

5. Standards and Guidelines for Land Use

5.1 Central Pine Barrens overall area

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

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

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

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

Present land uses that comply with existing laws may be continued in accordance with their current approved use.

5.2 Core Preservation Area

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

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

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

material alteration of native vegetation, the use will require a hardship exemption from the Commission.

5.3 Compatible Growth Area

5.3.1 Applicability

The Central Pine Barrens Joint Planning and Policy Commission adopts the following standards and guidelines for development in the Compatible Growth Area in accordance with applicable state law.

These standards shall be incorporated into local land use and development review procedures, ordinances and laws by the local municipalities. The Commission shall also apply these standards to those projects that it directly reviews within the Compatible Growth Area.

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

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

5.3.2 State Environmental Quality Review Act (SEQRA)

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

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

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

5.3.3 Intent and Compatible Growth Area standards

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

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

this Plan. (*Source: Staff recommendation for clarification.*)

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

5.3.3.1 Nitrate-nitrogen

Nitrate-nitrogen, a contaminant that emanates from numerous types of land uses, is a recognized indicator of groundwater quality. The Suffolk County Department of Health Services abides by the New York State nitrate-nitrogen standard for drinking water.

Standards

5.3.3.1.1 Suffolk County Sanitary Code Article 6 compliance

All development proposals subject to Article 6 of the Suffolk County Sanitary Code shall meet all applicable requirements of the Suffolk County Department of Health Services. Projects which require variances from the provisions of Article 6 shall meet all requirements of the Suffolk County Department of Health Service's Board of Review in order to be deemed to have met the requirements of this standard.

5.3.3.1.2 Sewage treatment plant discharge

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

Guideline

5.3.3.1.3 Nitrate-nitrogen goal

A more protective goal of two and one half (2.5) ppm may be achieved for new projects through an average residential density of one (1) unit per two (2) acres (or its commercial or industrial equivalent), through clustering, or through other mechanisms to protect surface water quality for projects in the vicinity of ponds and wetlands.

5.3.3.2 Other chemical contaminants of concern

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

Standard

5.3.3.2.1 **Suffolk County Sanitary Code Articles 7 and 12 compliance**

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

5.3.3.3 Wellhead protection

The New York State Department of Health advocates the exclusion of potentially contaminating activities from an area extending for 200 feet in all directions from a well site. Although this may have been considered adequate to prevent the rapid drawdown of bacterial contamination or its entry into groundwater through poorly constructed wells, it does not necessarily ensure an adequate level of protection against the suite of organic and inorganic pollutants that may threaten community water supplies.

Standard

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

The location of nearby public supply wells shall be considered in all applications involving significant discharges to groundwater, as required under the New York State Environmental Conservation Law Article 17.

Guideline

5.3.3.3.2 **Private well protection**

The Suffolk County Department of Health Services' guidelines for private wells should be used for wellhead protection.

5.3.3.4 Wetlands and surface waters

Freshwater wetlands that exist within the Central Pine Barrens are considered to be an important natural resource, providing flood and erosion control, the filtering of contaminants and sediments from stormwater runoff, and habitat for plants and wildlife.

Tidal wetlands existing within the marine environment bordering portions of the Central Pine Barrens are equally valuable natural resources. These wetlands support the reproduction of finfish and shellfish, provide habitat for waterfowl, and contribute a scenic quality that supports recreational economies.

Surface waters, including freshwater ponds, lakes, streams, rivers, and creeks, occur throughout

the Central Pine Barrens. These are considered to be resources of significant value in economic, aesthetic and ecological terms. Their protection is judged to be vital to the dynamics of the pine barrens.

Standards

5.3.3.4.1 **Nondisturbance buffers**

Development proposals for sites containing or abutting freshwater or tidal wetlands or surface waters must be separated by a nondisturbance buffer area which shall be no less than that required by the New York State Tidal Wetland, Freshwater Wetland, or Wild, Scenic and Recreational Rivers Act or local ordinance. Distances shall be measured horizontally from the wetland edge as mapped by the New York State Department of Environmental Conservation, field delineation or local ordinance. Projects which require variances or exceptions from these state laws, local ordinances and associated regulations, shall meet all requirements imposed in a permit by the New York State Department of Environmental Conservation or a municipality in order to be deemed to have met the requirements of this standard.

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

Buffer areas shall be delineated on the site plan, and covenants and/or conservation easements, pursuant to the New York State Environmental Conservation Law and local ordinances, shall be imposed to protect these areas as deemed necessary.

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

Development shall conform to the provisions of the New York State Wild, Scenic and Recreational Rivers Act, where applicable. Projects which require variances or exceptions under the New York State Wild, Scenic and Recreational Rivers Act shall meet all requirements imposed by the New York State Department of Environmental Conservation in order to be deemed to have met the requirements of this standard.

Guideline

5.3.3.4.4 **Additional nondisturbance buffers**

Stricter nondisturbance buffer areas may be established for wetlands as appropriate.

5.3.3.5 Stormwater runoff

Development of lands within the pine barrens inevitably results in an increase of runoff water following precipitation. Runoff water originating from the roofs of buildings and from

driveways is usually discharged directly to subsurface dry wells situated on the building lot. However, the great volume of runoff water originating from paved streets and roads is usually discharged by pipes into large open recharge basins or sumps. These basins may cover several acres and require the removal of considerable native vegetation to the detriment of the site's ecology and aesthetics.

Standard

5.3.3.5.1 Stormwater recharge

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

Guidelines

5.3.3.5.2 Natural recharge and drainage

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

5.3.3.5.3 Ponds

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

5.3.3.5.4 Natural topography in lieu of recharge basins

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

5.3.3.5.5 Soil erosion and stormwater runoff control during construction

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

5.3.3.6 Natural vegetation and plant habitat

Clearing is defined, for the purposes of this standard, as the removal of any portion of the natural vegetation found on a 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.

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.

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 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.

To the extent that a portion of a 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.

5.3.3.6.2 **Unfragmented open space**

Subdivision and site design shall support preservation of natural vegetation in large unbroken blocks that allow contiguous open spaces to be established when adjacent parcels are developed. Subdivision and site designs should also be configured in such a way so as to prioritize the preservation of native pine barrens vegetation to the maximum extent practicable.

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

the Plan.

It is recognized that 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.

5.3.3.6.3 **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. The use of the nonnative plants in Figure 5-2 is specifically not recommended.

5.3.3.6.4 **Native Plantings**

Development designs shall consider the native planting suggestions contained in Figure 5-2.

Figure 5-1: Clearance standards

(This table shows total site clearance including lots, roads, drainage and other improvements.)

Zoning lot size (*)	Maximum site clearance (**)
10,000 square feet residential (1/4 acre)	90 %
15,000 square feet residential (1/3 acre)	70 %
20,000 square feet residential (1/2 acre)	60 %
30,000 square feet residential (2/3 acre)	58 %
40,000 square feet residential (1 acre)	53 %
60,000 square feet residential (1.5 acre)	46 %
80,000 square feet residential (2 acres)	35 %
120,000 square feet residential (3 acres)	30 %
160,000 through 200,000+ square feet residential (4 - 5+ acres)	20 % 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%.
Commercial, Industrial and Other or Mixed Use	65 %

Notes:

(*) These entries are the minimum lot sizes required by zoning, not the size of the subject parcels.

(**) In calculating the percentage of land cleared, the preserved areas in a development should preferably be native vegetation. These are maximum clearance standards, and more restrictive standards may be imposed during the review by the local municipality due to consideration of other standards, especially those addressing preservation of rare or endangered species, or unique flora or vegetation.

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 (In alphabetic order)	Common name
Recommended native plants	
<p><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>Ilex glabra</i> <i>Ilex 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></p>	<p>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</p>
<i>Continued ...</i>	

Invasive, nonnative plants specifically <u>not</u> recommended	
<p><i>Acer platinoides</i> <i>Acer pseudoplatanus</i> <i>Ampelopsis brevipedunculata</i> <i>Berberis thunbergii</i> <i>Celastrus orbiculatus</i> <i>Coronilla varia</i> <i>Eleagnus umbellata</i> <i>Lespedeza cuneata</i> <i>Ligustrum sinense</i> <i>Lonicera japonica</i> <i>Lonicera maackii</i> <i>Lonicera tartarica</i> <i>Lythrum salicaria</i> <i>Miscanthus sinensis</i> <i>Pinus nigra</i> <i>Polygonum cuspidatum</i> <i>Pueraria lobata</i> <i>Robina pseudoacacia</i> <i>Rosa multiflora</i> <i>Rosa rugosa</i> <i>Rudbeckia hirta</i></p>	<p>Norway maple Sycamore maple Porcelain berry vine Japanese barberry Asiatic bittersweet Crown vetch Autumn olive Himalayan bushclover Chinese privet Japanese honeysuckle Amur honeysuckle Tartarian honeysuckle Purple loosestrife Eulalia Black pine Mexican bamboo Kudzu Black locust Multiflora rose Rugosa (salt spray) rose Black eyed susan</p>

5.3.3.7 Species and communities of special concern

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

Standard

5.3.3.7.1 **Special species and ecological communities**

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

5.3.3.8 Soils

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

Guidelines

- 5.3.3.8.1 **Clearing envelopes**
Clearing envelopes should be placed upon lots within a subdivision so as to maximize the placement of those envelopes on slopes less than ten percent (10%).
- 5.3.3.8.2 **Stabilization and erosion control**
Construction of homes, roadways and private driveways on slopes greater than ten percent (10%) may be approved if technical review shows that sufficient care has been taken in the design of stabilization measures, erosion control practices and structures so as to mitigate negative environmental impacts.
- 5.3.3.8.3 **Slope analyses**
Project review is facilitated if submissions contain a slope analysis showing slopes in the ranges 0-10%, 11-15% and 15% and greater. In areas with steep slopes, slope analysis maps should be required. This can be satisfied with cross hatching or shading on the site plan for the appropriate areas.
- 5.3.3.8.4 **Erosion and sediment control plans**
Erosion and sediment control plans should be required in areas of fifteen percent (15%) or greater slopes.
- 5.3.3.8.5 **Placement of roadways**
Roads and driveways should be designed to minimize the traversing of slopes greater than ten percent (10%) and to minimize cuts and fills.
- 5.3.3.8.6 **Retaining walls and control structures**
Details of retaining walls and erosion control structures should be provided for roads and driveways which traverse slopes greater than ten percent (10%).

5.3.3.9 Coordinated design for open space management

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

preservation of large, unbroken blocks of open space.

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

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

Standard

- 5.3.3.9.1 **Receiving entity for open space dedications**
Applications must specify the entity to which dedicated open space will be transferred.

Guidelines

- 5.3.3.9.2 **Clustering**
Municipalities are strongly urged to maximize the use of the clustering technique where its usage would enhance adjacent open space or provide contiguous open space connections with adjacent open space parcels.
- 5.3.3.9.3 **Protection of dedicated open space**
Proposed open space should be protected with covenants, conservation easements or dedications that specify proper restrictions on its use and contingencies for its future management.

5.3.3.10 Agriculture and horticulture

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

Guideline

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

5.3.3.11 Scenic, historic and cultural resources

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

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

Guidelines

5.3.3.11.1 **Cultural resource consideration**

Development proposals should account for, review, and provide protection measures for:

1. Established recreational and educational trails and trail corridors, including but not limited to those trail corridors inventoried elsewhere in this Plan.
2. Active recreation sites, including existing sites and those proposed as part of a development.
3. Scenic corridors, roads, vistas and viewpoints located in Critical Resource Areas, and along the Long Island Expressway, Sunrise Highway, County Road 111 and William Floyd Parkway.
4. Sites of historical or cultural significance, including historic districts, sites on the State or National Registers of Historic Places, and historic structures listed on the State or National Registers of Historic Places, or recognized by local municipal law or statute.
5. Sensitive archaeological areas as identified by the New York State Historic Preservation Office or the New York State Museum.

5.3.3.11.2 **Inclusion of cultural resources in applications**

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

parcels which are physically separate from the bulk of the proposed development area.

A development proposal may be disapproved or altered if the local municipality determines that the development proposal, in its current form, may have a significant negative impact on any of the above resources.

5.3.3.11.3 Protection of scenic and recreational resources

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

5.3.3.11.4 Roadside design and management

Undisturbed portions of the roadside should be maintained in a manner that protects the scenic features of these areas. Clearing (including that for aisles, driveways, access and parking) is not precluded within these roadside areas, provided that appropriate buffers are maintained, and that manmade structures meet standards consistent with the character of the area.

5.3.3.12 Commercial and industrial development

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

Standard

5.3.3.12.1 Commercial and industrial compliance with Suffolk County Sanitary Code

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