brazilian waterweed   |
| <i>Elaeagnus umbellata</i>  | Autumn olive  |
| <i>Euphorbia cyparissias</i>  | Cypress spurge  |
| <i>Euphorbia esula</i>  | Leafy spurge  |
| <i>Fallopia japonica/sachalinensis/xbohemica</i> (AKA <i>Polygonum cuspidatum/sachalinense/xboehmicum</i> )   | Japanese knotweed, Giant knotweed                             |
| <i>Heracleum mantegazzianum</i>   | Giant hogweed   |
| <i>Humulus japonicus</i>  | Japanese hops   |
| <i>Hydrilla verticillata</i>  | Water thyme   |
| <i>Hydrocharis morsus-ranae</i>   | Frogbit   |
| <i>Lepidium latifolium</i>  | Broadleaf pepperweed  |
| <i>Lespedeza cuneata</i>  | Chinese lespedeza   |
| <i>Ligustrum obtusifolium</i>   | Border privet   |
| <i>Ludwigia grandiflora</i>   | Uruguayan primrose willow                                     |
| <i>Ludwigia peploides</i>   | Floating primrose willow                                      |
| <i>Lythrum salicaria</i>  | Purple loosestrife  |
| <i>Microstegium vimineum</i>  | Japanese stilt grass  |
| <i>Myriophyllum aquaticum</i>   | Parrot-feather  |
| <i>Myriophyllum spicatum</i>  | Eurasian water-milfoil  |
| <i>Nymphoides peltata</i>   | Yellow floating heart   |
| <i>Persicaria perfoliata</i> (AKA <i>Polygonum perfoliatum</i> )  | Mile a minute weed  |
| <i>Phalaris arundinacea</i> (Eurasian genotype)   | Reed canary-grass   |
| <i>Phragmites australis</i> subsp. <i>australis</i>   | Common reed grass (non-native genotype)                       |
| <i>Potamogeton crispus</i>  | Curly pondweed  |
| <i>Pueraria montana</i> var. <i>lobata</i>  | Kudzu   |
| <i>Ranunculus ficaria</i>   | Lesser celandine  |
| <i>Rhamnus cathartica</i>   | Common buckthorn  |
| <i>Rosa multiflora</i>  | Multiflora rose   |
| <i>Rubus phoenicolasius</i>   | Wineberry   |

**Scientific Name**

*Silphium perfoliatum* var. *perfoliatum*

*Trapa natans*

*Vitex rotundifolia* (AKA *V. ovata*, *V. trifolia*)

**Common Name**

Cup-plant

Water chestnut

Beach vitex; Roundleaf chastetree

**EXHIBIT "B"**

**Scientific Name**

*Clematis terniflora*

*Lonicera japonica*

*Lonicera maackii*

*Lonicera morrowii/tatarica/xbella*

*Lysimachia nummularia*

*Lysimachia vulgaris*

*Myriophyllum heterophyllum* (including *M. heterophyllum* X *M. pinnatum*)

**Common Name**

Japanese virgin's bower, Yam-leaf clematis

Japanese honeysuckle

Amur honeysuckle

Morrow's honeysuckle

Moneywort

Garden loosestrife

Broadleaf water-milfoil

**EXHIBIT "C"**

**Scientific Name**

*Iris pseudacorus*  
*Dioscorea polystachya*  
(AKA *D. oppositifolia*; *D. batata*)  
*Glyceria maxima*  
*Arthraxon hispidus*  
*Brachypodium sylvaticum*  
*Dipsacus laciniatus*  
*Murdannia keisak*  
*Oplismenus hirtellus*  
*imperata cylindrica*, all cultivars except  
'Red baron'

**Common Name**

Yellow iris  
Chinese yam, Cinnamon vine  
Tall glyceria, English watergrass  
Arthraxon  
[slender] False brome  
Cut-leaf teasel  
Marsh dewflower, wart-removing herb  
[wavy leaf] Basketgrass  
Cogon grass



**EXHIBIT "D"**

**Scientific Name**

*Acer platanoides* (except cultivars 'crimson king' and 'royal red' which are banned effective 1/1/16, see Exhibit "G")

*Acer pseudoplatanus*

*Euonymus fortunei*

*Phellodendron amurense/japonicum*

*Rhamnus frangula* (AKA *Frangula alnus*)

*Robinia pseudoacacia*

*Salix atrocinerea/cinerea*

**Common Name**

Norway maple

Sycamore maple

Winter creeper

Amur cork tree

Smooth/Glossy buckthorn

Black locust

Gray florist's widow

**EXHIBIT "E"**

**Scientific Name**

*Berberis thunbergii* (includes all hybrids with other *Berberis* species)

**Common Name**

Japanese barberry

**EXHIBIT "F"**

**Scientific Name**

*Acer platanoides* cultivars 'Crimson king' and  
'Royal red'

*Euonymus alatus*

*Miscanthus sinensis*

*Imperata cylindrica* cultivar 'Red baron'

**Common Name**

Crimson King Norway maple, Royal Red

Norway maple

Winged euonymus

Chinese silver grass

Cogon grass

**LEGAL NOTICE**

NOTICE IS HEREBY GIVEN that the Suffolk County Legislature has passed Introductory Resolution No. 1827 -2010 and presented to me for approval Local Law No. -2010, "A Local Law Adding New Invasive Non-Native Plant Species to the County's Do Not Sell List" which law adds new invasive non-native plant species to Suffolk County's "Do Not Sell" list and removes certain plants from the list that are no longer considered a threat to the County's environment.

NOTICE IS FURTHER GIVEN that the County Executive will hold a public hearing on the aforesaid Local Law at 9:30 a.m., prevailing time, on October 4, 2010 in the H. Lee Dennison Building , Media Room, 100 Veterans Memorial Highway, Hauppauge, New York, at which time all interested persons will be heard.

STEVE LEVY  
Suffolk County Executive

DATED: Hauppauge, New York

SUFFOLK COUNTY  
County Legislature  
RIVERHEAD, NY



*This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on*

September 16, 2010

and that the same is a true and

correct transcript of said resolution and of the whole thereof.

*In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.*

A handwritten signature in cursive script that reads "Tim Laube".

Clerk of the Legislature

Intro. Res. 1827 Res. No. 866

September 16, 2010

**Motion:**  
 Romaine, Schneideman, Browning, Muratore, Losquadro  
 Eddington, Montano, Cilmi, Lindsay, Vioria-Fisher, Barraga,  
 Kennedy, Nowick, Horsley, Gregory, Stem, D'Amaro, Cooper

**Co-Sponsors:**  
 Romaine, Schneideman, Browning, Muratore, Losquadro  
 Eddington, Montano, Cilmi, Lindsay, Vioria-Fisher, Barraga,  
 Kennedy, Nowick, Horsley, Gregory, Stem, D'Amaro, Cooper

**Second:**  
 Romaine, Schneideman, Browning, Muratore, Losquadro  
 Eddington, Montano, Cilmi, Lindsay, Vioria-Fisher, Barraga,  
 Kennedy, Nowick, Horsley, Gregory, Stem, D'Amaro, Cooper

| LD | Legislator                    | Yes | No | Abs | NP | R |
|----|-------------------------------|-----|----|-----|----|---|
| 1  | Edward P. ROMAINE             | 1   |    |     |    |   |
| 2  | Jay H. SCHNEIDERMAN           |     |    |     |    |   |
| 3  | Kate M. BROWNING              |     |    |     |    |   |
| 4  | Thomas MURATORE               |     |    |     |    |   |
| 6  | Daniel P. LOSQUADRO           |     |    |     |    |   |
| 7  | Jack EDDINGTON                |     |    |     |    |   |
| 9  | Ricardo MONTANO               |     |    |     |    |   |
| 10 | Thomas CILMI                  |     |    |     |    |   |
| 11 | Thomas F. BARRAGA             |     |    |     |    |   |
| 12 | John M. KENNEDY, JR.          |     |    |     |    |   |
| 13 | Lynne C. NOWICK               |     |    |     |    |   |
| 14 | Wayne R. HORSLEY              |     |    |     |    |   |
| 15 | DuWayne GREGORY               |     |    |     |    |   |
| 16 | Steven H. STERN               |     |    |     |    |   |
| 17 | Lou D'AMARO                   |     |    |     |    |   |
| 18 | Jon COOPER                    |     |    |     |    |   |
| 5  | Vivian VILORIA-FISHER, D.P.O. |     |    |     |    |   |
| 8  | William J. LINDSAY, P.O.      |     |    |     |    |   |
|    | Totals                        | 1   |    |     |    |   |

**MOTION**

Approve

Table: \_\_\_\_\_

Send To Committee \_\_\_\_\_

Table Subject To Call \_\_\_\_\_

Lay On The Table \_\_\_\_\_

Discharge \_\_\_\_\_

Take Out of Order \_\_\_\_\_

Reconsider \_\_\_\_\_

Waive Rules \_\_\_\_\_

Override Veto \_\_\_\_\_

Close \_\_\_\_\_

Recess \_\_\_\_\_

APPROVED  FAILED \_\_\_\_\_

No Motion \_\_\_\_\_ No Second \_\_\_\_\_

**RESOLUTION DECLARED**

ADOPTED

NOT ADOPTED \_\_\_\_\_

*Tim Laube*

Tim Laube, Clerk of the Legislature

Roll Call \_\_\_\_\_ Voice Vote

### **5.3.3.7 Protection and conservation of species and communities**

07/10/07 - Changes to 5.3.3.7, including draft of 5.3.3.7.2 bird protection and conservation standard.

07/23/07 - Met with Brookhaven Town staff re their reviews of Ch. 5. Made updates from that meeting to 5.3.3.7.

#### ***Standards***